Vol. 807
No. 141

Tuesday
10 November 2020

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

Grand Committee

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

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

This issue of the Official Report is also available on the Internet at
https://hansard.parliament.uk/lords/2020-11-10

In Hybrid sittings, [V] after a Member's name indicates that they contributed by video call.

The following abbreviations are used to show a Member's 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 10 November 2020

The House met in a hybrid proceeding.

Noon

Prayers—read by the Lord Bishop of Durham.

Arrangement of Business

Announcement

12.07 pm

The Lord Speaker (Lord Fowler): My Lords, the Hybrid Sitting of the House will now begin. Some Members are here in the Chamber, respecting social distancing, others are participating remotely, but all Members will be treated equally.

Personal Statement

12.07 pm

Lord Inglewood (Non-Afl) [V]: My Lords, with the leave of the House, I wish to make a personal statement. Following the repeat on Wednesday 4 November of an Urgent Question in the House of Commons on economic support during the Covid-19 lockdown, I asked the Minister a question about delays in the Coronavirus Business Interruption Loan Scheme caused by banks. In doing so, I declared my interest as chairman of the Cumbria Local Enterprise Partnership but failed to declare that I myself was applying for one of these loans. The reason I did not make such a declaration was that, at that point, I thought that an application had already been approved, but it turns out that it is still in progress. I apologise to the House for this inadvertent oversight. I have also written to the Minister, the noble Lord, Lord Agnew of Oulton, to apologise.

Arrangement of Business

Announcement

12.08 pm

The Lord Speaker (Lord Fowler): My Lords, Oral Questions will now commence. Please can those asking supplementary questions keep them short and confined to two points—and I ask, obviously, that Ministers do the same?

Gender-based Violence

Question

12.09 pm

Asked by ***Baroness Anelay of St Johns***

To ask Her Majesty's Government what are their plans (1) to participate in, and (2) to promote, the United Nations' 16 Days of Activism against Gender-Based Violence campaign between 25 November and 10 December.

The Parliamentary Under-Secretary of State, Foreign, Commonwealth and Development Office (Baroness Sugg) (Con) [V]: My Lords, 16 Days of Activism is more important than ever this year, as during the Covid-19 crisis we have seen a disturbing increase in gender-based violence. The Government have a broad range of activities and plans to participate in and promote 16 Days. Among other events, I shall be meeting girl-led and women's rights organisations to discuss their priorities for tackling gender-based violence, and colleagues across the FCDO's network are also planning activities to raise ambition and galvanise action.

Baroness Anelay of St Johns (Con): My Lords, according to the UN, Covid-19 has unmasked a shadow pandemic of violence against women and girls. What are the Government doing to prioritise the rights of women and girls, in particular across the FCDO, by mainstreaming DfID's valuable work, the Strategic Vision for Gender Equality, including through diplomatic missions and humanitarian work?

Baroness Sugg (Con) [V]: My Lords, there is indeed a shadow pandemic of violence caused by the health pandemic of Covid-19, and ensuring that we are tackling this is a key priority as part of our Covid-19 response. My noble friend highlights the *Strategic Vision for Gender Equality*, which was DfID's former guiding document on gender equality. In the FCDO we continue to be committed to this vision, but we will refresh it and reflect the merger as we develop new approaches. The challenges of tackling gender-based violence and, indeed, promoting gender equality are more important now than when we published the strategy in 2018.

Baroness Blower (Lab) [V]: I note my interest, as declared in the register. Does the Minister agree with me that, in the same way that casual racism and microaggressions can lead to the denial of rights to black communities and, ultimately, become institutional, casual sexism, if left unaddressed, can lead to violence against women? Does she further agree with me that the work done by organisations such as UK Feminista and the National Education Union to ensure that sexism is challenged in our classrooms and staff rooms, should be recognised and promulgated across our education system?

Baroness Sugg (Con) [V]: I agree with the noble Baroness that it is important that we challenge sexism wherever we see it. We have invested heavily in understanding what works to prevent gender-based violence. One of those things is to ensure that we work with men and boys at all ages to ensure that we address the root causes of gender-based violence. I would absolutely encourage this discussion to be had in schools and with school-age children.

Baroness Northover (LD): My Lords, there have been recent protests in Nigeria, Kenya, Namibia and South Africa against gender-based violence. As DfID cuts its spending, are we maintaining the same level of support for researchers and civil society organisations in Africa that seek to combat gender-based violence?

Baroness Sugg (Con) [V]: My Lords, this year, as the noble Baroness said, we have had to reduce our spending due to the contraction in the economy and the impact that that has had on the 0.7%. However, we are absolutely determined to continue to support the important work of civil society and women's rights organisations to help to tackle the scourge of gender-based violence.

Baroness Sanderson of Welton (Con): My Lords, one of the best ways for young women to avoid the "most vulnerable forms of informal work"—this year's 16 Days focus—is through education. What are the Government doing through their education programmes to help safeguard young girls in places such as Afghanistan, Pakistan and Africa, where very small numbers of girls remain in school due to coronavirus, and harms such as FGM are increasing?

Baroness Sugg (Con) [V]: My Lords, I fully agree with my noble friend on the vital importance of education; it is one of the most transformational investments we can make, and educated girls are less at risk of violence. We have, as my noble friend says, seen schools close down around the world. We are pivoting our bilateral programmes and working to ensure that girls can return to school as soon as possible. My noble friend also mentioned FGM. The Government are proud to support the Africa-led movement to end FGM; sadly, we have seen a greater prevalence of that since the pandemic, but we will continue to support the communities that are working to end FGM.

Baroness Coussins (CB): My Lords, Resolution 1325 has just marked its 20th anniversary. If more women were involved in peacekeeping and post-conflict reconstruction, there might be an end to the disgraceful levels of impunity for those responsible for gender-based violence. What practical steps will Her Majesty's Government take to promote more effective compliance with Resolution 1325 and bring an end to the culture of impunity?

Baroness Sugg (Con) [V]: My Lords, as the noble Baroness highlights, when women participate meaningfully in peace processes, we see agreements that are less likely to fail and more likely to last, and it is of course important that we continue to support women's involvement here. We held many events to mark the anniversary of 1325. The noble Baroness asked about practical steps. In response to the global rise in reprisals against women peace builders, we have funded the International Civil Society Action Network to help develop a protection framework for women peace builders.

Lord Collins of Highbury (Lab): My Lords, earlier this year I asked a Written Question on how the Government were best utilising their role as co-lead of the Action Coalition on Gender-Based Violence to highlight older women's experience of gender-based violence. Age International had previously called on the Government to better collect data about violence against older women in low and middle-income countries. What steps have the Government taken to improve such reporting?

Baroness Sugg (Con) [V]: I agree with the noble Lord that we must use the fact that we are chairing the Action Coalition on Gender-Based Violence to make progress on this issue. I also agree that, in order to ensure that we are properly reflecting the needs of older women, we must invest more in data, and that is what we are doing: we have invested £6 million to support the UN women-led flagship programme initiative on gendered data, Making Every Woman and Girl Count, and we must ensure that we understand what is happening so that we can properly address it.

Baroness Sheehan (LD) [V]: My Lords, one of the tragic consequences of Covid-19 is the massively increased incidence of gender-based violence in developing countries—and indeed, everywhere in the world. Surveys by Plan International show that adolescent girls are particularly vulnerable to increased sexual exploitation and violence, for want of basic items such as food and sanitary products. Will the Minister put these particularly vulnerable girls at the heart of the FCDO's action to tackle gender-based violence?

Baroness Sugg (Con) [V]: I agree that we must have a focus on adolescent girls who, sadly, are at risk of exploitation and other forms of violence. We will do so as part of our co-chairing of the Action Coalition on Gender-Based Violence and we are also working hard to ensure that we are putting them at the centre of our response to Covid-19. We are funding UNFPA in order to make sure that it is addressing the supply shortages we have seen and we are pivoting our existing programmes to make sure that women and girls can continue to access support during the lockdowns we are seeing.

The Lord Bishop of Gloucester [V]: As has already been noted, if we are serious about eliminating gender violence worldwide, we have to address the root causes. What plans do the Government have to follow Australia's lead and develop a national primary prevention framework to change the attitudes, behaviours and structures that underpin violence against women and girls?

Baroness Sugg (Con) [V]: I am afraid that I will have to get back to the right reverend Prelate in writing on that issue, as I will need to follow it up with the relevant department, but I will ensure that I provide her with a full answer.

Lord Alton of Liverpool (CB): My Lords, I have been able to send the Minister details of a case involving a young girl called Arzoo Raja, 13 years of age, whose parents I spoke to at some length last week. She was abducted, forcibly converted and forcibly married in Pakistan, in a case similar to that of Leah Sharibu in Nigeria. What are the Government able to do to build up legal capacity in such countries, so that these cases can be challenged in the courts, and what are we doing to promote the Declaration of Humanity, in which the department has been involved?

Baroness Sugg (Con) [V]: My Lords, I am afraid that I have not seen the case the noble Lord refers to, but I will ensure that I look into the detail of it.

Of course, it is important that we support freedom of religion and belief in all countries around the world, and we will ensure that we continue to do so.

Lord McConnell of Glenscorrodale (Lab): My Lords, I refer to my interests as declared in the register. Recently, the mass graves of women who were too old to be taken to be sex slaves for Daesh—so-called Islamic State—in Iraq were dug up as part of the evidence gathering to ensure more prosecutions of former fighters and their allies in Iraq. The Yazidi women and girls deserve justice. Will the UK Government continue to press the Iraqi Government to ensure not just that those former fighters and their allies are prosecuted for their terrorism offences but that the victims of their sexual and gender-based violence have their day in court and they are also prosecuted for the violence they inflicted on these women and girls?

Baroness Sugg (Con) [V]: My Lords, I agree with the noble Lord that we must do all we can to ensure that these desperate victims see justice. We are firmly committed to protecting members of the religious minorities in Iraq and providing assistance to them, and also to galvanising international efforts to ensure that Daesh members are brought to justice. That included leadership in ensuring that the UNSC unanimously adopted Resolution 2379 on Daesh accountability. We have established an investigative team to help collect, preserve and store evidence of Daesh's crimes, beginning in Iraq, so that we can do everything we can to ensure that these women see justice.

The Lord Speaker (Lord Fowler): My Lords, all supplementary questions have been asked. We now come to the second Oral Question.

Covid-19: Dental Services

Question

12.20 pm

Asked by ***Baroness Walmsley***

To ask Her Majesty's Government what measures they are taking to ensure the continued provision of dental services during the COVID-19 pandemic.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, the challenge presented to the dental profession by Covid is severe. We are grateful for the hard work of 10,000 NHS and private practices in introducing PPE and infection-control arrangements to keep patients and staff safe, and to the 600 urgent care centres that are providing services for the most severe cases. However, the impact on the nation's health remains something that we are working hard to mitigate.

Baroness Walmsley (LD) [V]: My Lords, I thank the Minister for that reply, but 60% of dentists can now see only a quarter of their usual number of patients, particularly because of the measures needed for carrying out aerosol-generating procedures. There is a backlog of 15 million treatments, and many dentists are in danger of going out of business. They cannot afford ventilation equipment, which would enable them to see more patients in a day. Will the Government provide funding for this, so that the backlog of patients can be cleared?

Lord Bethell (Con): My Lords, I completely acknowledge the challenge that the noble Baroness has described. Many dentists can see only 20% of their normal cases, and around half can see about 50%. The backlog is, as she describes it, severe, and the impact, particularly on private dentists, has been very hurtful for their businesses. I cannot make a commitment to fund ventilation arrangements, but we acknowledge the scale of this challenge and are looking at ways to mitigate it, including bringing in testing, which we hope would help provide a safe environment for both staff and patients.

Baroness Uddin (Non-Afl): My Lord, the Minister will be aware that people with learning disabilities and autism have suffered disproportionately in not receiving care and services. Will he undertake to ensure that they are not equally suffering by not receiving dental services, especially specialist dental provisions? I declare that I have a 41 year-old son with a learning disability and autism. I have spoken to a number of organisations that said that the pandemic exacerbated the difficulties in the process of receiving important and urgent care.

Lord Bethell (Con): My Lords, the noble Baroness refers to the prioritisation of patients in the constrained appointment flow of dentists. She is entirely right that those who have vulnerabilities, disabilities or other disadvantages should be prioritised: that is the objective of the prioritisation process. She makes the point extremely well and I am happy to take on board any points on where she thinks the system is not working as well as it might do.

Baroness Altmann (Con) [V]: My Lords, will my noble friend the Minister tell us what lessons have been learned from the initial response to the Covid pandemic and the blanket closure of dental practices? Does he have any estimates of the number of cancers of the head and neck that might not have been detected because people have not had regular dental check-ups?

Lord Bethell (Con): My Lords, my noble friend is right to allude to the confusion around the closure of dental practices. We have made it crystal clear that in the second lockdown all dental practices—both NHS and private—should remain open; that is part of our commitment to try to clear the backlog. I also acknowledge her concerns about the diagnosis of cancers. I do not have the figures for which she asked, but we certainly appreciate the role that the dental sector plays in detecting many cancers, including oral cancers. Dental services are open to those seeking urgent care and we hope that those urgent care clinics to which I referred earlier can provide some diagnostic analysis in urgent cases.

Baroness Finlay of Llandaff (CB) [V.]: My Lords, I declare my role as chair of the National Mental Capacity Forum. Following on from the question of the noble

[Baroness Finlay of Llandaff]
Baroness, Lady Uddin, will the Minister say how the urgent care pathway is being evaluated, particularly for children and young people with learning difficulties who might need a general anaesthetic for dental work? They are at a particularly high risk of sepsis from dental abscess, which can be avoided by preventive dentistry, yet they are often part of the increasing backlog and have difficulty registering with a dentist locally because they need even more time for their care than other patients and will therefore decrease the number of other patients whom the dentist can see.

Lord Bethell (Con): My Lords, the concern about children is particularly acute. We are especially keen to encourage parents, to ensure that they are still bringing children forward. That is why we have the Help Us to Help You campaign to encourage public access to NHS services. She is entirely right that acute situations—involving, for instance, some form of anaesthetic—provide a particular challenge. We have a prioritisation process in place, and I understand that that is working well to ensure that those who have the greatest need are put at the front of the queue. However, as I said to the noble Baroness, Lady Uddin, I would welcome any feedback from those who think that the system is not working well enough.

Lord Hunt of Kings Heath (Lab) [V]: My Lords, I declare my interest as president of the British Fluoridation Society. Just on that last point, in a number of parts of the country, no elective surgeries, except for those that might be totally prioritised, are being done at the moment. The prospect is of a few more months with a virtual lockdown of elective surgery. As far as children are concerned, will the Minister look into this matter urgently? Will the Government prioritise preventive schemes as we come out of the pandemic, such as fluoridation, supervised tooth-brushing programmes in schools and public service ads?

Lord Bethell (Con): My Lords, I completely agree with the noble Lord that prevention is the key. In our document on the matter, *Advancing Our Health: Prevention in the 2020s,* we have committed to the consulting on and rolling out of supervised tooth-brushing schemes in more preschool and primary school settings in England. We have also set out our support for expanding water fluoridation, and we intend to announce further details of our water fluoridation plans shortly.

Lord Strasburger (LD) [V]: My Lords, as rapid coronavirus testing becomes more available, can the Minister assure the House that dentists and their staff will not be left behind? Will they also be included with health and care staff near the top of the priority list when new vaccines are being distributed?

Lord Bethell (Con): The noble Lord asked for a general commitment on dentists and their staff. I reassure him that we value the dentist profession and their staff, and the Covid pandemic has only emphasised the importance of dentists in the community and to the nation's health. He asked me a specific question about where they stand in the vaccine prioritisation list and whether they are on the healthcare list. I will write to him with a precise answer to that question.

Lord Flight (Con) [V]: My Lords, there are three big factors that are causing these problems. First, there is the potential patient's caution and the worry of contracting Covid-19, which leads them to put off treatment and save the money until normal times return. Secondly, dental sessions are taking much longer, partly because of the fall in the number of patients per session and lower throughput. The principal barrier to resuming services is the issue of the fallow time required following aerosol-generating procedures. The solution is greater ventilation. The key need is to increase the patient throughput and to reduce—

Lord Ashton of Hyde (Con): Could the noble Lord put the question please?

Lord Flight (Con) [V]: Will the Government be willing to put up any funding to deal with the issue of fallow time between treatments?

Lord Bethell (Con): My Lords, I agree with the noble Lord's analysis, but it is too early to make commitments on funding.

The Lord Speaker (Lord Fowler): I make the point that I say at the beginning of every Question Time that two points are the maximum that should be made.

Baroness Thornton (Lab): In my view, the Government have offered little support to dentist practices: not exempting them from business rates, even though bookmakers and vape shops are exempted, and not offering them key worker status, which has caused problems with childcare. Can the Minister commit to early access to Covid-19 vaccines for all high-street dentists who are NHS contractors, rather than employees? Can the Minister give them key worker status?

Lord Bethell (Con): My Lords, one area where the Government have made a big commitment to dentists is in PPE. As of Wednesday 4 November, over 5,000 dental and orthodontic providers in England had registered with the PPE portal and over 36 million items of PPE had been delivered. In terms of the commitment to workers, I will have to come back to the noble Baroness.

Baroness Bull (CB): My Lords, I declare my interests as set out in the register. Reduced clinical capacity not only impacts on patients but massively disrupts the education of dental students, who typically treat over 400,000 volunteer patients each year as part of training. Since March, many schools have been unable to provide any patient-facing education at all. Will the Government respond to requests from dental schools and hospitals to invest in high-quality simulation facilities, to mitigate the impact of this reduced clinical experience and ensure that students can graduate and provide the workforce of the future?

Lord Bethell (Con): My Lords, the bottleneck around the training of new dentists, an incredibly important priority for the nation's teeth, is one that the CDO is extremely concerned about. The question of simulation machines is not one that I was aware of but I will be happy to look into it and reply to the noble Baroness on how we can make progress.

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

Waste Prevention Programme

Question

12.32 pm

Asked by ***Baroness Parminter***

To ask Her Majesty's Government when they plan to publish their revised Waste Prevention Programme for England.

The Minister of State, Department for the Environment, Food and Rural Affairs and Foreign, Commonwealth and Development Office (Lord Goldsmith of Richmond Park) (Con) [V]: My Lords, we published our review of the waste prevention programme 2013 this summer and hope to publish our revised draft waste prevention programme for consultation in the next few months. It will build on our resources and waste strategy, published in 2018, which sets out our plans to move away from the inefficient linear economic model of "take, make, use, throw" to a more circular economy.

Baroness Parminter (LD) [V]: My Lords, the climate crisis demands urgent action to reduce carbon emissions from waste and to keep resources in use for as long as possible. In their delayed waste prevention programme, will the Government introduce an explicit target for waste prevention by 2050, as the Welsh Government already have?

Lord Goldsmith of Richmond Park (Con) [V]: The International Resource Panel estimates that resource extraction and processing of materials contributes to about 30% of global particulate matter emissions, 50% of total global greenhouse gas emissions and 90% of biodiversity loss and water stress. Industrial emissions from manufacturing are responsible for approximately 21% of UK domestic emissions. The Environment Bill will include a target relating to resources and waste. As I speak, that target is being assessed with a view to being introduced .

Baroness Hayman of Ullock (Lab): Water companies in England discharged raw sewage into rivers over 2,000 times last year. The chair of the Commons Environmental Audit Committee, Philip Dunne, has a Private Member's Bill and an amendment to the Environment Bill seeking to place a duty on water companies to end that filthy practice. Can the Minister explain why the Government are not supporting his efforts and whether he believes this should be included in the revised waste prevention programme?

Lord Goldsmith of Richmond Park (Con) [V]: My Lords, the Government strongly believe that the water companies need to take full responsibility for their contribution to pollution in our water systems. Those duties are there, and it is a matter for the water companies to adhere to and honour them. My colleagues at Defra have established a new working group between officials and business representatives to understand better what more the Government can do to ensure that the water companies step up. That work will be concluding shortly and the Government will take action on the back of its results.

Baroness Jones of Moulsecoomb (GP) [V]: My Lords, if all the new incinerators that have planning permission are built in the next few years, incinerator capacity will double just when we are trying to reduce our waste. So what are the Government going to do? Are they going to encourage us to actually increase our waste, or will they import waste from abroad so that we can burn it?

Lord Goldsmith of Richmond Park (Con) [V]: My Lords, the Government are very committed to minimising waste across all sectors. We have seen significant progress. We have consulted on major reforms to the way that waste is managed, including deposit return schemes, extended producer responsibility and consistent recycling collections. We have set up pilot schemes to reduce food waste. We have published proposals for targets in the Environment Bill. We have announced that the carrier bag charge will be extended to all retailers and increased to a minimum of 10p from April next year. We have introduced a ban on plastic straws, stirrers and cotton buds. We have provided funding for the development of recycling facilities for hard-to-recycle products, particularly plastics. We have published a call for evidence on the development of standards for biodegradable and compostable plastics. Of course there is more to do but I do not think there is any doubting the Government's commitment to minimising our environmental impact by reducing waste.

Lord Sarfraz (Con): My Lords, will the Minister advise the House if our strategy will include playing a leading role in cleaning up the global waste trade, perhaps by introducing mandatory standards, traceability and certifications for the ultimate recipients of waste originating from the UK?

Lord Goldsmith of Richmond Park (Con) [V]: On one level, of course, waste is a commodity. There is a legitimate global market in secondary materials and there is a system of international rules on shipments that must be followed when exporting waste for recycling, which of course we always encourage importing nations to enforce. In addition, those involved in the shipments of waste from the UK are required to take all necessary steps to ensure that it is managed in an environmentally sound manner. Recognising the problem highlighted by my noble friend—the problem of waste mountains in some countries that cannot or do not manage their waste properly—we have committed to banning the export of plastic waste to countries that are not members of the OECD and therefore are likely not capable of managing the waste that we send them.

Baroness Bakewell of Hardington Mandeville (LD) [V]: My Lords, a waste prevention programme needs to be a dynamic document, moving with advances in science and technology. At the other end of the process, the public need to play their part in minimising waste. To prevent the nation from being subsumed in unnecessary waste, will the revised waste prevention programme have measures that tackle both ends of the spectrum?

Lord Goldsmith of Richmond Park (Con) [V]: I can absolutely provide that assurance. The Government are seeking powers through the Environment Bill that will enable us to set standards across the board. That means resource efficiency requirements, including spare-part provision, recycled content, durability or the potential to disassemble and repair. We are addressing the waste stream—it is not so much a spectrum but all the way round the circle—of the waste ecosystem in which we live. The first product group that we will be looking at and regulating will be textiles, furniture or construction products, but we plan to expand far beyond that in the near future.

The Earl of Caithness (Con) [V]: My Lords, while I thank my noble friend for his encouraging Answer, what plans does he have to raise awareness among the general public about the problems of food waste, given the enormous impact that it has on climate change, ahead of COP 26 next year?

Lord Goldsmith of Richmond Park (Con) [V]: My noble friend makes an important point. The UK is absolutely committed to meeting UN sustainable development goal target 12.3, which seeks to halve global food waste at consumer and retail levels by 2030. Our resource and waste strategy included policies such as better redistributing food to those in need before it goes to waste, for which we have provided £15 million of new funding; a consultation on the annual reporting of food surplus and waste by food businesses; and publishing a food surplus and waste hierarchy to support businesses in preventing waste. In response to the Covid-19 emergency we announced £3.25 million of additional funding to enable redistributors, big and small, to get more food to those in need, and that has been supplemented by further funding from DCMS. This is a priority issue and we have seen progress, but of course there is more to do.

Baroness Boycott (CB): I would like to follow up on the point made by the noble Earl, Lord Caithness, about food waste. Food waste has been the low-hanging fruit because everyone agrees that it is a terrible thing. The retailers have cleverly managed to reduce their own food waste, which is now down to 3%, whereas household food waste is now up to 70%. One of the main reasons for this is that supermarkets do not want to be left with old food, so they package large units of things such as mushrooms and fruit in a lot of plastic for lower-income people and, as a result, some of it goes to waste. Which part of the Government's strategy will start to encourage supermarkets—which unnecessarily use a fifth of all plastics to wrap up fruit and vegetables—to offer loose selections so that people can go into the store and buy exactly what they need and not what the supermarket wants to give them? That will help to save money and cut down on waste and stop the situation where the poorest households throw away more food.

Lord Goldsmith of Richmond Park (Con) [V]: There is no doubt that what we often refer to as consumer waste is nothing of the sort: it is producer waste. Very few people go into a supermarket wanting to buy a sprig of parsley encased in a brick of plastic. We are very keen to reduce the amount of packaging used and to ensure that the packaging that is used is properly and meaningfully recyclable. One of the measures that we will be using, and which I believe will deliver the most change to packaging, is extended producer responsibility, which is at the heart of our Environment Bill. That is a shift in emphasis from consumer to producer responsibility, requiring producers to take responsibility for the full lifetime costs of the products subjected to the regime of extended producer responsibility—of which packaging will, of course, be one.

Baroness Neville-Rolfe (Con): My noble friend may not be aware of it but I have been pressing his predecessor on reducing plastic waste since before the Attenborough revelations, and I welcome some of the changes that my noble friend has described. However, how will sustainability initiatives be ramped up to deal with other negatives from Covid? We have seen a resurgence of disposable cups, discarded masks everywhere, and, in Wandsworth—which is one of my favourite councils—very long delays in the delivery of the special bags that households need to recycle their waste. These small things matter a lot.

Lord Goldsmith of Richmond Park (Con) [V]: Undoubtedly, there has been a huge increase in the amount of plastic waste generated as a consequence of the pandemic. I think that probably, to be fair, that was both unavoidable and inevitable. However, on the litter component, laws are in place to address littering. Whether it is a face mask or a packet of chewing gum, the law is the same. We of course strongly encourage local authorities to use the powers they have to ensure that those who engage in littering are penalised. On plastic waste generally, we have a whole suite of measures in relation to reducing the use of plastic, reconciling different types of plastic so that the recycling stream is not undermined, and ensuring, as I said, that the responsibility for the full lifetime cost of dealing with plastic rests with the producer and not the consumer. I think that that will shift the market.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed. We now come to the fourth Oral Question.

Covid-19: Football League

Question

12.42 pm

Asked by ***Lord Clark of Windermere***

To ask Her Majesty's Government what steps they are taking to provide financial support to English Football League teams whilst restrictions are in place to address the COVID-19 pandemic.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Baroness Barran) (Con): My Lords, our football clubs are the bedrock of their local communities and it is vital that they are protected. Many have benefitted from the unprecedented multibillion-pound package of support that we have provided to all businesses across the UK, which the Chancellor has announced has been extended. The Minister for Sport met both the Premier League and the English Football League last week to reiterate the need for them to reach an agreement on a support package in the interest of fans.

Lord Clark of Windermere (Lab) [V]: I declare an interest as a director of Carlisle United Football Club. The Government have stopped fans from attending football matches, thus they have some responsibility; so will they now commit finance and to working formally with the football authorities to ensure that Football League clubs, and especially those in Leagues One and Two, can survive? Secondly, in view of football's proven low Covid-19 risk, when this current lockdown ends on 2 December, will the Government commit to making a priority of reopening grounds when feel-good factors and economic activity can be encouraged?

Baroness Barran (Con): I think the noble Lord knows that we regretted enormously having to press pause on our plans to reopen stadia for fans. I can reassure him that every consideration is being given to making that a priority when the pandemic and the virus are brought under control. However, our view has been clear that professional football has the resources and the means to support itself. There is £50 million on the table for Leagues One and Two, which we feel is a good start.

Lord Triesman (Lab) [V]: My Lords, I declare an interest as a former chairman of the Football Association and a board member of Wembley National Stadium Ltd. Not all clubs are fabulously wealthy even in the Premiership, and although they can certainly contribute to the survival of the pyramid, the national importance of football in our culture, to which the Minister referred, surely entitles clubs to look for more government help. The Government could, for example, provide more help in the deferment of taxation payments. Will the Government consider whether that could be done and, in agreement with the clubs, consider appointing a commissioner to regulate football, with a binding undertaking from clubs in all sections of the leagues that they will be treated equally rather than to the benefit of only six clubs at the very top of the football pyramid? Will the Minister talk about the progress that could be made now given the current circumstances, which are forcing a new look at the whole problem?

Baroness Barran (Con): The Government absolutely agree with the noble Lord on the national importance of football and recognise that many community clubs have gone above and beyond during the pandemic to support people living in their communities. We have also, for example, moved and worked closely to broker a £10 million deal with the National Lottery so that the 66 clubs in the top two levels of the National League can continue to play behind closed doors. Some of the wider issues that the noble Lord raises may form part of our wider fan-led review of football governance.

Lord Woolf (CB) [V]: I disclose an interest as a fond grandfather of seven grandchildren, who like to play sport. Is it not important to single out not one sport but all sports for the help provided by the Government so that all children, like my grandchildren, can enjoy sports to the full?

Baroness Barran (Con): The noble Lord is not alone in having grandchildren who enjoy sport, and children's sport is vital. That is one reason we have ensured that it can carry on in school even during the current lockdown.

Lord Bassam of Brighton (Lab) [V]: My Lords, is the Minister now able to explain to the House what the Government have done to ensure that those 20 or so EFL clubs facing financial collapse can continue to trade and play for fans, which is important, in the future? What hope can she gives to fans wanting to return to watching lower-league games, and can she commit to ensuring that clubs in the rest of the football pyramid can function viably across the rest of the season in these rather depressing times? Will she give us a timetable for the fan-led review that the Government say they are fully committed to? If she cannot do so, when will she?

Baroness Barran (Con): On the support needed across the English Football League, as I have said a couple of times, we have been very clear that those with the broadest shoulders within the football family and at the top of the pyramid need to bear that cost. We have been reassured by the Premier League that it has no intention of letting any club go bust because of the pandemic. Work continues on returning fans to stadia, including with the Sports Technology and Innovation Group, looking at every possible means to return fans as quickly as possible.

Lord Addington (LD): My Lords, will the Minister take this opportunity to reassure the football family that the Government like our structure of promotion and relegation, which is very important to the structure of our football and the nature of its community basis, and that any clubs at the top whose ownership may come from a culture where you have a franchise and a guaranteed fixture list know that this is something that they will not get away with here—at least, not with government blessing?

Baroness Barran (Con): The noble Lord raises something fundamental to the way our game is organised in this country, and I believe the Government see it as critical going forward.

Lord Taylor of Warwick (Non-Afl): My Lords, I declare my interest as a founding member of the original Independent Football Commission. In America, the National Football League shares its television revenue with all teams equally, regardless of status or performance.

[Lord Taylor of Warwick]
Is this a model that should be at least looked at in English football? Secondly, if the Premier League does not reach agreement with the EFL, will the Government consider a levy on football TV revenue?

Baroness Barran (Con): With regard to the noble Lord's second point, I am not aware that any consideration is being given to a levy such as he describes. Obviously, our goal is to get fans back in stadia, and we have worked very hard to try to broker exceptional access to games as they have operated behind closed doors. The nature of agreements between the broadcasters and the various leagues are for commercial arrangements between them and not for government.

Lord McNally (LD) [V]: My Lords, is it not time that the Government stopped pussyfooting with the Premier League and made sure that it makes a proper contribution? The Minister said that they have not looked at this, but they should look at a levy on the money coming out of television and make sure that money quickly gets to both the English Football League and the National League, which make a far better contribution to our communities than the Premiership.

Baroness Barran (Con): To be clear, I said I was not aware of whether the Government were looking at this; I did not say that they were not. They have been incredibly active in supporting sports clubs across all the major sports that are really suffering from the lack of income from fans. They are working closely with the Treasury to resolve this as quickly as possible.

Lord Faulkner of Worcester (Lab) [V]: My Lords, may I press the Minister on my noble friend Lord Bassam of Brighton's question about the timetable for the establishment of the fan-led review into football governance? When she has answered that, can she also say whether it will take account of the excellent report *Saving the Beautiful Game: Manifesto for Change*, published last month by the distinguished group chaired by the former FA chair David Bernstein? In particular, will it take account of its central recommendation:

"External involvement in the form of a regulator supported by statutory powers is required to reform the way our national game is governed"?

Baroness Barran (Con): With regard to the timing of the review, this is a manifesto commitment and we are keen to get started with it as soon as time allows, but all noble Lords will understand the pressure that our officials and Ministers are under at the moment. The scope of the fan-led review has not been determined, and anticipating the answers before we have set this might be premature.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed, and this brings Question Time to an end.

12.53 pm

Sitting suspended.

Covid-19: Vaccine Taskforce

Private Notice Question

1 pm

Tabled by ***Baroness Hayter of Kentish Town***

To ask Her Majesty's Government what assessment they have made of (1) the appointment process of the chair of the United Kingdom's Vaccine Taskforce, (2) the code of conduct setting out the framework within which this postholder works, and (3) the budget for the Vaccine Taskforce.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): The UK has worked at unprecedented pace and scale to ensure public access to a safe, effective vaccine as soon as one becomes available. Kate Bingham was appointed by the Prime Minister and is subject to all the usual principles and codes of conduct for board members of public bodies. She is very well qualified for the role of chair, having worked in the biotech and life sciences sector for 30 years.

Baroness Hayter of Kentish Town (Lab) [V]: Indeed, Boris Johnson has just showered praise on Kate Bingham, but I am surprised the Minister says she had to sign a code of conduct regarding confidentiality, since she seems to have given certain things away to a private seminar, or conflict of interests, since we read in the *Times* that she may benefit financially from a vaccine development. She has also charged more than £500,000 for eight press officers. Who is the accounting officer who signed off this expenditure?

Lord Callanan (Con): There are a number of questions there, but the presentation she did focused on publicly available information and said little that expert delegates at the conference could not have deduced for themselves. Her attendance at that conference was approved and sanctioned by officials. The presentation was put together by officials. The noble Baroness should be aware she is unpaid for her role, and the recruitment process for the consultants she referred to was contracted by the Vaccine Taskforce for a time-limited period in line with existing public sector recruitment practices and frameworks. The details of all that will be published in due course.

Baroness Armstrong of Hill Top (Lab) [V]: My Lords, where in the code that covers the appointment of the vaccine tsar it is made acceptable to brief companies that stand to profit from information before ensuring Parliament is told?

Lord Callanan (Con): I think I just answered that point in my previous answer, but the presentation focused on publicly available information and said little that expert delegates at the conference could not have deduced for themselves. Her attendance at this seminar was approved by officials, and the presentation was signed off by officials.

Lord Scriven (LD): My Lords, Kate Bingham asked for Admiral Associates to be brought in. Angus Collingwood-Cameron, the director of Admiral Associates, is also a

director of Dominic Cummings' in-laws' country estate and runs a caviar company which he says he is

"happy to advise on indulgence."

If this is not gross indulgence, to give a single source tender of £650,000 for PR work, when his own department has more than 100 people working in communications, what specific tasks and messaging has been provided by Admiral Associates that his own team of communication professionals does not have the skills or knowledge to deliver?

Lord Callanan (Con): The noble Lord is making baseless accusations there. The first thing to point out is that Dominic Cummings had no role whatever in any of these procurement processes or appointments. The specialist communications support was contracted by the Vaccine Taskforce. Details of all arrangements and all firms and contract labour used by the task force will be published in due course with the usual transparency arrangements.

Lord Bilimoria (CB) [V]: My Lords, the whole world is delighted with the news of the Pfizer BioNTech vaccine announced yesterday. Does the Minister agree that credit needs to go to Kate Bingham and the Vaccine Taskforce for operating at such speed to procure, at scale, a range of vaccines in development around the world, including the Pfizer BioNTech vaccine? Does he also agree that business should have a prominent and critical role in rolling out and distributing the vaccines across the UK in the months to come?

Lord Callanan (Con): I agree with the noble Lord; I think the Vaccine Taskforce has done a great job, and I think the announcement this morning is testament to that. Let me reiterate that she has taken on this role of chair in an unpaid capacity in the true spirit of public service. It has invested in something like six vaccines—350 million doses have been secured—to try to pick one of the vaccines that will be effective. The task force is doing a great job, and we will see that in due course.

Lord Campbell-Savours (Lab) [V]: My Lords, we are not being told the full story. The bottom line is quite simple: what was the real reason Kate Bingham was picked to do this job when she clearly had a conflict of interests, as has already been stated by my noble friend Lady Armstrong? Why did she give the contract to Admiral Associates? There is something we are not being told. Are there undisclosed relationships at play here, which are subsequently going to be revealed when the Minister makes the Statement he has twice promised us during this Question Time?

Lord Callanan (Con): She has declared all her relevant conflicts of interest in line with normal public sector appointments, and they have all been managed and agreed with officials in my department. She was not responsible for appointing Admiral PR; it was done under normal civil service procurement procedures by officials.

Lord Rooker (Lab) [V]: My Lords, the Minister has mentioned the task force several times. Who is on the task force? Why do we not know their names? Who appointed the task force? I have seen a reference to a vice-chair, but I understand that, when someone asked about this under freedom of information, all they got was a list of redacted sheets of paper. It is quite important to know who is on the task force to see their expertise, how they were appointed, why they were chosen and what interests they have. The Minister said more than once that Kate Bingham is unpaid; she can afford to be unpaid because, as he made quite clear, she is still working in the sector that she is currently governing. That is quite a serious issue. Is the Minister not somewhat uneasy that not a single Conservative Peer has come forward today to ask a question that supports the Government? I have never known such a case in my experience. He can answer what he chooses, or choose not to answer.

Lord Callanan (Con): The noble Lord, Lord Bilimoria, was supportive, and he is not a Conservative Peer but an independent Cross-Bencher. The task force consists of a number of specialists in their fields from the Civil Service, the military and private sector organisations, all attempting to get the UK a vaccine that will solve the Covid problem. I would have thought the noble Lord would welcome that.

The Deputy Speaker (Lord Haskel) (Lab): My Lords, all supplementary questions have been asked.

Blood Safety and Quality (Amendment) (EU Exit) Regulations 2020

Human Fertilisation and Embryology (Amendment) (EU Exit) Regulations 2020

Human Tissue (Quality and Safety for Human Application) (Amendment) (EU Exit) Regulations 2020

Quality and Safety of Organs Intended for Transplantation (Amendment) (EU Exit) Regulations 2020

Motions to Approve

1.09 pm

Moved by ***Baroness Bloomfield of Hinton Waldrist***

That the draft Regulations laid before the House on 8 October be approved.

Considered in Grand Committee on 2 November.

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, on behalf of my noble friend Lord Bethell, and with the leave of the House, I beg to move the four Motions standing in his name on the Order Paper en bloc.

Motions agreed.

Environment and Wildlife (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020

Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2020

Pesticides (Amendment) (EU Exit) Regulations 2020

Motions to Approve

1.10 pm

Moved by ***Baroness Bloomfield of Hinton Waldrist***

That the draft Regulations laid before the House on 8 and 12 October be approved.

Relevant documents: 31st and 32nd Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 3 November.

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, on behalf of my noble friend Lord Goldsmith of Richmond Park, and with the leave of the House, I beg to move the three Motions standing in his name on the Order Paper en bloc.

Motions agreed.

1.11 pm

Sitting suspended.

Covid-19 Regulations: Assisted Deaths Abroad

Commons Urgent Question

The following Answer to an Urgent Question was given in the House of Commons on Thursday 5 November.

"Issues of life and death are some of the most difficult subjects that come before us in this House, and the question of how we best support people in their choices at the end of their life is a complex moral issue that, when considered, weighs heavily upon us all. My right honourable friend the Member for Sutton Coldfield (Mr Mitchell) asked an important question and I want to set out the precise position. Under the current law, based on the Suicide Act 1961, it is an offence to encourage or assist the death of another person. However, it is legal to travel abroad for the purpose of assisted dying where it is allowed in that jurisdiction. The new coronavirus regulations, which come into force today, place restrictions on leaving the home without a reasonable excuse; travelling abroad for the purpose of assisted dying is a reasonable excuse, so anyone doing so would not be breaking the law. These coronavirus regulations do not change the existing legal position on assisted dying.

As this is a matter of conscience, the Government do not take a position. It is instead a matter for each and every Member of Parliament to speak on and vote according to their sincerely held beliefs, and it is for the will of the House to decide whether the law should change. The global devastation of the coronavirus pandemic has brought to the fore the importance of high-quality palliative care, just as it has shone a spotlight on so many issues and, as difficult as it may be, I welcome this opportunity to have this conversation about assisted dying, as it is one of the most sensitive elements of end-of-life care.

I have the greatest sympathy for anyone who has suffered pain in dying or suffered the pain of watching a loved one battle a terminal degenerative condition, and I share a deep respect for friends and colleagues in all parts of the House who share and hold strong views. I am pleased that the House has been given this opportunity to discuss the impact of the pandemic on one of the most difficult ethical questions that we face."

1.21 pm

Baroness Thornton (Lab): My Lords, I think it is to be welcomed that the response to the Urgent Question last week was that travelling for the purposes of an assisted death would be exempt from lockdown travel restrictions. However, there are concerns that this Statement did not go into detail about whether family members could accompany people. Legal constraints mean that it is not clear whether the exemption applies to them. Presumably, they would have to demonstrate their reasons for travel and might, in the course of doing so, incriminate themselves for assisting a suicide. So can the Minister clarify that family members accompanying someone travelling for an assisted death will not be vulnerable in this way? If the Minister does not know the answer in detail to this important question, please would he seek to find out from the Ministry of Justice, write to me, and put the letter in the Library?

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): The noble Baroness is entirely right on the question of travelling abroad for the purpose of assisted dying. It would be regarded as a reasonable excuse, and therefore anyone who did would not be breaking the law. In answer to the noble Baroness's question, under Section 2(1) of the Suicide Act 1961, a person does commit an offence if he or she

"does an act capable of encouraging or assisting the suicide or attempted suicide of another person"

and that act

"was intended to encourage or assist suicide or an attempt at suicide."

The 1961 Act provides no exceptions to the prohibition on assisting suicide. The maximum penalty, as noble Lords may know, is 14 years, and there is nothing in the Coronavirus Act or any recent legislation that in any way changes that.

Lord Purvis of Tweed (LD): My Lords, whilst the 1961 Act provides no exemptions, as the Minister said, the Director of Public Prosecutions has issued guidance with regard to the avoidance of prosecution in this area. Will the Government ask for that guidance to be looked at again, in the context of the sensitive words of the Secretary of State for Health, to avoid the very situation that has happened in the past where public

authorities sought injunctions against family members who supported those who took the very difficult decision to travel abroad? I live in Scotland, where the Suicide Act 1961 has never applied. Will the Government work with the Scottish Government to start collecting data? It was welcome that the Health Secretary indicated the openness of the Government to do that, so we can get a proper understanding of how many people are making the very difficult decision to travel abroad.

Lord Bethell (Con): The noble Lord is entirely correct; the Director of Public Prosecutions' policy for prosecutors in respect of cases of encouraging or assisting suicide sets out factors which prosecutors in England and Wales will consider, in addition to those already outlined in the code for Crown Prosecutors when deciding whether it is in the public interest to prosecute in cases of encouraging or assisting suicide. Among the public interest factors tending against prosecution are that the victim had reached a voluntary, clear, settled and informed decision to commit suicide and that the suspect was "wholly motivated by compassion". I completely take on board the noble Lord's encouragement of this review. There is no review planned, but we all acknowledge the changing tone of this debate and I will take his suggestion back to the department. On the point about Scotland and data, I acknowledge different circumstances in Scotland and the remarks on the importance of collecting data from my noble friend in the other place. That is indeed our intention.

Baroness Hayman (CB) [V]: My Lords, the Minister's response to the second question today was more reassuring than his response to the first. I am sure he would agree that these are desperately difficult situations for families, and to have the uncertainty about whether someone would have to undertake alone a journey that should never be undertaken alone because of a wish to protect their relatives from prosecution is frankly unthinkable. On the wider point, could he assure the House that some urgency will be given to this issue of collecting data and seeing in the round the problems that are being caused? We have had piecemeal changes such as the changes from the DPP, but we need to understand more comprehensively the exact implications of what is going on.

Lord Bethell (Con): The noble Baroness is entirely right; Covid has, in a very sad way, thrown a spotlight on the circumstances of those dying alone. That is one of the harshest and most heart-breaking dimensions of this awful pandemic. It throws a spotlight in particular on the way in which the law is applied in this country. The collection of data is a very important component of our review of this important area and I will definitely ensure that the indication given by my right honourable friend in the other place is picked up back at the department.

Baroness Jay of Paddington (Lab) [V]: My Lords, I am generally encouraged and relieved by the Government's responses on this Statement, particularly the point made in the Commons by the Secretary of State that assisted dying must be considered in the general discussion of good end of life care. I hear the Minister say that a formal review is not planned, but when the Government come to look at the concerns about death and dying that have been thrown up by the pandemic, will they ensure that the questions of proper personal choice at the end of life will be both included and emphasised?

Lord Bethell (Con): Well, this is an extremely complex issue. As the noble Baroness alluded to, there is a wide variety of issues at stake, including values issues, questions of faith and, as she rightly said, questions of personal choice. There are the components here for an important national debate. I acknowledge the comments of several noble Lords already that we are approaching the moment when that debate seems more relevant than it has ever done. When that debate takes place, certainly personal choice will be an important part of it.

Baroness Grey-Thompson (CB) [V]: What advice did the Secretary of State, Matt Hancock, have from the Director of Public Prosecutions in relation to the official guidance? The response on travelling to Dignitas suggests assisting suicide is an urgent act and encourages the suicide of those with disabling conditions. Some 25 years on from the Disability Discrimination Act, and with the rise in post-Covid mental health problems, this is particularly inappropriate, as data from other countries shows that the major driver for seeking assisted suicide is the fear of being a burden, and other social factors.

Lord Bethell (Con): In direct answer to the noble Baroness's question, I am not sure whether any advice was given by the DPP, because there has been no change in the law. Nothing we have done here changes in any way either the 1961 Act or the advice of the DPP. So, from that point of view, the consultation is not necessary. What we have sought to do is clarify travel guidance in a way that does not change the application of the law in the country.

Baroness Jenkin of Kennington (Con) [V]: My Lords, the Secretary of State said in the other place that this conversation on assisted dying must happen

"in an evidence-based, sensible and compassionate way."—[*Official Report*, Commons, 5/11/20; col. 480.]

What efforts will the Government be making to ensure that we as a House have all the evidence available to us when this important debate next reaches the Chamber?

Lord Bethell (Con): My Lords, the debate has not been scheduled, but evidence that would be of interest includes evidence from clinicians themselves, many of whom have seen some movement in their attitudes on this subject. There is also an enormous amount of values-based and faith-based evidence from those who have a particular view on this subject. There is also the evidence of the personal choices of those approaching death themselves. There are extremely moving testimonies by individuals faced with very daunting and challenging circumstances. All of these views have relevance and value, and they should all be part of this important and delicate debate.

Baroness Stuart of Edgbaston (Non-Afl): My Lords, in response to the noble Baroness, Lady Grey-Thompson, the Minister stressed that this was travel advice, but

[Baroness Stuart of Edgbaston]
surely it goes further than just travel advice. At a time of Covid, when many people in care homes would seek the companionship of members of their families but forgo it in the wider community interest, is it really the right decision to create a presumption that people at the end of life only have the option to travel abroad and to facilitate that? Surely more palliative care and more focus on helping people to a good death are more important during this Covid crisis than facilitating people to travel abroad.

Lord Bethell (Con): I entirely agree with the noble Baroness that the contribution of hospices and the role of those involved in palliative care has been an incredibly important part of the Covid crisis, and it has given huge succour, compassion and care for those at the end of their life. We have sought to help with the financing of the hospice community with a substantial £150 million payment in the first wave, and there are currently talks in place on funding for hospice care through the second wave. Hospices' work is enormously valued, and anything in this debate does nothing to underplay the value of the role that they play at the end of people's lives.

The Deputy Speaker (Lord Haskel) (Lab): My Lords, the time allowed for this Question has now elapsed, so I move to the next item of business.

Jonathan Taylor: SBM Offshore

Commons Urgent Question

The following Answer to an Urgent Question was given in the House of Commons on Monday 9 November.

"I am very aware that my right honourable friend has been taking a very keen interest in this issue. Mr Taylor exposed corruption at the Monaco-based Dutch multinational SBM Offshore in 2012. He was arrested in Croatia on 30 July this year on an Interpol red notice issued by Monaco for charges of corruption and bribery.

At this time, we have no evidence that the arrest is linked to Mr Taylor's whistleblowing on corruption at SBM Offshore. However, Mr Taylor has alleged that the arrest is linked to his whistleblowing activities. On 3 October, the Croatian extrajudicial council issued its decision to extradite Mr Taylor to Monaco. Mr Taylor has been on bail since 4 August.

Mr Taylor appealed against his extradition to the Croatian Supreme Court, which has advised that the UK should first be asked if it wanted to extradite Mr Taylor as a UK national. We understand that the Crown Prosecution Service has advised that it has no outstanding case against Mr Taylor. Therefore, the UK has notified the Croatian authorities that we are not seeking to extradite him. The Croatian court will now reconsider the issue.

We are following the progress of Mr Taylor's appeal very closely and will continue to do so. We have approached the Monégasque prosecutor's office to request the details of the specific charges against Jonathan Taylor. We have also spoken to Mr Taylor's UK lawyer to understand the grounds on which he is appealing the charges, and we are providing consular support to Mr Taylor. We have stayed in very regular contact with Mr Taylor and sought updates on the case from the Croatian judge.

Consular staff spoke to airport police on 30 July, when Mr Taylor was first arrested. They spoke to Mr Taylor and provided him with a list of local English-speaking lawyers. Staff have spoken to the judge for information on the local legal process and for regular updates on the progress of the case, to the prison social worker to check on Mr Taylor's welfare, and to the president of the extrajudicial council. They have also spoken to Mr Taylor's wife.

Since the decision to extradite Mr Taylor, Foreign, Commonwealth & Development Office staff have been in contact with Mr Taylor on multiple occasions and have spoken with Judge Djordjo Benussi of the county court in Dubrovnik. If we receive any evidence that Mr Taylor's arrest is linked to his whistleblowing activities or that due process is not being followed, we will of course consider what further steps we can take to support him. However, it is a requirement of the Vienna convention on consular relations that signatories do not interfere in the internal affairs of other countries. We cannot interfere in the legal proceedings of other countries, just as we would not accept similar interference.

I met the right honourable Member for Barking, Dame Margaret Hodge, and a co-chair of the All-Party Group on Anti-Corruption and Responsible Tax on 15 September. More broadly, my right honourable friend may be interested to know that the UK has seconded a senior lawyer to the Interpol task force working to prevent abuse of Interpol systems."

1.32 pm

Lord Collins of Highbury (Lab): My Lords, I listened carefully to the debate yesterday on this Urgent Question. One thing that I hope the noble Baroness will be able to respond on today is the assessment—or whether any assessment has been made by the department—of the evidence presented to Wendy Morton by my right honourable friend Margaret Hodge that both links the case of Mr Taylor's actions as a whistleblower and shows that due process has not been followed. In light of this evidence, what on earth is preventing the Government making strong representations to the Government of Monaco?

The Parliamentary Under-Secretary of State, Foreign, Commonwealth and Development Office (Baroness Sugg) (Con) [V]: My Lords, at this time we have no evidence that this arrest is linked to Mr Taylor's whistleblowing on corruption. However, Mr Taylor has alleged that the arrest is linked to the whistleblowing. We will continue to provide consular support and are in regular contact with Mr Taylor. If we receive evidence that Mr Taylor's arrest is linked to his whistleblowing activities, or that due process is not being followed, we will of course consider what further steps we should take.

Baroness Kramer (LD) [V]: My Lords, I am shocked by the line in the Government's response that says we have no evidence that this arrest is linked to Mr Taylor's

whistleblowing on corruption. Employers retaliate against whistleblowers, not on the grounds of their whistleblowing, but by asserting spurious, contrived and false accusations. By the time the whistleblowers are exonerated—in the UK, often in an employment tribunal dragged out over years—they have been financially ruined, their families scarred and sometimes their mental health compromised. That is how employers and hostile Governments punish whistleblowers and persuade others to keep silent about wrongdoing. I hope the Minister will meet the All-Party Parliamentary Group for Whistleblowing, because we have to change the whole regime to provide genuine protection. Will the Government recognise that this behaviour, captured by this UQ, is classic retaliation against a whistleblower, and will they protect Jonathan Taylor now?

Baroness Sugg (Con) [V]: My Lords, of course we must do what we can to protect whistleblowers, and we have done so through the Employment Rights Act and, indeed, the improvements we have made to protect whistleblowers over recent years. I am afraid that in this case in particular, as I said, we have not received specific evidence of this arrest being linked to whistleblowing, but we will continue to monitor the case very closely and consider any evidence that we receive.

Lord Wills (Lab) [V]: My Lords, on the face of it, as we have heard, this is a troubling case. A British citizen has exposed corruption and wrongdoing on a global scale and has taken considerable personal risk to do so. As I understand it, he is still helping regulatory authorities in this country in pursuit of further wrongdoing, yet the British Government are doing nothing to protect him from what appears to be an abuse of Interpol procedures. Will the Minister agree to meet me and colleagues to discuss this case as soon as possible, along with one of her ministerial colleagues from the Home Office, who, I understand, also has an interest in this case?

Baroness Sugg (Con) [V]: I would push back on the assertation that the Government are doing nothing. As I said, we are providing regular support to Mr Taylor: we are in regular contact with him, his family and his legal team. Mr Taylor has appealed against his extradition. We have also approached the Monégasque prosecutor's office to request more information about the charges against Jonathan Taylor. We will continue to closely monitor this case and take appropriate action.

Baroness Blackstone (Ind Lab): My Lords, the Government claim that they cannot interfere in the legal proceedings of another country, which is surprising, since there are recent examples where they have done so—so why in those cases and not this one? Moreover, it is surprising that the Government have not made high-level diplomatic representations to halt the extradition process, given that Mr Taylor has worked with the SFO and other prosecutors around the world, exposing a corruption and bribery scandal at a Monaco-based company, leading to fines amounting to over $800 million. He is continuing to work with the SFO in corruption investigations. Can the Minister tell the House why the Government are refusing to take action to restore Mr Taylor's human rights, so he can come home, and are thereby failing to support the work of whistleblowers in the global fight against corruption?

Baroness Sugg (Con) [V]: [*Inaudible*]—we will continue to support whistleblowers. On this specific case, we need to consider each case on an individual basis and, as set out in the Vienna convention on consular relations, we cannot interfere in the internal affairs of other countries, just as we would not expect similar interference here. However, we will continue to monitor this case closely. The Minister for the European Neighbourhood recently met the co-chairs of the APPG on Anti-Corruption and Responsible Tax. We will continue to stay in contact with Mr Taylor and his legal team, to ensure that we are doing everything we can to help in this case.

1.38 pm

Sitting suspended.

UK Terrorism Threat Level

Statement

The following Statement was made in the House of Commons on Thursday5 November.

"With permission, Mr Deputy Speaker, I would like to make a Statement regarding the UK terrorism threat level. The UK faces a serious and enduring threat from terrorism. Recent events in France and Vienna have provided a stark and brutal reminder of the risks that we face and the continuing need to be resolute in the face of those who would wish to sow division and hatred. This Government are committed to tacking terrorism in all its forms and to supporting our friends, partners and allies against those who would do us harm. We stand shoulder to shoulder with the people of France and Austria at this time of hurt and pain. Our thoughts are with the bereaved and all those who mourn the loss of loved ones. We have made formal offers of support to their Governments and underlined our shared resolve to stand together in solidarity against the extremists who despise our liberal values and our very way of life.

Since March 2017, UK police and security services have foiled 27 plots, including eight motivated by right-wing ideologies. The threat level system is designed to give a broad indication of the likelihood of a terrorist attack. It is a tool used by security practitioners working across different sectors and used by the police to determine the level of their overall protective security activity. It is also an important way of keeping the public informed about the threat from terrorism and to provide the context to understand why security measures are in place.

The Joint Terrorism Analysis Centre, JTAC, is responsible for setting the threat level to the UK from terrorism. JTAC operates independently of Ministers and keeps the threat level under constant review. It is based on the latest intelligence from our world-leading intelligence agencies and from our allies around the globe and considers factors including capability, intent and timescale. JTAC took the decision on Tuesday to

[Baroness Sugg]
change the UK threat level from international terrorism from "substantial", meaning an attack is likely, to "severe", meaning an attack is highly likely. JTAC keeps the threat level under review based on the very latest intelligence and taking into account international events. The recent terrorist attacks in France and Monday night's attack in Vienna suggest that the temperature of the threat in Europe is rising.

I should stress that this change in the threat level is a precautionary measure and is not based on any specific threat. However, there is a risk that the recent attacks in France and Austria could have a galvanising effect in other parts of Europe, including the UK, and the change of threat level is therefore seen as prudent. We know that these incidents can be exploited by those who want to further their own cause, especially on online platforms. I am pleased to note that communities from across the UK stand together in uniformly condemning the attacks in Vienna and France. In particular, they stress that places of worship should never be targets for violence, and that religion should not be used to justify murder.

The national terrorism threat level takes account of the threat from all forms of terrorism, including—but not only—Islamist and right-wing terrorism and Northern Ireland-related terrorism in Great Britain. A separate threat level for Northern Ireland-related terrorism in Northern Ireland is set by the Security Service, MI5, and remains at "severe". When JTAC's assessment of the threat changes, it is important that it is communicated as quickly as possible to ensure that those who rely on it to inform their decision making and planning can do so.

Assistant Commissioner Neil Basu has confirmed that the police have activated their established planning mechanisms following the change in threat level, and the public will see additional police officers deployed to certain places over the coming days. Our counter-terrorism strategy, Contest, sets out how the Government will confront all forms of terrorism. It aims to reduce the risk to the UK and its citizens and interests overseas from terrorism, so that our people can go about their lives freely and with confidence. Already, the Government have taken steps to ensure that counter-terrorism policing and the Security Service have the necessary tools and powers to keep us all safe from the threat from terrorism.

In response to the horrific Fishmongers' Hall and Streatham attacks, the Government acted swiftly by passing emergency legislation, the Terrorist Offenders (Restriction of Early Release) Act 2020, to end the automatic release of terrorist and terrorism-connected offenders. The Counter-Terrorism and Sentencing Bill is currently being debated by Parliament. It will improve protections for the public by strengthening every stage in the process of dealing with terrorist offenders. I take this opportunity to pay tribute to the police, security and emergency services, who show such resilience, courage and professionalism when responding to terrorist incidents, both in the immediate aftermath and in the investigations that follow. They put themselves in harm's way to protect us, and we should never forget their service in keeping us all safe. Their skill and dedication is why we constantly invest in our security and intelligence agencies, to help ensure that they have the resources they need to deal with the threats we face.

We also continue to challenge ourselves as to what more we should do. The public inquiry into the Manchester Arena attack is currently taking evidence. I know that this is a difficult and painful time for many people. The inquiry is rightly examining the events of that terrible night so that those who survived and those who lost loved ones can get the answers they need, and so that we learn and apply the lessons, whatever they may be.

Finally, at this time, I urge the public to remain vigilant. We should be alert but not alarmed, and any suspicious or concerning behaviour should be reported to the police. Those responsible for these attacks want to change our very way of life. Our clear message to them is that our values, our freedoms and our principles are what make us strong, and that they will never succeed. I commend this Statement to the House."

1.41 pm

Lord Rosser (Lab) [V]: We extend our condolences to the families of the victims of the recent horrific attacks in France and Austria and our sympathy and hopes for a recovery to those who were injured. It is these attacks that have prompted the decision by the Joint Terrorism Analysis Centre to raise the threat level for terrorism to "severe"—the second highest level—indicating an attack is highly likely. This is a decision we support since we have a shared responsibility to keep this country, our people and our communities safe. We extend our appreciation to our security services and those involved in counterterrorism policing for the vital work they do to keep us safe.

Could the Minister say what impact raising the threat level from substantial to severe will have as far as the daily lives of our citizens are concerned, both while we are in lockdown and when we come out of lockdown? Does the raising of the threat level require greater use of resources by our security services and counterterrorism policing? If so, were those additional resources already available or have they now been made available? Does the raising of the threat level apply across the United Kingdom? Is there uniformity of approach and practice across the United Kingdom in moving to the higher threat level? If not, what are the differences and where? Where do we now stand in relation to the independent review of the Prevent strategy? The raising of the threat level makes this more not less important.

The raising of the threat level from international terrorism reminds us of the importance of international co-operation. Do the Government accept that agreements must be concluded to ensure continued co-operation with the EU in combating terrorism after the end of the transition period?

In the Commons last week, the Minister said that he and the Home Secretary had

"asked officials to review with partners existing and proposed powers in the light of the horrific attacks in France and Austria to consider what more, if anything, might be needed."—[*Official Report*, Commons, 5/11/20; col. 529.]

When is that review likely to be completed? I would like to know what kind of things come under the description of

"what more, if anything, might be needed."—[*Official Report*, Commons, 5/11/20; col. 529.]

I conclude by reiterating our support for the decision to raise the threat level, and stress the need for our citizens to remain vigilant and steadfast. Combating terrorism and international terrorism is not, as some would like to suggest, a fight between different faiths, or people of different faiths. Our enemies are terrorists. It is a fight, as the Austrian chancellor said, "between civilisation and barbarity".

Lord Paddick (LD) [V]: My Lords, I want to start by paying tribute to Lords Sacks—Rabbi Jonathan Sacks. He may no longer be able to speak to us directly, but what he said lives on. In 2013, he wrote an article for the *Spectator* entitled "Atheism has failed. Only religion can defeat the new barbarians"—by whom he meant those who threaten western freedom by religious fundamentalism, combining hatred of the other, the pursuit of power and contempt for human rights. He was in effect saying that moderate religion is the answer to religious fundamentalism, not anti-religious campaigning.

There is no justification for violence. The horrific terrorist attacks we have seen on mainland Europe and here in the UK in recent years I condemn unequivocally. My thoughts are with all those affected.

Can the Minister set out the UK Government's position on free speech? Is free speech to be at any cost, no matter what the impacts on others? Because we condemn violence, no matter that it is unjustified, that does not mean we should not try to understand why people are drawn into it. Terrorism cannot be condoned under any circumstances, but if we are to counter it effectively we need to understand what motivates it. To that end, can the Minster say what research has been conducted into the impact of lockdown on the spread of extremism, particularly using the internet? What is the likely impact on vulnerable individuals—with no moderating interaction from others—and on their mental health? What are the Government doing to encourage, promote and ensure access to a moderate religious counternarrative to violent extremism allegedly based on religion?

The Home Secretary's Statement talks about the increased threat level being used by the police to determine the level of their overall protective security activity. This includes additional police officers deployed to "certain places". Can the Minister explain which places or what type of places these additional police officers are being deployed to?

The police are already stretched because of the Covid pandemic. It is at times like these that the importance of resilience in the police service is brought into sharp focus. Not only are the police having to enforce lockdown restrictions, police demonstrations against Covid regulations and deal with an enhanced UK threat level; they also have to do the day job of fighting crime and responding to calls for assistance. Many of these calls have nothing to do with crime, and include having to help increasing numbers in mental health crisis. This Government continued to reduce police numbers long after police leaders told them the cuts had gone far enough. Can the Minister explain where the additional police officers the Home Secretary refers to in her Statement will come from?

No doubt the Minister will be keen to tell the House about the additional police officers currently being recruited and the progress towards the government target of recruiting an additional 20,000 police officers, but can the Minister say what is the net increase, if any, in the number of police officers has been since the initiative was announced? What is the total number of police officers now compared with the 143,800 full-time equivalent officers in England and Wales police forces in 2010?

An essential part of combating terrorism, particularly the forms of terrorism we have seen in recent years, is community intelligence, intelligence built on trust and confidence created by police community support officers and local community police officers. What is the current number of police community support officers compared with 2010, and what proportion of police officers are currently employed as local community officers?

I have the utmost respect for our police and security services, and I am confident they do all that they possibly can to counter terrorism within the resource restraints they have been forced to operate under. I pay tribute to their skill and dedication. It is not, as the Home Secretary maintains, just about passing legislation. It is about properly resourcing the police and security services to give them the resilience they need to be able to respond to crises such as these.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, I thank both noble Lords for their comments and questions. I join them in expressing solidarity with France and Vienna in the tough times they have had, as well our sympathies with the families affected. I echo the noble Lord, Lord Paddick, in paying tribute to Rabbi Sacks, who was a great asset to this House and who always spoke with such wisdom on these matters.

The noble Lord, Lord Rosser, asked how the raised threat level would affect daily life. This matter is under continuous operational review by JTAC. Deployments of police in certain areas of our daily lives will be changed according to threats. In terms of the resources needed, my predecessor—way back when—the right honourable Sajid Javid recognised the changing demand on the police. Under his successor, my right honourable friend the Home Secretary, the 20,000 police officer uplift was made; it was, in fact, a manifesto commitment. I understand that we are almost at the 6,000 level. The noble Lord, Lord Paddick, asked about the number of PCSOs. I do not know exactly how many we have in this country. That is a matter for local forces and chief constables, in collaboration with their PCCs. The number is decided according to the needs of the local area. However, I will try and get that number, if it is available. He asked for some other details, which I shall also try to get for him.

Both noble Lords asked where the additional resources would come from when the threat level went up. Deployment will be a matter for operational decision. Of course we recognise that additional police demand is there. Both noble Lords mentioned crisis. Police grant can be applied for and, no matter what it is for, it will be given if the case is made.

[Baroness Williams of Trafford]

The noble Lord, Lord Rosser, asked if the threat was UK-wide. Yes, it is. There is separate consideration for Northern Ireland in relation to threats within it. He asked about the Prevent review. We are in the final stages of interviewing for our independent reviewer of Prevent and it is anticipated that the review will be done promptly. I deliberately did not give a timescale because we did not want to be where were last time, with the noble Lord, Lord Carlile, having to step away. We did not want to create too much time pressure.

The noble Lord, Lord Rosser, also talked about international co-operation and what more we can do. He and the noble Lord, Lord Paddick, will know that, particularly in relation to the EU, we remain absolutely committed to that co-operation on law enforcement.

The noble Lord, Lord Paddick, outlined the necessity for free speech but with limits, of course. If it impinges on the threat to the individual, it crosses the line. He talked about terrorist and extremists' use of the internet. I could not agree with him more. I hope that the online harms White Paper will become a Bill very soon and deal with some of those issues, particularly the duty on internet providers to their users. He also asked which places had benefited from protective security. He will know that I cannot talk about that, for the benefit of those places. He mentioned the police having to do their day job and police numbers. I hope that I went through that in sufficient detail but I will top it up with additional information for him.

The Deputy Speaker (Lord Haskel) (Lab): My Lords, we now come to the 20 minutes allocated for Back-Bench questions. I ask that questions and answers be brief so that I can call the maximum number of speakers.

1.56 pm

Lord Singh of Wimbledon (CB) [V]: My Lords, the Statement stresses that religion should not be used to justify murder, yet religious texts make frequent allusions to God-sanctioned rights to kill disbelievers. Does the Minister agree that religious leaders should take the lead in saying that references to long-forgotten enmities that provide the warped rationale for religious extremists have no place in today's different times?

Baroness Williams of Trafford (Con): The noble Lord and I can be absolutely consistent on that. I always agree with him when he makes that point. Religion should not be used as a tool either for extremism or for terrorism. It is interesting to note that religion often does not start out as an argument for terrorism but soon becomes that arguing point. He has always made the point about leadership in this country being important.

The Lord Bishop of Durham [V]: Places of worship have been included as targets of recent European attacks and there is a history of lone individuals targeting locations such as synagogues, mosques and churches. Considering that, what guidance and support is being given by the Government to faith communities and places of worship as they seek to balance being places of welcome and safety, open to all, without fortifying themselves unhelpfully?

Baroness Williams of Trafford (Con): The right reverend Prelate is right to say that places of worship should be not only places of sanctuary but places where people are not attacked because of their religion. We have funding for places of worship through the protective security grant. As to guidance, we work very closely with the police. He brought to my mind the "punish a Muslim" day, and the way in which the police gave comfort and reassurance to communities was exemplary. In fact, I visited various places of worship in Greater Manchester, where the police calmed a very nervous community.

Baroness Warsi (Con) [V]: My Lords, I add my thoughts and prayers to those of colleagues for those who have lost loved ones during the recent terrorist attacks in France, Austria and, more recently, Kabul University in Afghanistan, where, tragically, 22 people lost their lives. Terrorism is a violent manifestation of extremism, so how do the Government define extremism? Are any forms of extremism specifically defined? In light of the "nasty mix" of threats recently identified by the head of MI5, Ken McCallum, does the definition cover the wide and diverse threats that we now face?

Baroness Williams of Trafford (Con): My Lords, our definition of extremism, as I know my noble friend knows, is

"vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs."

I think my noble friend was asking whether there are any specific forms of extremism that are not covered. We have a government definition but not a legal definition of extremism, as she knows. However, in broad-brush terms, it covers a working definition of extremism.

Lord Dodds of Duncairn (DUP): I join noble Lords in expressing sympathy for the victims of the recent terrorist atrocities and pay tribute to the resilience, bravery and courage of our security forces, intelligence services and those involved in counterterrorism.

The Intelligence and Security Committee's recent report on Northern Ireland-related terrorism said that the threat from that quarter

"remains resilient, despite significant … pressure from MI5"

and the PSNI. Of course, the alert level for Northern Ireland-related terrorism in Northern Ireland remains at "severe". One of the key challenges identified by that report was poor criminal justice outcomes. Will the Minister work with the devolved Government in Northern Ireland to ensure that the criminal justice system is fit for purpose and sends the right deterrent? Can she confirm that every possible resource will be made available as necessary to combat threats both from abroad and domestically?

Baroness Williams of Trafford (Con): I thank the noble Lord for that question. He will agree that we have consistently provided the PSNI with additional resources to tackle the terrorism threat. In addition to funding for the Department of Justice in Northern

Ireland, the UK Government have invested significantly in the PSNI, with more than £160 million invested in the 2015 Parliament.

Lord Reid of Cardowan (Lab): My Lords, I too express my sympathy for the families grieving in France, Austria and, as the noble Baroness, Lady Warsi, reminded us, Kabul. This is a global struggle.

I want to press the Minister a little more on the question of resources. In my view, JTAC was correct to raise the threat level. It was precautionary, of course, but in view of what we have seen on the continent it was wise and prudent to do so. Obviously, this requires an additional operational dimension. The Minister said that there are 6,000 more police officers, although that is 14,000 short of where we were when her previous boss, Theresa May, was Home Secretary.

No doubt the Minister will also say that it is a question of operational deployment. Is it possible for the envelope of resources to be increased, either automatically or on request, commensurate with the increase in the threat level? If not, should it not be automatic that when the threat level increases, the resources to deal with it increase?

Baroness Williams of Trafford (Con): I hope that I outlined clearly the police's ability to request police grants. The purpose of the grants is not particularly prescriptive, but they can be sought for unexpected pressures. In a crisis, it has not been unusual for the police to request additional grants. I have talked about redeployment, so I will not talk about it again. The noble Lord knows about that.

This is in the context of the recognition that it is not just the demand on the police that has changed over the past few years in relation to the number of additional police officers; the type of threat that we face now is entirely different from the type of threat that we faced, say, 20 years ago. Now, we see cyber threats and other types of threat.

Viscount Waverley (CB) [V]: My Lords, I recognise the complexities of doing so, but as part of the process of keeping our country safe, can I request in no uncertain terms that the Government consider all acts and forms of ill expression—covering, but not limited to, religion, ethnicity and gender—which are alien and reprehensible to our values and must never overstep the mark? Will they also review all appropriate laws to ensure that they match the concerns, and challenge the oft-used façade of freedom of speech beyond the Minister's reference to—I quote—threat to an individual so that the single word "respect" remains synonymous with what we stand for as a united nation?

Baroness Williams of Trafford (Con): The noble Lord makes an interesting point about the balance between freedom of speech and individuals' responsibility not to threaten others with what they say. People are perfectly at liberty to insult, even offend, but there is a fine line where freedom of speech ends.

Baroness Uddin (Non-Afl): My Lords, I extend my sympathies to the family of Rabbi Sacks, the late Lord Sacks. It was a privilege to work with him on interfaith issues for many years, including in the early years of his journey. I also extend my thoughts and prayers to the families of all those who were so brutally murdered in Paris, Austria and Kabul. We stand together in their sorrow.

This House will agree that we must not fall prey to the language of hate and divisiveness being normalised in our discourse on terrorism and violent extremism, whoever the source. I am aghast at the hateful incitement and utterances from French leaders in denigrating faiths and communities, which will cause an insurmountable rise in Islamophobia, including Islamophobic attacks on Muslim communities in France and elsewhere.

Will the Minister continue with her commitment to working across faith communities, including women-led organisations, to ensure that their security remains paramount? Does she agree that demonising religion in combating the plague of terrorism is likely to disfranchise societies and, in doing so, demean our best endeavours as a society committed to upholding respect for the values of freedom, liberty, justice and equality?

Baroness Williams of Trafford (Con): It is important that we as a country lead by example. Clearly, we stand in solidarity with France and the French. I do not want to be drawn into discussing the comments that other leaders may have made, but we remain, as an international family, in solidarity with those people and against terrorism.

Lord Rooker (Lab) [V]: My thoughts too are with those who have suffered in France and Austria. I have two brief questions. The Minister did not answer the question asked by the noble Lord, Lord Paddick, about police officers. He asked what was the net increase. Is the Minister saying that the 6,000 figure is a net increase? Clarity on that would be useful.

The Statement towards the end pays tribute to the police who put themselves in harm's way every day to defend the public. During lockdown the police are far more exposed than they ordinarily are to the nutcases out to cause trouble. Who is watching out for the police? What extra precautions are being taken? The police are now more vulnerable because of the exposure than in normal times. I think this factor must weigh heavily with policymakers and those holding the resource bag.

Baroness Williams of Trafford (Con): I think the noble Lord will have heard my right honourable friend the Home Secretary talk about her revulsion at people who seek to attack the police while they are trying to maintain the policing by consent that we hold so dear in this country. In terms of who is protecting the police, they certainly have our support and we will do anything that we can to ensure that they are safe, notwithstanding some tragedies that we have seen recently. In terms of the increase in police numbers, I think I was quite clear in saying that we are approaching the 6,000 figure; we are certainly not at it yet, but we are not far off. I have elected to provide the noble Lord, Lord Paddick, with more detail. It is not a net increase; it is a gross increase number. I will provide a breakdown rather than trying to make it up on the hop.

Lord Mackenzie of Framwellgate (Non-Afl) [V]: My Lords, in the light of the evidence so far given to the public inquiry into the Manchester Arena bombing, is the Minister satisfied that private security officers on the front line of such events are properly briefed by the police and, perhaps more importantly, that they are professionally trained to a national standard, perhaps approved by the police?

Baroness Williams of Trafford (Con): As a former policeman, the noble Lord will understand that making a running commentary on an ongoing inquiry is something that I really would not want to do. He makes an important point about training and ensuring that those who are on the front line are sufficiently trained in the jobs that they do.

2.12 pm

Sitting suspended.

Organic Products (Production and Control) (Amendment) (EU Exit) Regulations 2020

Motion to Approve

2.20 pm

Moved by ***Lord Gardiner of Kimble***

That the draft Regulations laid before the House on 13 October be approved.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, I declare my farming interests, as set out in the register. I also much look forward to the maiden speech of my noble friend Lord Mendoza. I hope it would be useful to your Lordships if I speak to both the Organic Products (Production and Control) (Amendment) (EU Exit) Regulations 2020 and the Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2020, given the connection between the two instruments.

There are no changes to our policy on either organic products or genetically modified organisms. Amendments are required primarily as a result of the Northern Ireland protocol and to ensure that existing legislation continues to operate as intended. As established in the protocol, EU legislation will continue to apply to Northern Ireland. The existing EU exit legislation needs minor technical amendments to reflect the fact that retained EU law, whether on organics or GMOs, will be substantively applicable only in Great Britain. The changes do no more than is necessary to meet our legal obligations under the Northern Ireland protocol and ensure a workable legislative regime in Great Britain.

The first instrument makes minor amendments to the UK's organics legislation to ensure that the regulatory regime is operable at the end of the transition period, in line with the Northern Ireland protocol. References to United Kingdom have been changed to Great Britain in the Organic Production and Control (Amendment) (EU Exit) Regulations 2019, and the Organic Products (Amendment) (EU Exit) Regulations 2019.

The instrument also amends retained EU legislation to allow organic producers to continue to use 5% of non-organic protein feed for organic porcine and poultry, until the end of 2022. The EU has taken the same decision to extend the derogation. No new policy is introduced by the instrument and the UK's world-class standards are maintained. The Government are strongly supportive of organic standards, many of which were developed in the UK and adopted by the EU.

Under the protocol, EU law on organics will continue to have effect in Northern Ireland. Retained EU law will apply substantively only to Great Britain. This means that the Northern Irish organics market will remain the same, and we are working closely with Northern Irish colleagues to prepare for the end of the transition period, including setting up a Northern Ireland competent authority on organics. We remain committed to ensuring trade between GB and Northern Ireland continues. We are going to recognise the EU as an equivalent organic regime to the UK until 2022, providing certainty on imports for the immediate future. We hope that the EU will reciprocate very soon.

There are 6,000, predominantly small and medium-sized, UK organics operators, which contribute over £2.5 billion to the UK economy, including exports worth over £250 million. The statutory instrument relates to devolved matters and the respective devolved Administrations have consented to it.

The second instrument concerns existing EU exit legislation on GMOs. As I explained earlier, this instrument has the primary purpose of making technical amendments to the existing EU exit legislation, which are required in consequence of the protocol. I stress that we have not made any change to our policy on GMOs.

Detailed EU legislation currently provides a robust framework for the approval of GMOs and related matters to protect the environment and human health. Our existing exit legislation is intended to maintain this regime after the end of the transition period. It was prepared on the basis that those arrangements would be needed throughout the United Kingdom.

As a result of the protocol, the EU legislation on GMOs will continue to apply in Northern Ireland. We must amend EU retained law to ensure that it is operable in Great Britain. The amendments are to change references to the United Kingdom or institutions in the United Kingdom to Great Britain or institutions in Great Britain. This instrument also revokes amendments to Northern Irish legislation that are no longer required because of the protocol.

In addition to the provisions already described, this instrument makes a further amendment to retained direct EU legislation relating to traceability and labelling of GMOs. This additional amendment revokes a legislation-making power currently conferred on the Commission, as it will have no practical application in Great Britain after the end of the transition period.

Failure to adopt the instrument would mean that the retained EU law on GMOs would, by continuing to refer to the United Kingdom and UK institutions, be defective for Great Britain. It is also potentially confusing for Northern Ireland, as it suggests that the retained EU law applies there, when this is not the

case. It will also mean that amendments to Northern Ireland legislation, which are not needed in light of the protocol, would take effect.

GMO policy is a devolved matter and will remain so. The devolved Administrations were closely engaged in the development of this instrument and gave their consent for it to be laid. The amendments contained in these instruments are required due to our exit from the European Union and to ensure that the Northern Ireland protocol can operate as intended. I beg to move.

2.27 pm

Lord Bourne of Aberystwyth (Con) [V]: My Lords, I thank my noble friend the Minister for that clear exposition of the regulations. Like him, I feel we are privileged today to have the maiden speech of my noble friend Lord Mendoza. I look forward to hearing it shortly, as I am sure all noble Lords do.

I support these regulations. Clearly, the regulation of organic products and genetically modified organisms is a vital concern for our country—indeed, for all parts of our country, as these are devolved matters. I realise that the primary purpose of these regulations is to provide for the laws governing these areas to operate in accordance with the Northern Ireland protocol after the end of the transition period. In many areas, we are providing similarly. Just recently, we provided similarly for organs for transplant and blood products, where Northern Ireland is to be treated as a member state, with Great Britain as a third party.

That is consistent with the withdrawal agreement signed by the United Kingdom and is topical in your Lordships' House in the light of the votes last night. I wonder if my noble friend can comment on whether those votes will result in Great Britain being treated as a third party, for customs purposes, and Northern Ireland being treated as a continuing member state, in accordance with the withdrawal agreement. I feel sure that my noble friend will modestly say that that is above his pay grade, but also that he will have some insights in this area.

More specifically, I ask my noble friend to comment on the production, processing, labelling and importing of organic products and our inspection systems. I note what he said about there being no immediate intention to diverge from the European rules and standards, and my noble friend touched on these matters during discussions on the Agriculture Bill. But I wonder, looking forward, whether there is any intention to diverge from EU standards and rules, other than de minimis. Similarly, I wonder whether we are intending to diverge from EU rules and standards, in any way other than de minimis, on controls for the production, movement, traceability, labelling and marketing of GMOs. With those specific questions, I am content to give these regulations my total support. They make a lot of sense.

2.30 pm

Lord Berkeley of Knighton (CB) [V]: My Lords, I refer to my farming interests, as listed in the register.

I, too, support the Government in their efforts to retain continuity of regulation in these important areas. The move towards ever more organic food and farming methods can only be a good thing for health and the environment, but are the Government confident that the paperwork that will be required from producers, especially regarding Northern Ireland, is in place?

When we discussed pesticides last week in your Lordships' House, I was pleased to hear the noble Lord, Lord Goldsmith of Richmond Park, say that, as we left the CAP, his Government would be strenuously moving to an ethos of sustainability. I am sure that the Minister would understand that small farms find it very hard economically to make the transition to organic. Here in mid-Wales, I have seen several of them falter on the way. I hope this is an area which he and his department might look at sympathetically in the future.

On genetically modified organisms, the checks and balances are, of course, essential, and we must ensure that no loosening of the reins can occur. Having said that, research here in this country has very real benefits in areas such as Africa, where conditions require special crops that can withstand drought, blight and insect predators. These are of huge significance to feeding an ever-growing and often starving population, and, of course, there are knock-on effects in domestic agriculture.

One of the great virtues of your Lordships' House, in my humble opinion, is the sheer diversity of expertise on offer, so it is a very real pleasure to precede and welcome my noble friend Lord Mendoza. His knowledge of publishing, churches, painting and culture suggest that he will make valuable contributions to your Lordships' deliberations. I am very much looking forward to his maiden speech.

2.32 pm

Lord Mendoza (Con) (Maiden Speech): My Lords, I had imagined that joining your Lordships' House might prove intimidating, but the welcome I have had from everyone has been extremely friendly. I thank in particular the police officers, the security staff and the doorkeepers. Black Rod, the Clerk of the Parliaments and officials here have all helped me to begin the process of fathoming how this place works. The embrace of the Government Whips' Office has been a particular delight. I also thank the Prime Minister for nominating me, and my noble friend Lady Finn and the noble Lord, Lord Trevethin and Oaksey, for acting as my supporters.

I hope that your Lordships will indulge me in speaking on a subject that has occupied a large part of my life since March. I have the honour to serve as the Government's Commissioner for Cultural Recovery and Renewal. Your Lordships will know that this is a hard and perilous time for organisations and people in the cultural sector. Cruelly, often the more independent the organisation, the most commercial it is and the least reliant it has been on government grant, and the harder it has been as audiences and visitors have been kept away.

Since March, I have played a part in conceiving, developing and overseeing the necessary £1.57 billion Culture Recovery Fund. I am proud of what has been achieved to date through so many working together. It has relied on ministerial leadership and joined-up working by brilliant officials across DCMS, the Treasury and No. 10. It has brought together great arm's-length

[Lord Mendoza]
bodies, such as Arts Council England, Historic England, the National Lottery Heritage Fund and the British Film Institute. There have been regular working groups covering museums, entertainment, tourism and heritage, bringing in knowledgeable sector expertise.

Over the last weeks, thousands of grants, large and small, have been announced for places up and down the country—for churches and cathedrals, heritage sites, steam railways, museums and galleries, dance, theatre, orchestras, music venues, festivals, arts centres and independent cinemas. Many have never had or needed public funding before. The process will carry on over the coming weeks. It will not end the crisis for culture, but it will help. We continue to work to get places open, with fuller audiences and visitors where we can, so that they can continue to bring joy and happiness, promote economic growth, help society and add vibrancy to local communities, villages, towns and cities. Culture will return.

Turning to the SIs, as the Minister clearly explained, the Government are not altering regulatory policy at the moment. The SIs are keeping in place existing regimes that come over from retained EU law. At the risk of repeating what the Minister said, they amend the 2019 regulations to refer to Great Britain rather than to the UK in order to help the legislation operate in line with the Northern Ireland protocol.

As provost of Oriel College at the University of Oxford, I witnessed the wonderful range of academic endeavour from arts to sciences. I am privileged to be able to discuss the work of students, researchers and academics in, for example, biochemistry, biomedicine and medicine. Powerful gene-editing technologies such as CRISPR-Cas9 are now ubiquitous. They are used to develop GMOs and potential therapies and cures for a range of diseases, such as some forms of blindness and cancer. This country leads in much of that research. I support legislation that allows this progress to flourish.

Lord Robathan (Con): I congratulate my noble friend on his excellent speech. We have more in common than he may realise. We were both brought up in the suburbs of north London, we went to private day schools on the edge of London, and then, as he knows, we both went to Oriel College, Oxford. What he may not know is that we both applied to be provost of Oriel College. There the similarities end. He became provost. I was not considered. I know why, because I have good intelligence; it was because I was too old. As it happens, that is pretty sensible, because I am too old, but the 2010 Equalities Act might have had something to say about that.

I had a rather undistinguished military career and then became a Member of Parliament because I needed a job. He has had a stellar career, which we heard only a little about in his speech. With great enterprise, he founded Forward Publishing, with Will Sieghart. With even greater enterprise, and I suspect some financial benefit, he sold it 15 years later to WPP. Since then, he has made a name in the cultural field and in the arts charities' fields. There is too much to list, but he was chairman of the Prince's Foundation for Children and the Arts, he is chairman of the Landmark Trust, he was a commissioner of Historic England, and this year, as we have heard, he was appointed the Government's Commissioner for Cultural Recovery and Renewal—et cetera, et cetera. As we can tell from his speech, he has a huge amount to offer this House, and we look forward to further contributions, when Oriel College can spare him.

Oriel, our college, was the very fortunate recipient, about a century ago, of a large donation from Cecil Rhodes, which built undergraduate accommodation—the Rhodes building—where there is a statue of him. I regret that some woke members of the governing body, possibly ones rather ignorant of history or with a different interpretation of history than some of us, wish to rewrite history. Rhodes was a very controversial, unpopular figure in his time, who was much criticised. He fought the Boers and his nadir was the Jameson raid against the Transvaal. However, the descendants of the Boers he fought founded apartheid half a century later. His rather uninteresting and usually unregarded statute is part of history and part of the historic built environment of Oxford. I particularly regret that there are pusillanimous dons trying to curry favour with left-wing students by trying to bring the statue down.

My noble friend Lord Mendoza has been outed as a Tory. I fear that he may find himself in a minority on the governing body; the only Tory in the village, we might say. However, I hope that he will bring some balance and common sense to Oxford University, which remains an institution that is admired around the world. In welcoming him, I should tell him that we have one last shared interest, which I only discovered yesterday when he gave me some political betting tips. I am also a political gambler, so I am very grateful for his tips.

2.39 pm

Baroness Jones of Moulsecoomb (GP) [V]: My Lords, I, too, welcome the noble Lord, Lord Mendoza. His excellent maiden speech was probably indicative of the amount of effort that he will put into the House of Lords, despite all his work outside, and I hope that he will find time to educate all of us on these Benches.

I shall deal with the organic products statutory instrument first. The organic food sector is worth about £2.3 billion a year. It would obviously be good if we had even more organic growers and farmers, but part of the problem is the transition. Therefore, is there going to be any sort of government plan not to reduce the transition time of three years but perhaps to enable growers to use the label "transition", so that people know that they are on their way and that their products cannot be called "organic" but they are trying to get there?

Perhaps the Minister can also tell me whether the Government have any plans to diverge from EU standards. This has been raised before. If they do, how will that affect Northern Ireland?

On the GMO amendment regulations, the Government say that the Administrations of Wales and Scotland will be able to make their own decisions about whether, and in what circumstances, to authorise GMOs. How does that fit with the internal markets Bill? If the UK Government decided to authorise certain GMOs in

England, would Wales and Scotland then be forced to accept those GMO products under the internal market rules? I hope that the Minister can give me an answer to those questions.

2.41 pm

Lord Randall of Uxbridge (Con) [V]: My Lords, first, I add my congratulations to my noble friend Lord Mendoza on an excellent maiden speech. I am confident that he will bring a lot of his expertise to this House. He shares Oriel College with my noble friend Lord Robathan. I shared my school days with my noble friend Lord Robathan, and that just goes to show what diversity we have both at school and in universities. I congratulate my noble friend on a typically uncontroversial speech.

I should also like to say to my noble friend Lord Mendoza that I am sure that those in the Government Whips' Office are very grateful for the thanks that he gave them. They do not often get thanks but, if there is any place where you can find cultural recovery and renewal, it will be in that office. They are not having a very easy time of it—not helped by my recent voting record—so I offer them my support.

I thank my noble friend Lord Gardiner for his clear explanation of the need for these regulations, and I support them. I say to the noble Baroness, Lady Jones of Moulsecoomb, that I too am a supporter of organic products, but I think that sometimes we have made a mistake. Other countries—France, in particular—call them "bioproducts", which might be a little more appetising to the public.

On the other hand, I have always had somewhat conflicted views on GM organisms. In 1999, as a relatively newly elected MP, together with two other MPs on a cross-party basis, I took the Government to the High Court over the regulation of GM seeds. However, this is not the moment to debate the merits or otherwise of GM organisms. As this is a devolved matter, presumably it is possible to end up with different regimes throughout the UK. I am not sure that that is a good thing but, in other ways, I fully support these measures.

The Deputy Speaker (Baroness Morris of Bolton) (Con): The noble Baroness, Lady Bennett of Manor Castle, has withdrawn, so I call the noble Baroness, Lady McIntosh of Pickering.

2.43 pm

Baroness McIntosh of Pickering (Con) [V]: I am delighted to warmly welcome my noble friend Lord Mendoza. I hope that he will not be led too far astray by my noble friend Lord Randall so early in his parliamentary career.

I also take this opportunity to thank my noble friend Lord Gardiner for introducing these regulations. I shall limit my remarks to the Organic Products (Production and Control) (Amendment) (EU Exit) Regulations. In particular, I note, as explained in paragraph 7 of the Explanatory Memorandum, the importance to the United Kingdom as a whole of the organic sector. It is worth some £2.3 billion a year to the UK economy and growth, and its exports are worth around £250 million to the UK economy.

What is the relationship between these regulations and EU directive 2018/848? I understand that the directive defers the date of the application when the EU organics regime comes into effect and applies to Northern Ireland by virtue of the Northern Ireland protocol. The EU Environment Sub-Committee has had cause to write to our honourable friend the Parliamentary Under-Secretary of State for the Environment, Victoria Prentis, on this point. I do not know whether my noble friend has had a chance to see that yet, but I would welcome his views on it. We stated that this matter is of some significance and concern to organic producers in Northern Ireland and across the United Kingdom generally, particularly as regards the ability of Great Britain's organic producers to continue exporting to the EU and Northern Ireland after the transition period. Also, the Government's guidance on trading from 1 January 2021 confirms that an EU-UK equivalence agreement needs to be in place for the EU to recognise the UK's control bodies, such as, in our case, the Soil Association.

Therefore, will my noble friend confirm that we will be in a position to guarantee the ability of Great Britain's organic producers to continue exporting their products, marketed as organic, to the EU and Northern Ireland after 1 January? Can he also take this opportunity to give us an update on the negotiations over an EU-UK organics equivalence agreement? As I understand it, the lack of such an agreement could result in our not being listed in the relevant EU regulation annexe.

With those few remarks, I commend the regulations but I hope that my noble friend will share my concerns in this regard.

2.47 pm

Baroness Parminter (LD) [V]: My Lords, like fellow colleagues in the House, I commend the noble Lord, Lord Mendoza, for his passionate maiden speech today and for the breadth of cultural experience that he brings to the House. We might not always agree as Members in this Chamber, but that is one of the great things about having such a breadth of expertise. However, we try to hold each other in respect, and I look forward to debating with him in the future—probably sooner rather than later, if the Government get their way—on the regulatory framework that controls the gene-editing technology to which he so eloquently referred.

As other noble Lords have noted, the two SIs are not contentious. When the primary legislation was discussed in, I think, the 2008 Session, they were not debated in either House. As others have said, they ensure that the Northern Ireland protocol is implemented.

Like the noble Lord, Lord Bourne of Aberystwyth, and the noble Baroness, Lady Jones of Moulsecoomb, I would like to ask a question about the potential in the future for divergence relating to GMOs. As the noble Lord, Lord Randall, said, now is not the time to debate the ins and outs of the merits or demerits of making a policy move to genetically modified organisms. However, given that that seems likely following what the Minister said during debate on the Agriculture Bill about the Government introducing a consultation on gene editing this autumn, there is a fundamental question that I would like to ask him. If the Government

[Baroness Parminter]
consider making changes to the policies around GMOs in the future, will they give a commitment that they will not do so in advance of laying before Parliament the policy statement on environmental principles, which is promised in the Environment Bill and which would make clear how environmental principles, such as the precautionary principles, are to be interpreted?

Turning to the regulations on organics, like other noble Lords I fully support the organic farmers and small and medium-sized enterprises in our country, who do so much for animal welfare and the environment, and indeed give consumers the choice on food standards that they need and demand. It is important that we approve this legislation today so that there are rules and regulations to enable them to keep trading.

I have two issues, the first of which is around paperwork and checks. As others have alluded to, producers will need to fill in new paperwork and have new checks, and there will be physical inspections on Northern Ireland land. Last week, the National Audit Office put a report out in which it made clear that there were serious concerns about how those checks will work in Northern Ireland and trader readiness to implement these new requirements upon them. It said quite clearly that DAERA was

"severely hampered by … the lack of clarity"

on the measures required. Of course, this will apply to organic farmers.

DAERA has concluded that it is not possible to complete the necessary work or the systems and infrastructure by 1 January. It also does not have sufficient time to mobilise its trader support services. I ask the Minister to update the House on how those measures to introduce the new checks and physical inspections are moving forward. I also ask the Minister to say a bit more, perhaps, about the contingency operations that DAERA has now admitted it will have to invest in because it is convinced that it will not have those checks and inspections in place in time. As I say, this will directly impact on the 6,000 organic farmers and, indeed, other traders in the future.

Those concerns were echoed last week by Sainsbury's, which said that the supply of dairy, meat and fish products, which would of course include organic products such as sausages, could be seriously affected from January. There are 13 Sainsbury's stores in Northern Ireland, and other traders will also be affected. It is important that we hear from the Minister today about the state of readiness in relation to implementing these checks and balances.

Finally, I will follow up on the point so well made by the noble Baroness, Lady McIntosh of Pickering. There are concerns about organic farmers' ability to continue to export. Of course, we are all desperately hoping for a deal between the EU and UK, which would mean that there would be that equivalence for the control bodies for organic farming. However, if there is not one, then all the organic bodies will need to be recognised by the EU for any trade to continue. My understanding is that, currently, there are six of those bodies. Therefore, like the noble Baroness, Lady McIntosh of Pickering, I would like the Government to say a bit more about the discussions they have had with the European Union about equivalence and, if not, what the state of play is with regard to those organic bodies being recognised by the EU for trade to be able to continue.

2.52 pm

Baroness Hayman of Ullock (Lab): My Lords, I thank the Minister for introducing these SIs this afternoon and for organising the very helpful briefing beforehand. I also welcome the noble Lord, Lord Mendoza, and congratulate him on his excellent maiden speech. I welcome the informed contributions of your Lordships and will concentrate specifically on the instruments themselves. As we have heard, neither instrument introduces substantive policy change, although I understand that the reassignment of certain functions from the European Commission to UK bodies can occasionally mean a slight difference in how those functions will be carried out.

First, I come to the Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2020; I have some areas where I will ask the Minister for clarification. Paragraph 2.7 of the Explanatory Memorandum notes:

"Marketing consents granted at the EU level do not require further, national-level authorisations."

Clearly, this situation will change going forward. Further information is set out in Paragraph 2.12, which states:

"existing processes … will continue as now."

Can the Minister confirm that this means no change to the criteria being applied on 1 January? Does the department intend to review the criteria going forward? If that is the case, when would that work take place, and would it be carried out alongside the devolved Administrations?

As a de facto member of the EU single market, Northern Ireland will continue to adhere to a portion of the EU's body of law. These obligations relate to many of these areas, including genetically modified organisms. Divergence has been mentioned by a number of noble Lords, so does the Minister envisage any practical difficulties arising from the different regulatory regimes in Great Britain and Northern Ireland? For example, if the UK were to grant a GMO authorisation to a product that did not enjoy similar accreditation at the EU level, would there be any implications for the UK's internal market? Will the Government maintain equivalent regulations to the EU on GMOs? If not, how will that affect our ability to export agricultural products to the EU, not to mention any possible effects on the environment?

I now turn to the SI on organic products. On these Benches, we wish to see a smooth transfer into UK law and welcome this SI, which is essential for the continuity of trade in organic products. We particularly welcome the commitment in paragraph 2.11 of the Explanatory Memorandum that:

"The current organic standards will be maintained at the end of the Transition Period."

The organic sector may still be considered a fairly small one, but it is important, leading the way on sustainability in agriculture—recognising, for example, the value of soils and issues around pesticides. As such, it is good to see that paragraphs 7.2 and 7.3 in the Explanatory Memorandum—and the Minister, in his introduction—recognise its value to the UK economy. The continuation of this trade is hugely important.

I also welcome the fact that the 6,000 organic operators are mentioned and that many of these are small and medium-sized businesses, which would be particularly vulnerable if the retained EU organic legislation were not updated.

There is one particular area where I ask the Minister for further clarification. He referenced Part 2 of the regulations and that it extends an existing derogation for porcine and poultry feed into 2021 and 2022. However, there is no mention of what will happen after this date. Could the Minister clarify the Government's intentions beyond 2022? For example, will the provision just continually roll over, or will the matter be put under review?

Finally, I stress how important it is for the UK to achieve equivalence with the EU. This has been mentioned by the noble Baronesses, Lady McIntosh of Pickering and Lady Parminter. Can the Minister assure us that future access to the EU market for our UK organic exporters is a priority? If we end up in a no-deal scenario and do not have mutual recognition of one another's organic standards, the EU market will likely be closed to UK organic-certified produce. I look forward to the Minister's response.

2.57 pm

Lord Gardiner of Kimble (Con): My Lords, I thank all noble Lords who have contributed to this debate, and I particularly highlight the maiden speech of my noble friend Lord Mendoza. I note his wide range of experience and am sure we all look forward to his contributions and him playing his part in the affairs of your Lordships' House. I know he would expect me to note his vital work as the Commissioner for Cultural Recovery and Renewal, so I hope I am forgiven if I say, as the Rural Affairs Minister: in the spirit of rural-proofing, please do not forget the rural context.

I also express my warm welcome to the noble Baroness, Lady Hayman, as this is the first time we have debated Defra matters from our respective Front Benches. I very much look forward to working with her. A range of questions were put forward in this debate, and I will do my best to address them. If there are any further details, I will of course write to all noble Lords contributing to this debate, as well as placing a copy in the House of Lords Library.

I turn to questions on organics, and I particularly want to flag up what the noble Baronesses, Lady Parminter and Lady Hayman, and my noble friend Lady McIntosh of Pickering, asked about mutual recognition by the EU of our regulatory regime at the end of the transition period. This will allow us to continue to export our organic products to the EU and Northern Ireland. Currently, organics have an annexe in the free trade agreement being negotiated with the EU, but, as a mitigation, all six control bodies—the noble Baroness, Lady Parminter, raised this, and I can confirm it—have individually applied for recognition. We remain confident that the EU Commission will grant this.

The applications for recognition are independent of the Government's negotiations with the EU and not covered by any potential deal. Recognition gives individual control bodies the ability to certify to an equivalent EU standard, and their operators can export to the EU and Northern Ireland. We remain committed to negotiating a trade agreement that will remove barriers to trade and promote trade in organic products between the UK, Northern Ireland and the EU.

The noble Baroness, Lady Parminter, also asked a number of questions about trade between Northern Ireland, the Republic of Ireland and Great Britain—and, indeed, clearly we wish this to continue. I can confirm that we are working with DAERA and other important stakeholders, including the ports of Larne, Belfast and Warrenpoint, in readiness for 1 January. Port health authorities in Northern Ireland have increased staffing levels sevenfold, and they are working to improve significantly their facilities. My noble friend Lady McIntosh of Pickering asked about this, too. We are exploring ways in which to reduce the burden on industry and the ports to ensure minimal disruption to business. We have shared the new process for importing products into GB from the European Union and third countries with stakeholders, and continue to discuss access to the EU's Trade Control and Expert System New Technology—TRACES NT—for imports into Northern Ireland with the European Commission. I should say to my noble friend Lord Bourne of Aberystwyth that Northern Ireland has unfettered access so will be able to export organic products to Great Britain.

The noble Baroness, Lady Hayman, also asked whether the derogation to allow farmers to feed organic porcine and poultry up to 5% non-organic protein feed would continue beyond the end of 2022. Any extension will be carefully considered by the end of 2022 and we will consult the devolved Administrations and stakeholders to ensure that the changes are in the best interests of UK farmers. We continue to work closely with all UK control bodies to support them to prepare for the end of the transition period. I take the opportunity to reiterate our commitment to growing the UK's world-class organics sector.

In that regard, I was most grateful to the noble Baroness, Lady Jones of Moulsecoomb, and the noble Lord, Lord Berkeley of Knighton, in referring to the importance of organics. We have just finished debating the Agriculture Bill. Many noble Lords will recall our discussions on how that Bill is going to advance food production of high and healthy quality food as well as the environment. I believe that organic farmers will be well placed to benefit from the new system, with the provision of environmental benefits and services, such as increased biodiversity and habitats.

I can say to my noble friend Lord Bourne of Aberystwyth that we are committed to the highest organic standards and will use new powers provided by the Agriculture Bill to maintain this regime. Also on the reference to transition from three years, the noble Baroness, Lady Jones of Moulsecoomb, asked about farmers converting to producing organic products, who can benefit from higher premiums when selling into conversion products. As I said, we recognise the potential for the organics sector as we move forward.

I move to questions on GMOs. The noble Baroness, Lady Parminter, asked about this, and it came up in my noble friend Lord Mendoza's speech, too. This is about the future of GM food policy. During debate on

[Lord Gardiner of Kimble]
the Agriculture Bill, we considered as a House the elements of gene editing; we will issue a consultation relating to gene editing in England and will gather preliminary evidence on whether or not to reform our GMO legislation more broadly. I assure all noble Lords, on whatever side of the argument they may be, that we will consider the responses and evidence received from the consultation very carefully indeed, because there is great potential but it is very important that we get this right. When I read of the need for us to feed the world and have less applications to help the environment, I think that the science could help us enormously. But it is really important to get this right and, in getting it right, for the public to understand the bona fides of this, rather than getting worried about hyperbole and the potential that there may be concern. I think there is great potential here, but we need to do this properly and thoroughly.

My noble friend Lord Bourne and the noble Baronesses, Lady Parminter and Lady Hayman, asked about divergence between GB policy and the policy in Northern Ireland and the European Union for GMOs. That point was made by other noble Lords as well. At the moment, there is no divergence between GB and Northern Ireland as our retained law reflects EU law, and Northern Ireland is subject to EU rules and will have to comply with decisions made at an EU level. As I made clear in debate on the Agriculture Bill, any changes to our GMO policy will be subject to consultation and a change in primary legislation, which would mean that there would be very full scrutiny from your Lordships' House and the other place—and, I have no doubt, some public debate as well. If we change our policy following the consultation, we will clearly work closely with Northern Irish authorities to minimise any impact on trade in GM products. I emphasise, as I did before—I hope that this reassures the noble Baroness, Lady Jones of Moulsecoomb—that GM policy is a devolved area. That is why I said that the consultation was about England, because it is the responsibility of the UK Government. But with this SI, we have worked extremely closely with devolved Administrations to develop it and, obviously, we need to go forward in a spirit of collaboration and understanding of these matters.

I also say to the noble Baroness, Lady Jones of Moulsecoomb, that the processes and powers to legislate in GB will remain in parallel with those in the EU and Northern Ireland, so they will remain familiar to stakeholders. In Northern Ireland, existing EU legislation will continue to be directly applicable after the end of the transition period. I have no doubt that on that matter we will have more work to do.

The noble Baroness, Lady Hayman, asked about further changes, and I have looked into that matter. I think that she referred to paragraph 2.7 of the Explanatory Memorandum, whereas I wonder whether it might relate to paragraph 2.9, which explains that further changes to exit legislation were needed to give effect to annexe 2 of the Northern Ireland protocol. This SI makes these further changes as explained in paragraph 2.9. In reply to the noble Baroness, I should therefore say that no other changes are needed to give effect to the protocol. I apologise if the memorandum did not make that entirely clear.

I shall look at *Hansard* to see whether there were any further points, because there was a range of questions. I am grateful for the support that noble Lords have given to the principle of the two instruments.

Motion agreed.

Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2020

Motion to Approve

3.08 pm

Moved by ***Lord Gardiner of Kimble***

That the draft Regulations laid before the House on 12 October be approved.

Motion agreed.

3.08 pm

Sitting suspended.

Construction Products (Amendment etc.) (EU Exit) Regulations 2020

Motion to Approve

3.20 pm

Moved by ***Lord Greenhalgh***

That the draft Regulations laid before the House on 15 October be approved.

The Minister of State, Home Office and Ministry of Housing, Communities and Local Government (Lord Greenhalgh) (Con): My Lords, these regulations were laid before both Houses on 15 October 2020. They are part of the Government's programme to update EU exit legislation to ensure that there continues to be a functioning legislative and regulatory regime at the end of the transition period. The regulations are made using powers in the European Union (Withdrawal) Act 2018 to amend the Construction Products Regulations in the UK. They ensure that the EU construction products regulation continues to apply in Northern Ireland in accordance with the Northern Ireland protocol to the EU withdrawal agreement. They amend the remainder of the UK regime so that it applies in Great Britain only.

I start by providing some context and background to the regulations. The EU construction products regulation, or CPR, is an EU regulation that is directly applicable in all EU member states. It seeks to remove technical barriers to the trade of construction products in the European single market, and currently applies across the UK. The CPR harmonises the methods of assessment and testing, the means of declaration of product performance and the system of conformity assessment of construction products. It does not harmonise national building regulations. Individual member states remain responsible for safety, environmental, energy and other requirements applicable to construction works.

When an EU harmonised standard exists for a product, the CPR places obligations on manufacturers, distributors and importers of that product when it is placed on the market. This includes a stipulation that the product must have been accompanied by a declaration of performance and have been affixed with a "Conformité Européenne" or CE mark. At the end of the transition period, the CPR becomes retained EU law and will form part of the UK's legal system. The construction products regulations 2019—the 2019 regulations—ensure that its provisions will have practical application in the UK. They introduced UK-wide provisions, such as the UK conformity assessment, or UKCA mark and UK designated standards, in preparation for a no-deal Brexit.

We have now left the EU, with the withdrawal agreement and an Ireland/Northern Ireland protocol. Without the amendments made by this instrument, the amendments in the 2019 regulations would apply in the whole United Kingdom, including Northern Ireland, which would not be compliant with the protocol. Regulators would lack powers to enforce the EU regulations in Northern Ireland, and manufacturers would not be able to test their product in the UK and affix the UKNI indication to place the product on the market in Northern Ireland. The general policy is to keep the same requirements set out in the 2019 regulations in Great Britain, but to introduce a Northern Ireland-compliant regime. These regulations do not change the key CPR requirements currently in place. The same standards will apply in Great Britain and Northern Ireland immediately after 31 December as they did before the end of the transition period, and products that meet Northern Ireland requirements will have unfettered access to the GB market.

The effects of these regulations can be considered in three parts. First, they will amend the 2019 regulations so that the current UK-wide provisions such as the UKCA marking and UK designated standards will become GB provisions at the end of the transition period. This will ensure that EU construction products law will apply in Northern Ireland, including CE marking and EU harmonised standards, in line with the Ireland/Northern Ireland protocol to the withdrawal agreement. Immediately following the end of the transition period, UK designated standards will be identical to those under the EU regime, so there will be no change for businesses on standards that must be met.

Secondly, these regulations make provisions for conformity assessment bodies established in the UK. They enable UK-approved bodies to continue testing against EU harmonised standards for the Northern Ireland market and introduce a UKNI indication, as required under the protocol. Where a UK-approved body undertakes the third-party conformity assessment required under the relevant EU standard, the manufacturer must affix the CE marking together with the new UKNI indication. These construction products will be recognised on the Northern Ireland market from the end of the transition period. The details of the UKNI indication will be established under a separate instrument led by BEIS. Further information on this will follow very shortly.

Thirdly, these regulations restate the enforcement provisions for Northern Ireland in relation to the EU construction products regulation and amend existing UK-wide enforcement provisions so that they apply in Great Britain. These enforcement provisions will work in a very similar way to the Construction Products Regulations 2013. They will ensure clear enforcement rules for economic operators and regulators in Great Britain and Northern Ireland where non-compliant goods are placed on either market.

In relation to Great Britain, the regulations amend the construction products enforcement rules set out in the Construction Products Regulations 2013, as amended by the 2019 regulations. This includes amendments to reflect that the CE marking, together with the UKNI indication, will be recognised in Great Britain. On Northern Ireland, the regulations provide an enforcement regime in relation to EU construction products law. This will allow the existing regime to continue largely unchanged once the transition period has ended and is necessary to allow for reference to the new UKNI indication.

Finally, these regulations also make a number of technical changes to correct deficiencies in the 2019 regulations arising from leaving the EU with the withdrawal agreement and the Ireland/Northern Ireland protocol.

Our overall approach to these amendments is entirely concurrent with the policy and legal intent of the European Union (Withdrawal) Act 2018 and enacts the policy that the Government set out in guidance to industry in September. These regulations serve a very specific purpose: to amend the 2019 regulations to ensure a functioning legislative and regulatory regime in Great Britain and Northern Ireland. This is necessary in response to the withdrawal agreement and the Ireland/Northern Ireland protocol that the UK and the EU agreed to in January 2020.

This instrument is necessary to ensure that construction products legislation continues to function appropriately in Great Britain and Northern Ireland after the end of the transition period. I hope that colleagues will join me in supporting the draft regulations. I commend them to the Chamber.

3.28 pm

Lord Blunkett (Lab): My Lords, when two or three are gathered together you can guarantee there will be consensus. The atmosphere today is very different from that of yesterday when this House again considered the United Kingdom Internal Market Bill. I commend the Minister on reading beautifully the brief—and it was brief, and I shall be even briefer.

I decided that I would speak briefly this afternoon because I was intrigued. I thought to myself, "Not many noble Lords will seek to speak on these regulations; they are somewhat obscure and do not appear to have any great relevance to the wider debates we've been having", but then I thought to myself, "I'll go along and just test the water a bit regarding enforcement". The Minister referred to enforcement; he said there will be no change in enforcement. He also referred to the importance of harmonisation. He reflected on the fact that this would have no impact on Great Britain even though EU regulations will continue to apply in Northern Ireland because of that harmonisation. I began to think to myself, "I might just turn up on Tuesday afternoon and test the water a bit with the Minister about what is all this fuss about? If we can do

[Lord Blunkett]
this on the CPR and recognise that harmonisation makes sense, if the enforcement regime remains the same, if we can have something that is operable through the EU regulation in Northern Ireland and its relationship to the border, and if we can still have the same transport and regulatory framework in terms of the relationship of Northern Ireland to the new Great Britain regulatory framework, which remains the same as the old, then what is the fuss about?" So I have just three questions, really.

First, why cannot we do this more broadly? Secondly, did the Prime Minister spot this one when he signed the protocol, given that he clearly did not spot one or two others? Thirdly, what about this enforcement regime? I genuinely would like to know a little bit more about it. Thank you very much.

3.30 pm

Lord Kennedy of Southwark (Lab Co-op): My Lords, I think that I will be equally brief in my remarks to the House today. First, I draw the House's attention to my relevant registered interests as the chairman of the Heart of Medway Housing Association and a non-executive director of MHS Homes Ltd.

On looking at these regulations one might be forgiven for thinking that they are very technical and will ensure we are ready for the next phase of our relationship with the European Union, and so they will. They are very important not only for our future relationship with the EU but for how the products they regulate will be used both here in Great Britain and in Northern Ireland. It is important that these products are properly assessed, approved and licensed and properly used as well. Like my noble friend Lord Blunkett I would be very interested to hear more about the enforcement regime. We need to ensure that, whatever licences and approvals are given, the products are used properly. Problems can arise when they are not used properly, sometimes with tragic consequences. We therefore need to hear about the enforcement regime. I look forward to the Minister's reply.

3.32 pm

Lord Greenhalgh (Con): My Lords, we have had a fascinating and lengthy debate that has raised a number of points. I thank the noble Lords, Lord Kennedy and Lord Blunkett, for pointing out that there is a lot to be learned from this example of how we can leave the EU and maintain the consistency that our builders and other users of construction products require. I want to provide a little further detail.

The noble Lord, Lord Blunkett, said that we could perhaps deal with other regulations as we have dealt with the CPR. At the end of this year we will have full control over our own laws, but while we are in the transition period we have obligations under the withdrawal agreement to transpose new EU regulations. I am sure that there are many other regulations that will need to be transposed in due course. We are committed to implementing our obligations under the withdrawal agreement and published a Command Paper in May that sets out the approach we will take. This instrument is one of many that will help to ensure a functioning statute book at the end of the transition period.

Regarding the questions posed about the enforcement regime, the new enforcement regime will allow the existing regime to continue largely unchanged. I would therefore think that the current enforcement regime will be in force in the future. However, I am happy to write to both noble Lords with the specifics of that as I do not pretend to be an absolute expert on the current regime. The point, however, is that we will be harmonised with the EU as we leave it and how far we diverge will be a choice for future Governments. It is fair to say that there are sometimes opportunities in diverging, and in other areas there is opportunity in maintaining convergence. That is an important policy choice for this Government and successive Governments.

The Government believe that the regulations are needed to ensure that the construction products legislation continues to function in Great Britain and Northern Ireland after the end of the transition period. I have tried to answer all the questions—or at least the single pertinent question—but if not, I will write in more detail with more information. I hope that noble Lords will join me in supporting these regulations, which I commend to the House.

Motion agreed.

3.34 pm

Sitting suspended.

Bank Recovery and Resolution (Amendment) (EU Exit) Regulations 2020

Motion to Approve

4.21 pm

Moved by ***Baroness Penn***

That the draft Regulations laid before the House on 15 October be approved.

Baroness Penn (Con): My Lords, the second bank recovery and resolution directive updates the EU's bank resolution regime, which provides financial authorities with the powers to manage the failure of financial institutions in an orderly way. This protects depositors and maintains financial stability while limiting risks to public funds. Under the terms of the withdrawal agreement, the UK has a legal obligation to transpose the directive by 28 December 2020. This instrument fulfils that obligation.

In transposing the directive, the Government have been guided by the commitment to maintain prudential soundness, alongside other important regulatory outcomes such as consumer protection and proportionality, when leaving the EU. We have also considered concerns raised by industry on elements of the directive that could pose risks to financial stability and to consumers, to tailor the approach for the UK market. As a result, we are not transposing the provisions in the directive that do not need to be complied with by firms until after the end of the transition period—in particular, an article that revises the framework for a minimum requirement for own funds and eligible liabilities, referred

to hereafter as MREL, across the EU. The UK already has in place an MREL framework in line with international standards.

We are also sunsetting certain provisions so that they cease to have effect in the UK after the end of the transition period, as well as including provisions to ensure that the elements that remain in effect after the end of the transition period continue to operate effectively. The sunsetted provisions will cease to have effect in the UK from 11 pm on 31 December. In doing so, we have taken an approach that meets our legal obligations but also ensures that the UK's resolution regime remains robust and is in line with international standards. We have engaged with industry and stakeholders to help explain exactly what this means for them.

I turn to the draft Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020. This instrument, along with the approximately 60 other financial services instruments that the Treasury has introduced under the European Union (Withdrawal) Act 2018, is vital in ensuring that the UK has a fully effective legal and regulatory financial services regime at the end of the transition period. It achieves this by amending and revoking aspects of retained EU law and related UK domestic law, making a small number of necessary clarifications and a minor correction to earlier financial services EU exit instruments, and providing sufficient supervisory powers for the financial services regulators to effectively supervise firms during and after the end of the transition period.

I turn to the draft Financial Holding Companies (Approval etc.) and Capital Requirements (Capital Buffers and Macro-prudential Measures) (Amendment) (EU Exit) Regulations 2020. The fifth capital requirements directive, known as CRD5, continues the EU's implementation of the internationally agreed Basel standards. These standards strengthen and develop international prudential regulation, which helps ensure the safety and soundness of financial institutions. This SI will transpose that directive into UK law, as required under the terms of the withdrawal agreement. It will also ensure that the legislation transposing it continues to operate effectively in the UK after the end of the transition period.

As with previous capital requirements directives, the Government will delegate most of the responsibility for implementation to the independent Prudential Regulation Authority—the PRA—which has the requisite technical knowledge and skills to ensure effective and proportionate implementation. This instrument includes only provisions legislatively necessary to ensure that the PRA can implement CRD5. This instrument is in line with requirements of article 21a of CRD5 for holding companies in scope to apply for supervisory approval. The framework and scope of the approvals regime will be administered by the PRA, and the instrument gives the regulator appropriate tools to ensure compliance with it.

The instrument also makes changes to the macro-prudential toolkit, preserving the current level of macroprudential flexibility. The most important of these is enabling the PRA to apply an other systemically important institutions buffer and a systemic risk buffer to certain institutions to address particular financial stability risks.

Although the capital requirements directives were created with banks in mind, they also apply to investment firms. However, the risks faced by investment firms are different from those faced by banks. Therefore, this instrument excludes non-systemic investment firms from the scope of CRD5. Investment firms will remain subject to the existing prudential framework until the Financial Conduct Authority introduces the prudential regime for investment firms, following Royal Assent of the Financial Services Bill.

Finally, I turn to the Bearer Certificates (Collective Investment Schemes) Regulations 2020. The UK has been at the forefront of international changes that are transforming tax authorities' ability to work across borders to tackle emergency international tax risks. Bearer shares or certificates are anonymous, infinitely transferable and an easy means of facilitating illicit activity such as tax evasion or money laundering. This is why UK companies have been prohibited from issuing them since 2015. The OECD's global forum noted in its 2018 peer review report that, although the UK had "mostly addressed" its 2013 recommendations concerning the prohibition of bearer shares,

"a small cohort of entities and arrangements … are still able to issue bearer shares or equivalent instruments."

The report went on to recommend that the UK abolish bearer shares. This instrument implements that recommendation and prohibits the remaining entities capable of issuing bearer shares or certificates—which include certain types of collective investment schemes—from doing so. It also makes arrangements for the conversion or cancellation of any existing bearer shares. This brings those remaining collective investment schemes, including open-ended investment companies formed before 26 June 2017 and all unit trusts not authorised by the Financial Conduct Authority, in line with companies formed under the Companies Act 2006, which are prohibited from issuing bearer shares by the Small Business, Enterprise and Employment Act 2015. Complying with the global forum's recommendation will help make sure the UK maintains its position at the forefront of the international community, continuing to set standards that help improve offshore tax compliance and fund our vital public services.

In summary, the Government believe that these instruments are necessary and vital for the UK's financial services regulatory architecture, and I hope noble Lords will join me in supporting the regulations. I beg to move.

The Deputy Speaker (Lord Haskel) (Lab): My Lords, the noble Baroness, Lady Bowles, has withdrawn, so I call the noble Lord, Lord Mann.

4.28 pm

Lord Mann (Non-Afl): My Lords, I do not think there is any controversy in agreeing with these statutory instruments, but it gives us the opportunity to ask a few questions of the Minister in relation to them. Perhaps I could start by reiterating how I am never surprised, but always rather disappointed, that politicians, including those in this House, like those in the other one, are always keen on anything to do with the physical movement of goods. In discussions on the

[LORD MANN]
European Union—on leaving the European Union—everything to do with the physical movement of goods gets a huge and popular airing at all times.

I have never particularly worried about issues relating to the physical movement of goods. There will be winners and losers: the more coherent and the more seamless any transition is, the better, but that is better for short-term stability; it is in the interests of the country, so I have a view in relation to it. But I certainly do not have a strong view on whether it is important that we have, for example, a trade deal with the United States. It seems to be one of the issues that is going to dominate Chambers, including this one, in the foreseeable future; but, frankly, on whether there is a trade deal in physical goods, I say that there will be winners and losers either way, with any deal, by definition. That kind of trade will continue regardless.

Indeed, I am more in favour of doing what the Americans historically did, which is protecting not our old industries but our new ones. I have always thought it was a mistake to be overly protecting dying industries and technologies. In the late 1970s and the early 1980s, the United States put a ring of steel around Silicon Valley to ensure that it would have the ability to grow, whereas we paddled our way in the so-called free-trade world without any such subsidy, we lost our competitive advantage and we paid a very heavy price. It was, in a sense, an invisible price, because we were never able to grow those industries even though, in the early 1980s, we were leading the United States in many of those technologies.

When it comes to invisibles and the financial sector in particular, I actually have far more concerns that we get it right. The potential for major instability in the economy and then in the country from getting wrong any transition from one system to another with financial services is huge. The margins of danger are much smaller and the impact on them far greater. The Minister's statement in this Chamber should perhaps be put in lights in Piccadilly Circus: that the Government are delegating the powers of implementation to the PRA. Well, hallelujah to that. Far be it from politicians to attempt to micromanage, because one of the great successes that we have seen in the last two years is the way in which the Bank of England and civil servants in the Treasury have handled all the negotiations in relation to exiting the European Union. If it is seamless, we do not know, so seamless is the way in which they have managed to do so, but it is undoubtedly the case that we retain greater expertise than perhaps anywhere else in the world, and certainly in Europe, in relation to the regulation of financial services.

I pay tribute—and this House should pay a huge tribute—to Mark Carney, who has now departed, to Andrew Bailey and to all the other key figures who have done this work and had it in the bag well before the politicians were voting in both Houses on how we did or did not leave the European Union, and in what way. In reality, the accord and understanding on financial services was already in the bag. That demonstrates to me that we are in a very strong position here.

The danger now would be if at any stage politicians suddenly got a wild idea that restructuring in this way or that way could have some ideological advantage. The key one I would highlight is the danger of challenger banks. The concept of challenger banks is one that politicians on all sides have welcomed. I have been more critical than most of the establishment banks, the culture within them, the price that we paid, particularly after 2008 in relation to that culture, and the way in which they treated their own institutions and mismanaged them.

However, challenger banks have a different kind of risk—a risk of the unknown. The beauty of the detail of what we are agreeing today is that it provides a well-constructed safeguard around our financial institutions. It is vital that those who have been doing it in precisely the way that I was delighted to hear the Minister outline are allowed to continue to do so. In layman's terms, no bank must be too big to be able to fail, which is what we had in 2008, but no financial institution must fail in a way that hits the stability of the whole economy. However good the service you might sell or the product you might make and attempt to sell, if that instability is there, the economy will nosedive.

The key challenge is to maintain our strengths and maintain our stability there. Our biggest challenge is not going to be the European Union; it is going to be the emerging economies, particularly the approach of China and the Central Bank of China, and the growing strength of India in financial services and in terms of how the financial world will be operating. Asia has the risks for us and therefore, looking beyond the specifics of the EU, how we ensure financial stability here is critical to all our futures.

My final question to the Minister—in fact my only question—is about derivatives and whether there is any impact on the derivatives market. All the way through, that has been seen to be perhaps the riskiest element of any change—on both sides, us and the EU. Are there any implications from today in relation to that market?

4.37 pm

Baroness Altmann (Con) [V]: I thank my noble friend the Minister for her excellent exposition of these important, though very technical, SIs. Clearly, as we leave the EU and leave the transition period, we must have in place our own regulations to ensure the safety and security of our financial institutions and the protection of consumers within our financial system.

I welcome these SIs. I do not think that they are particularly contentious, and I do not believe that any of our scrutiny committees have raised particular concerns. Like the noble Lord, Lord Mann, I would like to raise a few issues and ask my noble friend a number of questions, particularly on the issue of capital buffers. Who is in charge of assessing the buffers? What ongoing analysis is undertaken to ensure that the buffers that have been put in place are of the standard that they were expected to be when they were introduced, and how timely is that analysis? For example, has any new analysis been conducted in light of the Covid situation, and what might we perhaps expect in that regard?

In addition, what scenario analysis is undertaken in light of potential market distortions resulting from the ongoing quantitative easing programme of the

Bank of England, and the potential interference in capital market valuations that may result from the extraordinary monetary measures which at the moment are focusing on driving down long-term interest rates and driving up asset prices in order to encourage growth or protect downside risk to growth?

On those measures, I express my significant concern at the rise in the levels of debt across our economy, and the almost exclusive focus on interest rates on debt being a measure of security of assets. In particular, there is the idea that government bonds—sovereign debt—are the lowest-risk asset which underpins all our capital asset pricing models and will drive the assessment of the capital buffers backing our financial institutions, and the question of whether we believe that this is wholly reliable in the current circumstances.

I certainly agree with the noble Lord, Lord Mann, that no bank or financial institution should have been—or should be in the future—too big to fail but, in reality, surprises happen in markets. I wonder whether the new financial services regime that we will have after we leave the EU transition next year will consider potential nationalisation, in circumstances where the Government and taxpayers would otherwise have to bail out shareholders—and indeed bondholders—because of the risk of failure of the assets that they invested in and the potential damage to wider society should that failure actually occur.

What assessment is made of the property markets and other asset markets when assessing capital buffers? In particular, there is a question mark as we pull out of the MREL regime—as my noble friend has described—and focus more on the TLAC US regime, which has a different range of assets as its capital measure. Is that expected to continue to be a trend we will follow?

I welcome the emphasis on gender equality in our new regulatory system, in terms of pay. That is most welcome in the financial services sector, as in all other sectors.

Finally, I ask my noble friend how the Government, the Bank of England and the PRA, and other regulators perhaps, see the position of our major pension funds, which are enormous relative to the size of the economy in some ways. Certainly they are much larger than many financial institutions regulated under these instruments. How are those pension funds seen in terms of security, capital buffers and importance of delivery and security? If she has not got the answers, of course she is welcome to write to me.

4.43 pm

Baroness Kramer (LD) [V]: My Lords, I recognise that this group of SIs largely deals with transposition, technical and in-flight issues, and therefore we do not intend to oppose them. I have questions, however, particular on the first SI on banking recovery and resolution. I am going to try to avoid the tangle of using the terms MREL—minimum requirement for own funds and eligible liabilities, used in the EU—versus TLAC, which is total loss-absorbing capital, used internationally and essentially US- driven. As the noble Baroness, Lady Altmann, made clear, they are not absolutely identical, but we can all recognise that they are essentially the same thing. My concerns are frankly more fundamental.

In response to the financial crisis of 2008, the Financial Stability Board set up by the G20 is requiring systemically significant banks by 2022 to raise the equivalent of 18% of their risk-weighted assets in loss-absorbing capital. I have no problem with that, but much of this in the UK has been in the form of bail-in bonds. How well is this programme working for the large systemically significant entities? I will come to smaller banks later.

There has been real concern about the capacity of the market to absorb the volume of bonds required, especially as recent revisions have required them to be more deeply subordinated. Covid-19 may have made these bonds temporarily more appealing because there are now so few ways to invest money and get any kind of return, but if this strategy of bail-in bonds is going to have problems because the market is stubbornly small, we need to know it now.

I want to probe the Minister on where we are going with medium and small banks, which are not systemically significant. The UK has gone well beyond the Basel requirements—and those of the 27 EU countries, even when we were a member of the EU—by stipulating that small and medium-sized banks that are not systemic should bear the same loss-absorbing capital burden as big banks. The Bank of England has the power to set this threshold without any scrutiny or approval required. This being the UK, it has decided that small and medium-sized banks—in effect, the challengers—did not deserve a more proportionate regime.

In reality, small and medium-sized banks can tap the bail-in bond market—if at all—only by offering huge coupons. They also lack the size to spread the cost of such high capital requirements over a diverse asset portfolio. I know that a review is going on, but can the Minister commit now to the concept of proportionality? The burden, as currently shaped, is making it near impossible for smaller banks to grow as they should. In turn, that undermines support for the recovery from Covid, never mind adding significant obstacles to the whole levelling-up agenda.

I have one more comment, on the final SI concerning bearer bonds. These unregistered instruments really are the backbone of money laundering. The sooner they are gone, the better.

4.47 pm

Lord Tunnicliffe (Lab) [V]: My Lords, I welcome the noble Baroness, Lady Penn, to this exclusive club that hacks through Treasury statutory instruments. I am sure she has been briefed that this is but a formality—the Labour Party will never support a fatal Motion against an affirmative statutory instrument, and the instruments are not amendable so what we do here has no real impact. To some extent, this influences the quality of some of the material that we work with.

With the complexity of these instruments, there is a requirement, frankly, for the Explanatory Memorandums to be of very high quality. In fact, I do not find them so. I find them difficult to comprehend. It is true that the Liberals have an unfair advantage over us by having people such as the noble Baroness, Lady Kramer, who actually know what they are talking about, but the object of the exercise should be that ordinary

[LORD TUNNICLIFFE]
politicians should be able to understand what we are looking at. I note that the Economic Secretary to the Treasury signed a statement at the end of the instrument saying that

"this Explanatory Memorandum meets the required standard."

For me, it does not.

What are the four SIs trying to do? Are they trying to make the minimal necessary changes or do they seek to introduce new policy? The European Union (Withdrawal) Act 2018 was created on the basis that its output would be the minimum necessary to cover the transition out of Europe. The other Act prayed in aid in these SIs is the European Communities Act 1972, which of course had draconian powers, but for a specified reason. I am largely convinced that the objective of these SIs is a new policy objective. I have three points to bring out.

It seems that new policy is being introduced in the first SI, the bank resolution one, by the significant sunsetting of the major points set out in section 7.12 of the Explanatory Memorandum. They relate to the distribution of funds, moratorium powers, insolvency priorities and bail-in. I am not clear under which Act this is done, but I cannot see why it is necessary in this SI. These things have an important impact on the balance between the interests of customers and consumers compared with owners. Surely regulation is all about getting that balance right, and surely something that changes policy should be debated more formally. While the Minister referred to stakeholders in her introduction, in practice the stakeholders were all in either the regulation business or the bank business. At no point, as far as I can see, was there any process by which the consumer was represented in those discussions.

I got lost in section 2.10 of the Explanatory Memorandum to the next SI and would value the Minister helping me through it. There is a concept that, after the transition period ends, we will have some reference to EU law, which may be changed from "time to time". That does not seem to be in line with the concept of sovereignty, which Brexit is supposed to be all about.

Finally, as far as I can see, the financial holding companies SI does nothing more than the minimum necessary for the transition. In studying it, I came across section 7.15 of the Explanatory Memorandum, which is about the removal of members from management boards. That seems quite draconian to me. It allows the PRA to remove individuals from the managing body of institutions,

"if they are found no longer to be of sufficiently good repute, no longer have the right skills, knowledge, experience, honesty or integrity, or are unable to commit sufficient time for the role."

I have nothing against powerful rules that control bankers, but so much power over individuals, with no apparent mechanism for how judgments will be brought about and with no apparent appeal, does not meet a sense of natural justice.

Finally, I entirely agree with the sentiments set out in section 2.1 of the Explanatory Memorandum to the bearer certificates SI that bearer certificates are a bad thing. We are at one with the Government in seeking their complete elimination.

4.54 pm

Baroness Penn (Con): My Lords, I thank noble Lords for their thoughtful contributions to this debate, including the words of welcome from the noble Lord, Lord Tunnicliffe, for what may be many debates on such issues. I shall take the points raised in turn.

The noble Lord, Lord Mann, is right about the importance of a smooth transition for our financial services sector. He is also right to pay tribute to the excellent work done by officials and regulators to ensure this. He asked about derivatives. These SIs do not address that issue directly, but I reassure him that the UK has already put measures in place to avoid disruption to cleared derivatives markets. The Chancellor announced yesterday that we will be granting CCP equivalence to the EU and EEA/EFTA states. This, together with our temporary recognition regime, means that UK firms will be able to continue using EEA CCPs after the end of the transition period. The EU has also granted the UK temporary CCP equivalence for a period of 18 months after the end of the transition period and has recognised all three UK CCPs. This allows UK CCPs to continue to provide services into the EU.

My noble friend Lady Altmann asked who is in charge of assessing the buffers and what analysis is undertaken to do so. In the case of the other systemically important institution buffer, the Financial Policy Committee is responsible for setting a framework for the buffer, while the Prudential Regulatory Authority applies that buffer to individual institutions. The FPC is required to review the buffer framework every two years and will benefit from PRA and Bank of England analysis of whether the buffers are still achieving their objectives. The PRA will be responsible for setting the CRDV systemic risk buffer, which again includes a requirement to review any buffer rate set periodically. The Bank of England's Financial Policy Committee is tasked with considering systemic financial stability risks, including those that might flow from higher levels of debt or changes in capital markets. The latest remit for the Financial Policy Committee asks that the FPC and the Monetary Policy Committee should continue to have regard to each other's actions to enhance co-ordination between monetary and macroprudential policy. This co-ordination has enhanced the strength and resilience of the UK's macroeconomic framework.

These buffers are an important means of maintaining financial stability. For instance, the other systemically important institutions buffer will help ensure that ring-fenced banks are resilient against potential risks. This instrument seeks to preserve the current level of macroprudential policy flexibility. The actual setting of buffers is largely left to the independent regulators, subject to certain provisions in the regulation. My noble friend also asked about nationalisation. Temporary public ownership is one of the resolution tools available, but it would be used only as a last resort. Progress on gender equality in the financial services sector is essential, and the Government too welcome the provisions in CRDV, which are in line with existing requirements on gender equality in the UK.

The noble Baroness, Lady Kramer, is right to note that the Bank of England is committed to reviewing its framework on the MREL framework—I am sorry

to use the acronym—by the end of 2020, but the outcome of that review cannot be prejudged. The Government take a proportionate approach. Indeed, in not implementing the EU's new MREL requirements as part of these SIs, one of the considerations was that we think the new requirements could impose a disproportionate impact on some medium-sized building societies. That is a reflection of the fact that the Government wish to take a proportionate approach.

The noble Lord, Lord Tunnicliffe, asked about the power to remove board members. This stems directly from the EU directive. I reassure him that the regulator will exercise a power of removal only where a person is no longer of sufficiently good repute to perform their duties, no longer possesses sufficient knowledge, skills, experience, honesty, integrity or independence of mind to perform their duties, or is no longer able to commit sufficient time to perform their duties. The individual in question will have the right to refer their case to the Upper Tribunal if they are aggrieved with the actions of the regulator in this respect.

I also confirm to the noble Lord that he is absolutely correct that this SI forms part of the programme of statutory instruments made under the EU withdrawal Act 2018. The purpose of most of these SIs, apart from the final one, is to ensure there is a fully functioning financial services, legal and regulatory regime at the end of the transition period. The approach taken in this instrument aligns with the general approach established by the EU withdrawal Act 2018, providing continuity by retaining existing legislation at the end of the transition period but amending, where necessary, to ensure effectiveness in a UK-only context.

The noble Lord asked specifically whether the approach to sunsetting certain provisions within the first SI is consistent with that approach. The UK has considered very carefully which provisions would not be suitable for the UK resolution regime after leaving the EU, while still maintaining prudential soundness and other regulatory outcomes, such as consumer protection and proportionality. He mentioned consultation—we have consulted the UK financial regulators and taken into account concerns raised in consultation responses on the potential risks to financial stability and consumers. It is with those in mind that we have taken the approach that we have on sunsetting.

To give him a couple of examples, one of the provisions we have sunsetted is the introduction of a pre-resolution moratoria power and the extension of a moratoria power to eligible deposits. We were concerned that that could create potential risks to financial stability, as it could both increase the risk of runs on the particular banks affected and further trigger runs on unaffected banks, and therefore we have sunsetted that provision.

Another example is the changes to priority of debts and insolvency. These are sunsetted due to concerns around the potential impact that this could have on investor expectations and the market, including pricing. Given the difficulties in predicting where and to what degree the impacts on firms and investors will be felt, it was thought that it was in the interests of prudential regulation to sunset that provision.

The sunsetting of these provisions does not remove obligations, given that the existing UK resolution regime already provides powers for the resolution authority to exercise moratoria powers as part of the resolution. The Prudential Regulation Authority can also impose restrictions on distributions if firms are in breach of their buffer requirements, and it requires firms to include contractual recognition clauses in contracts governed by third-country law and provides for non-inclusion on the basis of impracticability. In many of the areas where we have sunsetted the provisions, there is already existing regulatory provision to take action where needed.

I also acknowledge the noble Lord's comments on the Explanatory Memorandum; I too find some of these issues complex to get my head around. They are technical SIs, and every effort is made to ensure that the Explanatory Memorandums are as understandable as possible. We will bear in mind the noble Lord's points in future.

With that, I hope noble Lords have found the debate informative and will join me in supporting these regulations.

Motion agreed.

Securities Financing Transactions, Securitisation and Miscellaneous Amendments (EU Exit) Regulations 2020

Motion to Approve

5.03 pm

Moved by ***Baroness Penn***

That the draft Regulations laid before the House on 15 October be approved.

Motion agreed.

Financial Holding Companies (Approval etc.) and Capital Requirements (Capital Buffers and Macro-prudential Measures) (Amendment) (EU Exit) Regulations 2020

Motion to Approve

5.03 pm

Moved by ***Baroness Penn***

That the draft Regulations laid before the House on 15 October be approved.

Motion agreed.

Bearer Certificates (Collective Investment Schemes) Regulations 2020

Motion to Approve

5.04 pm

Moved by ***Baroness Penn***

That the draft Regulations laid before the House on 28 September be approved.

Motion agreed.

5.04 pm

Sitting suspended.

Economy Update

Statement

The following Statement was made in the House of Commons on Thursday 5 November.

"On Monday, the Prime Minister set out the action we need to take between now and the start of December to control the spread of coronavirus. In response, we are providing significant extra support to protect jobs and livelihoods in every region and nation of the United Kingdom: an extension to the coronavirus job retention scheme; more generous support to the self-employed and paying that support more quickly; cash grants of up to £3,000 per month for businesses that are closed, worth over £1 billion every month; £1.6 billion for English councils to support their local economy and local healthcare response; longer to apply for our loan schemes and the future fund; the chance to top up bounce-back loans; and an extension to mortgage payment holidays. That is all on top of more than £200 billion of fiscal support since March.

This Statement follows the Bank of England's monetary policy decisions earlier today, meaning all economic and monetary institutions are playing their part. As the House would expect, the Governor and I are in constant communication as the situation evolves. Our responses are carefully designed to complement each other and provide certainty and support to people and businesses across the UK. The Bank's forecast this morning shows that economic activity is supported by our substantial fiscal and monetary policy action. Just last week, the International Monetary Fund described the UK's economic plan as 'aggressive', 'unprecedented', successful in 'holding down unemployment' and business failures, and

'one of the best examples of coordinated action globally'.

Our highest priority remains the same: to protect jobs and livelihoods. That is why we have already decided to extend the job retention scheme to December. But people and businesses will want to know what comes next, how long we plan to keep the scheme open, and on what terms. They want certainty. The Government's intention is for the new health restrictions to remain only until the start of December, but, as we saw from the first lockdown, the economic effects are much longer lasting for businesses and areas than the duration of any restrictions. As the Bank of England has said this morning, the economic recovery has slowed and the economic risks are 'skewed to the downside'.

Given this significant uncertainty, a worsening economic backdrop and the need to give people and businesses security through the winter, I believe it is right to go further, so we can announce today that the furlough scheme will not be extended for one month; it will be extended until the end of March. The Government will continue to help to pay people's wages up to 80% of the normal amount; all that employers will have to pay for hours not worked is the cost of employer national insurance contributions and pension contributions. We will review the policy in January to decide whether economic circumstances are improving enough to ask employers to contribute more.

Of course, as the furlough itself is now being extended to the end of March, the original purpose of the job retention bonus to incentivise employers to keep people in work until the end of January obviously falls away. Instead, we will redeploy a retention incentive at the appropriate time. For self-employed people, I can confirm that the next income support grant, which covers the period November to January, will now increase to 80% of average profits, up to £7,500.

I also want to reassure the people of Scotland, Wales and Northern Ireland. The furlough scheme was designed and delivered by the Government of the United Kingdom, on behalf of all the people of the United Kingdom, wherever they live. That has been the case since March, it is the case now and it will remain the case until next March. It is a demonstration of the strength of the union and an undeniable truth of this crisis that we have been able to provide this level of economic support only because we are a United Kingdom. I can announce today that the up-front guaranteed funding for the devolved Administrations is increasing from £14 billion to £16 billion. This Treasury is, has been and will always be the Treasury for the whole of the United Kingdom.

I know that people watching at home will have been frustrated by the changes that the Government have brought in during the past few weeks. I have had to make rapid adjustments to our economic plans as the spread of the virus has accelerated. I would like to take this opportunity to explain how and why this has happened. During the summer, as we began slowly unlocking, it was our hope that the country would continue to be economically open, albeit with local restrictions being put in place as and when needed. We knew that there would likely be a resurgence in the spread of the virus, but with increased NHS capacity and test and trace, our belief was that we would be able to stay ahead of the virus. On that basis, we designed an economic approach that continued to provide wage support to people, incentivised businesses to retain staff beyond the end of the furlough scheme, and created new job-creation and training schemes such as Kickstart, all built to support an economy that was broadly open but operating with restrictions and overall lower demand. At the time, this approach was not Government acting alone. Our proposals secured wide-ranging support, from the TUC to the CBI. It was their hope, as it was ours, that the public health situation would allow us to keep businesses and workplaces open.

The virus, however, continued to spread. Localised restrictions were having an impact, so we intensified this approach and added further areas. As these restrictions intensified, the economic impact, particularly on industries such as the hospitality sector, was significant, so in response we altered our approach to wage support, making it much more generous to employers and in turn protecting jobs. We also introduced a range of grants to businesses, whether open or closed, to help them meet their fixed costs, and additional funding for local authorities to respond to specific local economic challenges.

But again, the virus continued to spread, but more quickly, and so we arrived at last week, when the Government's scientific and medical advisers presented

data which showed that R was greater than 1 in all parts of the country, that the NHS was at risk of being overwhelmed in a matter of weeks and the likely resultant loss of life that would accompany such an event. The only viable solution left to protect our NHS was the reimposition of temporary significant enhanced restrictions in England, in addition to those in Wales, Northern Ireland and Scotland. So, given these changed public health restrictions and the economic trauma they would cause in job losses and business closures, I felt it best to extend the furlough scheme rather than transition at that precise moment to the new Job Support Scheme.

Political opponents have chosen to attack the Government for trying to keep the economy functioning and to make sure the support we provide encourages people to keep working. They will now no doubt criticise the Government on the basis that we have had to change our approach, but to anyone in the real world that is just the thing you have to do when the circumstances change. We all hope for the best but make sure we plan for any eventuality. We can reintroduce the furlough now only because we kept the system on which it is based operational, because there was always the possibility that we would be back in this situation. I will leave it to the people of this country to decide whether they believe the Government are trying our best to support people through an unprecedented crisis, to decide whether it is a good or bad thing to alter our economic plans as the health restrictions we face change.

What I know is that the support we are providing will protect millions of jobs. What I know is that it is never wrong to convey confidence in this country and our economy through our words and action. And what I know is that today's announcement will give people and businesses up and down our country immense comfort over what will be a difficult winter. I commend this Statement to the House."

5.20 pm

Lord Tunnicliffe (Lab) [V]: My Lords, I am grateful to the Minister for presenting this Statement. It is the latest in a series of announcements and, while there are aspects that we very much welcome, it is a tremendous shame that it has taken so long and required so much frustration and anxiety among businesses and working people. The Labour Party has called for clarity on job support for months. In that time, rather than providing certainty, the Chancellor proceeded with winding down the furlough scheme. That decision was taken despite its apparent success at keeping people employed and warnings of the impact of a perceived cliff edge in support.

Instead of protecting as many jobs as possible, Mr Sunak was honest about the fact that he had decided to focus on so-called viable jobs instead. The replacement scheme was announced with little accompanying detail and, when the information finally emerged, it became apparent that the Job Support Scheme—JSS—would not do, even in the revised form announced mere days before its planned commencement. We now find ourselves with the Coronavirus Job Retention Scheme—the CJRS—extended to March, with a review of the proportions paid by the Treasury and businesses themselves to be carried out in January. This finally provides a degree of certainty to businesses, and we are pleased that they can now plan accordingly. However, not for the first time, the decision came much too late.

This entire process raises several important questions, which I hope the Minister will address. I appreciate that our time is restricted, so I would welcome a letter with any detail he is unable to set out today. What evidence base did the Chancellor draw on when announcing the planned shift from the CJRS to the JSS? Did that modelling predict that jobs may be lost in the short and medium term as a result? If so, how many? How does this match up to the reality reflected in recent figures? Does the Treasury anticipate any of these job losses being reversed and, if so, how many?

I now turn to the continued issues with the Self-employment Income Support Scheme. In last week's response to an Urgent Question, the Minister cited the number of claims made under the SEISS and assured noble Lords:

> "We keep under review the whole issue of trying to protect those who have fallen through the cracks."—[*Official Report*, 4/11/20; col. 708.]

I accept the point he made in relation to certain changes to universal credit, which marginally improve the situation for some of those excluded from the SEISS. However, this ignores the key issue, which is that so many people remain beyond the scope of the Government's core coronavirus economic support and are, instead, forced to rely on an inadequate social security system.

How can Ministers and their officials not have found a solution to this in the past six months? Is the problem that the Minister and the department do not believe there is one, or is there a lack of political will to bring one forward? What would he say to those who, by the end of the current package, will have been outside the scope of government support for a full calendar year?

Finally, I was grateful for the promise of correspondence on self-isolation payments and the technicalities of that system. I have some further points on this. A study by Independent SAGE suggested that only approximately 20% of people in England who experience Covid-19 symptoms go on to follow fully the Government's self-isolation guidance. Now that we find ourselves subject to a new lockdown, what steps are the Government taking to address this worrying trend, so that there is higher compliance when the current restrictions are eased?

I touched last week on people being ineligible for self-isolation payments if they receive notification via the mobile app rather than an NHS contact tracer. There are many other issues with eligibility, meaning that only one in eight workers is covered by it. In the gig economy, the situation is potentially even worse. Those workers do not enjoy statutory protections and often cannot afford to miss even a day's work. While some digital platforms have put in place their own measures, this relies on good will and discretion rather than providing guarantees to those in need. What, if anything, do the Government have planned in this area? How soon are we likely to see the details?

Baroness Kramer (LD) [V]: My Lords, last week the Minister was not a bit keen on my call for an extension of the 80% furlough scheme to June. Now it looks as

[Baroness Kramer]
though I will get that until at least April, unless there is a poison pill in the January review—though I suspect, quite frankly, that the Government would not dare. I also called on the Government to feed the kids. What a difference a week makes. I am glad they have finally faced up to the realities and have U-turned on quite a range of issues.

They should still do more for the self-employed, whose income support grant ends at the close of December. They cannot be left out in the cold at the turn of the new year. Again, not a thing has been done for the 3 million excluded. The clue is in the name: excluded. There is no point in the Minister quoting programmes that these people cannot access and use. Letting them down is unacceptable.

On the same day the Chancellor made the furlough announcement, the Bank of England announced another £150 billion of QE, which will bring its holding of government debt to over £900 billion. There is a widespread market sentiment that this policy has come to the end of the road. Will the Government comment on that and the implications of negative interest rates, which are now being explored by the Bank? Are we really saying that savings are worth nothing, and that ordinary people need to take increased financial risk in a time of such uncertainty, created by not just Covid but an imminent economic Brexit?

The Minister of State, Cabinet Office and the Treasury (Lord Agnew of Oulton) (Con): I thank both noble Lords for their comments. I will first address the noble Lord, Lord Tunnicliffe.

The Government have always made it clear that economic support would continue past the end of October and had announced the Job Support Scheme to do just that. Extending the CJRS, or furlough, responds to the latest economic conditions and the national lockdown in England and similar restrictions in the devolved Administrations. The Government have acknowledged that they have not been able to support everyone in the exact way they would want, but they have been proactive in addressing gaps in the scheme where possible. This partially addresses the points of the noble Baroness, Lady Kramer; for example, under the second SEISS grant, self-employed traders facing reduced demand or who are temporarily unable to trade due to Covid were made eligible. It has not been practically possible to include certain groups without introducing unacceptable fraud risks.

The vast majority of the British public has come together, followed the law and helped to prevent the spread of the virus. We are confident that communities will rise to the next challenge and play their part as we come together to fight the second wave this winter. The noble Lord asked about compliance. To ensure that people can continue complying, we have introduced a comprehensive package of support, including extended SSP to employees when they are asked to self-isolate, and for workers on low incomes a one-off payment of £500 under the self-isolation support payment scheme.

Individuals who are asked to self-isolate by NHS Test and Trace because they have tested positive for coronavirus, or been identified as a contact, may be eligible for the test and trace support payment provided that they meet the other criteria. If individuals are identified as a contact by the NHS Covid-19 app but they have not been contacted by NHS Test and Trace, they cannot currently apply for the scheme. App users are anonymous, which means that the local authorities that administer the payment scheme cannot confirm that they have been asked to self-isolate. Further work is ongoing to determine if the scheme can be extended to individuals who have been identified as a contact only through the app, while adhering to data privacy requirements.

We have legislated to prevent employers from requiring workers, including agency workers, subject to the duty to self-isolate to attend work. Employers who breach this are subject to a £1,000 fine, rising to £10,000 for repeat offences.

The noble Baroness asked about the potential for negative interest rates. I cannot predict the future, but the noble Baroness will know that we are very against that at the moment. I hope that it can be avoided. I share her concern that negative interest rates put pressure on savers beyond that which has existed over the last 10 years of very low interest rates. It is illustrative of the balancing act that the Government must take between support for people during this crisis and the long-term impact on the Government.

The Deputy Speaker (Baroness Morris of Bolton) (Con): 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.

5.32 pm

Lord Robathan (Con): My Lords, last week a Cabinet Minister said that there had been no impact analysis done on the effect on the economy of the various rate restrictions, the previous lockdown and the current lockdown, which is a pity, because I would have thought that was rather important. I will not ask the Minister to give me an impact analysis today, because that would be rather unfair, but can he tell me whether the Government have worked out how long it will take for our children to repay the humungous debt that we are running up? Will it be one decade, two decades, three decades or longer?

Lord Agnew of Oulton (Con): I share my noble friend's concern about the huge impact of indebtedness that has gone on to the country's balance sheets over the last few months. He is entirely right that the burden of this will be borne by the next generation, not by those of us sitting in this Chamber. That is why we are so anxious to do everything possible to avoid these national lockdowns, which have the huge costs of supporting people and which throttle economic growth. We are seeing the largest fall in economic activity in my lifetime certainly—and maybe even longer. We must come together to regrow the economy as quickly as possible, because only growth will pay down this debt.

The Lord Bishop of Portsmouth [V]: My Lords, I welcome the Government's desire to protect jobs and livelihoods, but can the Minister confirm that the

extension of the furlough scheme until March—a full five months—is based on the assumption and expectation that those jobs, or at least the vast majority of them, will be ready to return to unchanged? That is a bold assumption. If it is not the case, what strategy do the Government have now for addressing the transitional challenges for those whose jobs will disappear? This Statement was made late, in haste. Tackling the jobs issue in March is tackling it too late.

Lord Agnew of Oulton (Con): I share the concerns of the right reverend Prelate about jobs. The honest answer is that we do not have enough visibility on the impact to the economy beyond March. Coming out of lockdown, we saw a steady reduction in the number of people using the furlough scheme. It dropped every month from July to August to September. I do not have all the information yet, but hopefully it will be published shortly. The key is whether we can avoid extending this awful lockdown beyond 2 December. I am confident that if we can avoid that, we will see a rapid pick up of the economy, which will hopefully reduce the number of job losses that the right reverend Prelate is so concerned about.

Viscount Waverley (CB) [V]: My Lords, could the Minister set out the vision from the perspective of his department as to how the various help initiatives, including the job retention and self-isolation schemes, can impact UK trade in delivering a sustainable economy at national and international level, given that our economy is in the eye of a perfect storm of incomplete Brexit-related negotiations, a changing of the guard in the US, direct and indirect consequences of Covid, including supply chain complications, and a worsening employment situation?

Lord Agnew of Oulton (Con): I agree with the noble Viscount that we face an unprecedented storm of events, and I share his concern. On the role of the Treasury and, indeed, my other department, the Cabinet Office, we are doing a great deal to try to ameliorate some of this. For example, project speed, on which I deputise for the Chancellor, has brought together a number of initiatives to pump prime the economy—and we have published our first initiatives on that. We have a further possible 80 projects, which will be used to pump prime the economy, dealing with blockages to infrastructure, speeding up infrastructure, the commitment to building additional schools and accelerating the building of 40-odd hospitals. We have announced through the IPA some £37 billion of infrastructure, and I hope that we will announce around the time of the spending review the national infrastructure strategy, which will show further the investment that the Government are making.

Baroness Altmann (Con) [V]: My Lords, I welcome the extension of the economic and job support schemes and congratulate the Chancellor on his willingness to adopt flexibility and have the courage to change tack when the economy and public health winds changed. However, I have to say that I regret that a new lockdown was deemed necessary and believe that the damage caused to public health and the economy as a result needs to be much more thoroughly analysed.

Does my noble friend agree that the job support measures that have been introduced have been facilitated by the Bank of England's quantitative easing policy? In combination with the job support measures, it is rather like helicopter money or people's QE. What impact do Her Majesty's Government expect it to have on UK defined benefit pension schemes? Would not it be better for the economy to encourage companies and pension schemes to invest directly in the economy to boost growth rather than encouraging them to buy more fixed income, as interest rates continually fall?

Lord Agnew of Oulton (Con): The noble Baroness is right that QE is providing a level of financing for the interventions that the Government are taking at the moment. I think that she will understand that those interventions are having to be made extremely quickly to protect lives and livelihoods across the whole country. Long term, I absolutely agree with her that we need to get businesses to invest more in the economy. One initiative that I am exploring is to try to encourage local government pension funds to allocate a greater proportion of their investments to infrastructure; at the moment, it is a very low figure. I am sure that there is more we can do to loosen the rules without, of course, putting those pension assets at undue risk.

Lord Bird (CB): I declare my interest as a founder of a social business, which is on the register. From where I am sitting, I am very impressed with this Government, who have pushed aside all the austerity measures that we were expecting. I think most of us expected that we would return to a Cameron-type, Clegg-type austerity. That involved laying the stones, filling up our hospitals and cutting social support to such an extent that, when we arrived at Covid-19, 85% of our hospitals were full of people who were troubled, poor and broken, largely because of the effects of austerity.

I am a self-appointed historian. I was born in 1946 and I stopped paying for the Second World War in 2007, when Mr Blair signed a cheque for the last time. Did your Lordships know that in 1832 we raised £30 million to pay off the people who had to give up their slaves? We only finished paying that off last February. This generation is paying for previous generations, and those generations paid for generations before them. If this generation turns its back on its responsibility and does not do as the IMF said—spend, spend, spend, and keep the receipts—then we will have no economy and no society, and we will have an enormous amount of problems.

I am really blessed. I am grateful for the bounce-back loan and for the chance of having the furloughs so that I can look after my staff and still help those people who I have appointed myself to help on the streets of the cities of Great Britain.

I shall end on another problem. I know many self-employed people, including my brother, who cannot find their way through the intricacies of what is being offered by the Government; some 3 million to 5 million people are falling outside it. I suggest that we need to fine-tune ways of how we can help those people. News came through yesterday that 1 million people, the backbone of Britain, doing all their self-employed

[Lord Bird]
jobs, are now giving up on self-employment and trying to find jobs. That is because they are not getting the support that the Government are offering.

Lord Agnew of Oulton (Con): I thank the noble Lord for his supportive comments. I completely agree with him that intergenerational solidarity is vital as we come through this crisis. I worry about the cliff edge of debt that we are generating, but I accept his point that we need to be here today for all those very vulnerable people who we have tried to help over the past six months. I hear what the noble Lord says about the complexity of eligibility. I am pleased to confirm to him that we are working to make clearer eligibility criteria. They have been introduced for the third SEISS grant, and we have committed to there being a fourth grant early next year.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, I join the noble Baroness, Lady Kramer, and the noble Lord, Lord Bird, in focusing on the self-employed, particularly those who are missing out on help altogether. In figures out this morning, the LSE Centre for Economic Performance found that one-fifth of self-employed people anticipate quitting altogether, rising to 58% of those under the age of 25. The right reverend Prelate the Bishop of Portsmouth referred to the conditions of uncertainty that we are going to see in the new year. What will the Government do to enable the self-employed to rebuild their careers and their lives and to give them security as a foundation to do that? An unconditional payment, such as universal basic income, could be such a foundation. Will the Government consider it?

Lord Agnew of Oulton (Con): The noble Baroness knows that this Government certainly do not support a universal basic income, but we are very aware of the vulnerability of many self-employed people. We have tried to close as many of the gaps as we can. As I mentioned in my answer to the noble Lord, Lord Bird, we have clarified the criteria in the latest round. The noble Baroness will know that we have made the entitlement more generous and extended it not just to November through until January.

Baroness Warsi (Con) [V]: My Lords, I welcome the Government's decision to provide clarity and stability by extending the furlough scheme to March. I also draw the House's attention to my entry in the register of interests. Can my noble friend provide some clarity for those businesses that took out coronavirus business interruption loans and bounce-back loans, many of which were taken out around April this year and therefore will be coming up to the anniversary in April next year? Has any thinking been done in government about what will happen to those loans, such as when repayments will start, what rates of interest are likely to be incurred and whether there will be an extension of the interest-free period to enable businesses to stabilise before those payments start?

Lord Agnew of Oulton (Con): No firm decisions on that have been made, other than what was announced a few weeks ago, which was to extend the payment period of the bounce-back loans to 10 years and to confirm that those businesses that took out less than their 25% eligibility up to the £50,000 cap could return to top up to the full amount. We will of course keep under close review how the economy reacts as we come out of this pandemic, as we hope, and how quickly businesses are able to recover from it.

Lord Mackenzie of Framwellgate (Non-Afl) [V]: My Lords, I welcome the new economic measures announced by the Chancellor last Thursday in another place, but, like other noble Lords, I continually hear of cases of thousands of fellow citizens who, not because of fecklessness or negligence, are falling between the cracks—photographers, event organisers, dividend earners and the like, who have taken risks and built high-earning businesses, who are now prevented from earning a living or paying their debts and are being driven to despair through no fault of their own. In the light of the new quantitative easing measures, will the Government please have another look at support for these innocent victims of this pandemic?

Lord Agnew of Oulton (Con): I share the noble Lord's concern for those who have fallen through the cracks. We have issued a number of initiatives over the last few weeks and months to try to close the gap. For example, for the arts sector, there is some £1.5 billion of support, some of which will be available to vulnerable groups which have not been able to be part of the traditional self-employed schemes. We have also made funding available to local authorities, which are able to use discretion in the allocation of some of that money for vulnerable self-employed people.

Lord Bilimoria (CB) [V]: [*Inaudible*]—will be crucial. The news of the Pfizer/BioNTech vaccine is very welcome. Does the Minister agree with the recommendation of the CBI, of which I am president, about the creation of an economic recovery commission, uniting government, business and unions? It would be a vital step, as would the urgent rollout of affordable, regular mass antigen testing—with the Liverpool pilot, thankfully, having been started and now in full swing—along with investment in job-creating projects, with a focus on digital skills and green jobs. To reinforce what the noble Baroness, Lady Kramer, said, what can the Government do to help the 3 million excluded from the huge amount of government support that has been made available so far, for which we are all grateful?

Lord Agnew of Oulton (Con): My Lords, the Government are in constant contact with the business community. They absolutely accept that the wealth creation engine of our economy is vital for us to recover from this pandemic. I share the noble Lord's optimism about the vaccine. Of course, we need to be careful—we are not through the last hurdle yet—but it is certainly nice to have a little bit of good news occasionally. I have answered the point about the self-employed, raised by several other noble Lords. It is perhaps worth reminding the noble Lord that we have improved the universal credit system to try to provide a little more protection at that end of the

system. We have also confirmed that those on mortgage holidays can extend to six months without any impact on their credit file.

Lord Lea of Crondall (Non-Afl) [V]: Three weeks ago, the Minister agreed with my remark—first made by the noble Baroness, Lady Kramer, I believe—that we have to integrate our employment assistance policy in relation to jobs that are affected by Covid-19 and jobs that are affected by Brexit. This task is becoming increasingly urgent. Looking forward, we will be in another crisis in which we are behind the curve. Will the Government commit to following up the Minister's reply when I last raised this point and agree that there should be at least a White Paper or a Green Paper arising from the important talks in which, as the noble Lord, Lord Bilimoria, said, the TUC and the CBI agreed with the Government? Would it not be a good tripartite agenda for them to examine why there has been so much difference in how jobs have been affected by Covid-19 and how jobs have been affected by Brexit? The situation will be dreadful by the time we next have a Statement, as it is likely that Dover-Calais will shut down for many hours if we do not get a settlement, which is unlikely at this stage.

Lord Agnew of Oulton (Con): The noble Lord raises a number of questions. Perhaps I may reassure him that the Government are in constant dialogue with business at all levels. He is right that we face some uncertainty on 1 January with the emerging exit from the transition period. It will certainly be helpful if we can get some kind of clarity within the next couple of weeks. However, he should also understand that, whether we get a deal or not, we are leaving on 1 January and we will be out of the customs union. The only real difference for businesses will be the tariff structures that exist and their preparedness for that. We are doing an enormous amount of work to support businesses in being ready for that, including work at the ports and inland sites to ensure that the disruption that the noble Lord is concerned about is minimised.

Lord Hamilton of Epsom (Con) [V]: My Lords, are my noble friend Lord Robathan and I alone in worrying about the accumulated national debt? How much will this furlough scheme cost if it lasts until the end of March? By how much will the national debt increase as a percentage of GDP, and at what stage does the national debt as a percentage of GDP become unsustainable? Let us face it, this lockdown may not even be necessary, based as it was on bogus statistics, and imposed at a time when the incidence of coronavirus was decreasing both in hospitals and in the numbers of people being infected.

Lord Agnew of Oulton (Con): My noble friend asks about the cost of this current extension of furlough. I am not able to give him the answer to that yet simply because we do not know how many firms and employees will take advantage of it over the next few months. During the last lockdown we saw a very dramatic reduction in the numbers claiming each month as the economy opened up again. We have built in the flexibilities that we did not include initially in the first lockdown so that employees and employers can work as flexibly as possible to protect both businesses and their employees. I share my noble friend's concern about the overall costs of this and the risk to our balance sheet.

House adjourned at 5.52 pm.

Grand Committee

Tuesday 10 November 2020

The Grand Committee met in a hybrid proceeding.

Arrangement of Business

Announcement

2.30 pm

The Deputy Chairman of Committees (Lord Duncan of Springbank) (Con): My Lords, the hybrid Grand Committee will now begin. Some Members are here in person, respecting social distancing, others are participating remotely, but all Members will be treated equally. I must ask Members in the Room to wear a face covering except when seated at their desk, to speak sitting down, and to wipe down their desk, chair and any other touch points before and after use. If the capacity of the Committee Room is exceeded, or any other safety requirements are breached, I will adjourn immediately. If there is a Division in the House, the Committee will adjourn for five minutes.

The microphone system for physical participants has changed. Your microphones will no longer be turned on at all times, in order to reduce the noise for remote participants. When it is your turn to speak, please press the button on the microphone stand. Once you have done that, wait for the green flashing light to turn red before you begin speaking. The process for unmuting and muting for remote participants remains exactly the same. So, let us begin. The time limit is one hour.

Communications Act (e-Commerce) (EU Exit) Regulations 2020

Considered in Grand Committee

2.31 pm

Moved by ***Baroness Barran***

That the Grand Committee do consider the Communications Act (e-Commerce) (EU Exit) Regulations 2020.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Baroness Barran) (Con): My Lords, these regulations were laid in both Houses on 24 September. They seek to end the direct effect of article 3 of the e-commerce directive, also known as the country of origin principle, on Sections 120 to 124 and 128 to 131 of the Communications Act 2003; otherwise, it would become retained EU law after the transition period. These sections refer to the regulation of premium-rate services and nuisance calls respectively. The country of origin principle is an EU internal market measure designed to facilitate digital trade among businesses in the European Economic Area. It would not be appropriate to retain this measure in UK legislation beyond the end of the transition period.

These regulations do not create new policy. Rather, they are a technical measure to fix failures of retained EU law arising from the withdrawal of the United Kingdom from the EU. This intervention is essential to ensure that UK rules can be effectively enforced at the end of the year. The primary impact of these regulations is that they will allow a UK regulator, the Phone-paid Services Authority, to enforce its code of practice against online service providers based in the European Economic Area. Currently, article 3 of the e-commerce directive inhibits the exercising of its powers under Sections 120 to 124 of the Act against European Economic Area businesses. The regulations will also allow Ofcom to enforce rules under Sections 128 to 131 of the 2003 Act. Article 3 of the e-commerce directive currently inhibits it from enforcing these rules on the misuse of electronic communications and services against European Economic Area businesses. This change will ensure quicker regulatory action and more efficient user redress. UK regulators will be able to enforce UK laws for the protection of UK consumers.

I also bring to the attention of the Committee the reports of the European Statutory Instruments Committee in the House of Commons and the Secondary Legislation Scrutiny Committee in the House of Lords, and thank them for their work. I would like to address the Secondary Legislation Scrutiny Committee's wish to discuss wider costs to UK business as a result of the UK becoming a third country in relation to the e-commerce directive. It is worth reiterating that these regulations have very limited bearing on UK businesses. UK businesses will be out of scope of the country of origin principle as a result of our leaving the European Union transition period at the end of December, not as a result of these regulations. Rather, these regulations ensure that European Economic Area businesses will come within the scope of UK rules, which they would not do unless we brought in these changes.

Of course, the loss of the country of origin principle as a result of leaving the EU also means that UK businesses will be newly in scope of certain European Economic Area laws from which they were previously exempt. We expect that the impact on UK business will be relatively low. The scope of the directive is narrow, and we do not expect regulatory regimes to be markedly different in the UK compared with other European Economic Area states. Depending on the nature of the online service, many UK businesses may already be compliant with relevant EEA laws and they will need to make little or no immediate changes to be compliant from 1 January 2021.

I will now give some further background on the proposals themselves and reiterate our reasons for intervening. The e-commerce directive seeks to contribute to the proper functioning of the European internal market by ensuring the free movement of online service providers within the European Economic Area. The e-commerce directive will no longer apply to the UK at the end of the transition period. This includes the country of origin principle set out in article 3 of the directive. The country of origin principle applies to online service providers based in any EEA state that operates across the European Economic Area. It means that the service provider has to follow certain rules only in the state in which it is established, rather than

[Baroness Barran]
rules in each state where its service is received. If the state where the service is received wishes to enforce its laws against the online service provider, it can do so only where certain conditions set out in article 3 are met. That state must also follow a derogation procedure, notifying the European Commission and the relevant member state before enforcing its rules.

While the UK has been bound by the directive, this exemption has been reciprocal between the UK and EEA member states. UK-based online services have been exempt from relevant laws in EEA states as provided for by the country of origin principle. Equivalent businesses in EEA member states are exempt from those relevant laws in the UK. This country of origin principle is implemented in relevant pieces of national law.

Once the transition period ends, we will no longer be bound by the e-commerce directive, and UK-based online service providers will lose their exemption from relevant laws in European Economic Area states, as currently provided for by the country of origin principle. If we do not intervene to remove article 3's effect on the Communications Act, online service providers in the EEA will continue to receive preferential market access beyond the end of the transition period while the same benefit will not be afforded to UK online service providers.

These regulations remove the direct effect of the country of origin principle from the Communications Act 2003. This removes the exemptions from rules under Sections 120 to 124 and 128 to 131 of the Act for businesses based in the EEA. The principle will be removed from all UK legislation in due course. This is to ensure that businesses in the EEA will be brought into scope of all UK laws from which they are currently exempt as a result of article 3.

As I have set out today, these regulations are a technical measure to fix failures of retained EU law to operate effectively, arising from the withdrawal of the UK from the EU. They will ensure that our regulators are able to effectively apply UK laws to online service providers based in the EEA, and ensure that UK consumers are protected. I beg to move.

2.39 pm

Baroness Wheatcroft (Non-Afl) [V]: My Lords, I thank the Minister for her clear introduction to this short debate. The reason for these regulations is straightforward: when the transition period ends—and that time is frighteningly near—UK businesses in the communications industry will no longer be able to trade in EEA countries, relying on the fact that they comply with UK regulations. These regulations do not change that. They determine that companies from the EEA will no longer be able to rely on their compliance regimes to give them access to UK customers. Instead, they will have to comply with UK regulations. This means that they will have to master the regulations that apply in one more regime. Unfortunately, UK businesses will potentially have to comply with many different regimes in order to carry on trading with the EEA countries.

The Minister assures us that the cost to UK businesses will be minimal. But I wonder whether she can reassure us as to how that conclusion was reached. I understand that there was no consultation about the regulations and no impact assessment was conducted. I know that time is short but, if we are being told that costs will be minimal, we need to know what that is based upon.

Last month, the Minister for Media and Data, John Whittingdale, said reassuringly that

"we do not expect the regulatory regimes to be markedly different in the UK in comparison with other EEA states."—[*Official Report*, Commons Delegated Legislation Committee, 20/10/20; col. 4.]

My noble friend the Minister has just repeated this. Those who, like me, regret the decision not to retain membership of the single market would surely shake their head at this comment. Given the expectation of such regulatory alignment in a growing sector, why is this country so set against this principle? It would have allowed continued membership of our most important trading bloc.

The EEA countries may choose to diverge their regulations. While this would not place extra burdens on member states, it would add to the burden on UK companies trading in the EU. Can the Minister tell us how confident she is that this will not be the case and that the regulatory regimes will remain reasonably aligned?

Effective regulatory insight is crucial in this sector. The legislation covers premium-rate phone services. Given that more than 200,000 people a year suffer text message scams—indeed, I was on the receiving end of one only last week—it is important that the Phone-paid Services Authority is given the power it needs to ensure that all companies trading in this sector play by the rules. Ofcom appoints the authority. As the Minister explained, it also has the responsibility for regulating electronic communications networks and services.

As we are asked to approve these regulations, I have one further question for the Minister. Back in September, it was rumoured that the Government planned to install Paul Dacre as the new chairman of Ofcom, which is a very powerful body. The *Daily Mail* reported it in some depth. As Mr Dacre is editor-in-chief of DMG Media, one might assume that these stories were well founded. Given that the chairman of Ofcom is a public appointment, the news was met with some surprise. A government spokesman insisted that the normal appointment process would be followed and that it would begin shortly. Yet the post does not appear to have been advertised yet. This important individual will play a vital role in ensuring that these regulations are put into practice. Can the Minister enlighten us as to when this appointment process is likely to begin?

2.44 pm

Lord Clement-Jones (LD) [V]: My Lords, the ending of the country of origin principle on access to the EEA digital internal market in e-commerce is, I am afraid, the inevitable consequence of our regrettable decision to leave the EU and not to seek to stay in the internal market.

I agree with everything the noble Baroness, Lady Wheatcroft, said. I also want to draw attention to paragraph 12 of the Explanatory Memorandum relating to impact. It says:

"A full Impact Assessment has not been prepared for this Statutory Instrument because there is a low level of impact per business. A De-Minimis Assessment showed that ... there were annual time-saving benefits to certain UK businesses".

For businesses which offer services to the EEA but not the UK, the Government estimate an annual time-saving benefit of circa £0.5 million. This is pretty breath-taking stuff, as I hope to demonstrate. The Government say that this is because they will no longer have to comply with UK legislation, as well as with the domestic legislation of the EEA state where the service is received. This is looking at it very much from the wrong end of the telescope. The Explanatory Memorandum goes on to say that for all businesses in scope:

"This will result in a small annual net direct cost to business of £0.6m over 10 years. Transition costs refer to the cost incurred by businesses when adjusting to new legislation, in this case the time that organisations will have to take to familiarise themselves with this new legislation."

In their guidance on the e-commerce directive after the transition period, the Government say:

"The eCommerce Directive applies to 'information society services'. These are defined as any service that is normally provided: for payment, including indirect payment such as advertising revenue … 'at a distance' (where customers can use the service without the provider being present) … by electronic means, and … at the individual request of a recipient of the service. This covers the vast majority of online service providers, for example online retailers, video sharing sites, search tools, social media platforms and internet service providers."

As commentators have said, after the end of the EU transition period, service providers with a place of establishment within the UK will lose the article 3 protection and will need to comply with the relevant legal requirements within the "co-ordinated fields" of the directive in each EEA country in which they operate. UK online service providers may also become subject to "prior authorisation" schemes, such as licensing requirements, in EEA countries where they operate.

What assessment has been made of the amount of digital trade which will suffer from cost penalties as a result of the withdrawal of country of origin protection? The impact on online services could be immense. The loss of these protections will mean that cloud service providers based in the UK and providing services to customers across the EEA will need to consider and take steps to comply with the national rules applicable to their cloud services in each EEA country where they are available. Online advertising, online retail and online contracts as a whole will suffer. This SI was inevitable but it is not without severe consequences. Should there not have been a full impact assessment of the regulations? Has a profound impact assessment of any kind been done?

This is a grossly inadequate debate, without any understanding by the Government of the real impact of this SI on all those businesses engaged in the digital market. I agree with the noble Baroness, Lady Wheatcroft, about Ofcom. I look forward to the Minister's answer to this and to the impact question.

2.49 pm

Lord Stevenson of Balmacara (Lab) [V]: My Lords, I am grateful to the Minister for her very full introduction to this SI, which is much appreciated, and I thank her and her staff for offering the chance to talk over some of the issues the SI raises in a meeting earlier this week.

The noble Baroness, Lady Wheatcroft, picked up on a number of points, which I will not repeat, but I want to draw out a little further the question of the asymmetry of this SI. As she says, the main beneficiary appears to be Ofcom, and it is a pretty marginal benefit in the sense that it will no longer have to clear, in-country, issues raised by UK companies which have concerns about the way services brought into the UK are being regulated under the country of origin principle. As she pointed out, this seems a rather mixed blessing in some ways. It may well have been freed from the obligation, but the companies themselves will have to do the tracking around and chasing if they have an issue they want to raise in, as has been pointed out, any of the 27 countries with which they used to be able to deal on a relatively simple basis. The Explanatory Memorandum is a bit coy about this but the position is fairly clear, given the very wide range of organisations and companies—online retailers, video sharing sites, search tools, social media platforms and internet service providers—that will be caught by the provision.

Secondly, the main users of the process provided for under this SI are charities. The figures suggest that a number of charities, such as Red Nose Day, rely heavily on people phoning in their donations. Regarding the impact assessment, I cannot believe that some adjustment will not need to be made by bodies that are reliant on such forms of generating income. If the Phone-paid Services Authority does not have the necessary authority to deal with this issue, how on earth will such bodies cope if things go wrong? We have also heard about scams. I am anxious that the Minister deals with this issue when she responds.

Thirdly, although scams account for much of the downside of what happens in this world, as we have heard, there are also concerns about vulnerable people being drawn into conversations or receiving information they would not wish to receive. Effectively, this is another example of the online harms issue. Can the Minister confirm where we are with the forthcoming online harms legislation, and that the consumer and customer issues that this SI raises will be dealt with in it?

Both the previous speakers made a point about the wider context of this SI. I mean no disrespect, but it makes a very minor change. There are a number of discrepancies between how the UK and the EU, our nearest neighbour and largest market for our services, will regulate in this area post Brexit. When the Minister responds, can she give us a better sense of what is happening with roaming, an issue of great concern for many consumers? Will they be able to use their equipment in other countries and if so, under the current arrangements, or will costs be involved?

Spectrum management is an issue on which we need, and indeed have always had, the co-operation of many other players, mainly in the EU but obviously worldwide. As a sole player, we are in a much weaker position to negotiate the sort of spectrum we want. Using additional spectrum, spectrum that is not efficient or spectrum that is not as appropriate to the task will be more costly for British business. Do the Government have any plans to resolve this issue, and how will it be deployed in future?

On the wider question of net neutrality, which we were concerned about a few years ago, and on which we had many friends in the EU, how is that being managed as we go forward?

2.54 pm

Baroness Barran (Con): I thank all noble Lords who spoke for their contributions on these regulations. I will start with some points that I will respond to in writing. I do not have with me information on the exact timing of the recruitment process for the chair of Ofcom, but I will find that out and share it with your Lordships. I will also write on some of the broader issues raised by the noble Lord, Lord Stevenson, such as spectrum management, roaming and net neutrality. He may also have raised one or two other points, but I will make sure that I address those ones in full.

All noble Lords, including the noble Baroness, Lady Wheatcroft, questioned the impact of the SI and the Government's assessment of it. A number of elements lead us to be confident in our assessment. First, the figures we have received from the primary regulator, the Phone-paid Services Authority, on derogation requests it receives from EEA states that wish to enforce their legislation against UK-based companies are very low. Double figures have not been reached in any given year, which suggests limited situations where a UK-based business has not complied with requirements similar to those in the 2003 Act when operating within the EEA.

Secondly—this perhaps touches on some of the issues raised by the noble Lords, Lord Clement-Jones and Lord Stevenson—because the scope of this directive is narrow, the current exemptions to which UK businesses have access apply to very few rules governing online activities. They do not apply to areas such as tax, certain gambling activities, personal data covered by GDPR, or legal requirements relating to goods. The noble Lord, Lord Stevenson, is absolutely right about the use made by charities of premium phone lines. However, the overall scope is very restricted. We also believe that there is unlikely to be marked divergence in regulatory regimes in the UK compared to the EEA in the coming years.

On the number of businesses that these regulations might impact, we estimate that approximately 75,000 UK businesses that provide services to one or multiple EEA-area states have the potential to fall within their scope. The figure for premium-priced phone services is 12,000, which is within that 75,000 estimate. I stress that no exact data exists, but these are the best estimates the Government have. I hope that goes some way to addressing the valid points that your Lordships raised.

On the online harms legislation, our position remains unchanged. We expect to publish the full government response by the end of the year and introduce the legislation early next year.

As I hope I have outlined, these regulations are a necessary technical measure to fix what would become a failure of retained EU law. Our intervention will empower UK regulators to enforce UK laws for UK consumers.

Motion agreed.

The Deputy Chairman of Committees (Lord Duncan of Springbank) (Con): The Grand Committee stands adjourned until a convenient point after 3.45 pm. I remind Members to sanitise their desks and chairs before leaving the room.

2.59 pm

Sitting suspended.

3.45 pm

The Deputy Speaker (Lord Duncan of Springbank) (Con): My Lords, the hybrid Grand Committee will now resume. Some Members are here in person, respecting social distancing, others are participating remotely, but all Members will be treated equally. I must ask Members in the Room to wear a face covering except when seated at their desk, to speak sitting down, and to wipe down their desk, chair and any other touch points before and after use. The time limit is one hour.

Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020

Considered in Grand Committee

3.46 pm

Moved by ***Baroness Barran***

That the Grand Committee do consider the Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Baroness Barran) (Con): My Lords, these draft regulations are being introduced to transpose the EU Electronic Communications Code directive into domestic law, as we are committed to do under the European withdrawal agreement. The Joint Committee on Statutory Instruments, the Parliamentary Business and Legislation Committee and the Secondary Legislation Scrutiny Committee have all considered the instrument and did not raise any issues. The draft regulations are being introduced under powers set out in Section 2(2) of the European Union Communities Act 1972 as repurposed for the transition period by the European Union (Withdrawal Agreement) Act 2020.

The draft regulations make corrections to legal deficiencies arising from the UK's exit from the European Union. The corrections being made under the powers set out in Section 8 of the European Union (Withdrawal) Act 2018 are mostly minor and technical, including references to EU law that are no longer applicable to the UK as a result of EU exit. These regulations are a crucial milestone towards the delivery of our digital ambitions and will play a significant role in aiding the delivery of our manifesto commitments, ensuring a future-proofed telecommunications regulatory regime. These changes will facilitate competition and a pro-investment regulatory environment, supporting gigabit-capable rollout across the country. UK consumers will benefit from better information to make informed decisions, have stronger contract rights and be able to switch their services much more easily than before, which will help support competition. The regulations will also ensure that universal services remain affordable for consumers with low incomes or other specific needs.

The measures sit alongside those being implemented by Ofcom under its existing powers. Ofcom is implementing new rules on information requirements for contracts, contract duration and termination rules, along with broadband switching rules. This includes rules banning providers from selling locked devices, ensuring that a customer's new provider leads any switch, stronger contract exit rights and short summaries of main contract terms to help customers make more informed decisions. We recognise that the industry will need to make changes as it responds to Covid-19 so Ofcom will allow providers a further year to put these measures into place during this exceptional period.

A small number of measures in the directive are not being implemented via these draft regulations. Some measures are being implemented through other legislation, while others have already been put in place, including those that relate to car radios via the Road Vehicles (Approval) Regulations 2020. A limited number of the measures are applicable to "over the top" services, including instant messaging and email communications, which we are considering further how to take forward. We have given Ofcom powers to gather information on these services in the draft regulations. This will help us to better understand and assess this market and to continue to develop any future measures.

The draft regulations introduce measures to drive investment into future-proof networks and communications services through sustainable competition, supporting the efficient and effective use of radio spectrum and providing a high level of consumer protection. While we are required to implement these changes, they are legislative changes that we would want to make in any case. The UK played a key role in the negotiations and indeed shaped the wider regulatory framework for telecoms that the directive builds on.

A number of the provisions promote competition and are pro investment. Ofcom will be able to impose conditions to ensure connectivity and choice for consumers where it is challenging for competition to emerge in an area that already has a network. The instrument also provides Ofcom the power to ensure that another provider can access a dominant provider's physical infrastructure assets—the ducts and poles that house the network—to ensure choice and competition irrespective of the market scope. We will enable Ofcom to impose longer-term pro-investment regulation, such as implementing longer market review periods that focus on promoting higher capacity networks. We will support the availability of build plan information to industry and to the Government in order to better inform any rollout plans. We will also enable co-operation between network providers, which should support these primarily rural deployments. These measures are essential if we are to create the right environment to encourage investment and ensure that Ofcom has the necessary powers to promote competition and protect consumers.

The draft regulations include measures that will enhance consumer protections. The Government, alongside Ofcom, are implementing measures to help ensure that UK consumers will benefit from better information to make informed decisions, stronger contract rights and the ability to switch services much more easily than before. The regulations will support the efficient and effective use of radio spectrum, promoting competition and the timely rollout of 5G services and the widespread availability of mobile connectivity. There are also measures that relate to the universal service obligation that will ensure that a range of telecoms services remain affordable for consumers with low incomes or other specific needs, giving them a safety net to ensure full participation in both society and the economy.

The instrument also includes powers for the Secretary of State to establish a mobile universal service obligation in the future if that is deemed necessary, and ensures that people who use legacy universal service obligation services, such as payphones, telephone directories, fax and particular methods of billing, will continue to be able to do so. Additionally, the instrument introduces measures to update the regime for social tariffs for telephony and broadband, should they be required. These will ensure that consumers with low incomes or other specific social needs are able to access universal services at affordable prices where the market does not provide these commercially or on a voluntary basis.

The importance of electronic communications has been underlined during the Covid-19 pandemic. Telecoms are now more critical than ever for the country, with a large proportion of the population working from home. Combined with future expectations around new technologies and services, including 5G, building future-proof networks will be essential to our future economy. The changes that we are introducing represent a significant step forward in helping to achieve these ambitions. I look forward to hearing noble Lords' reflections on this instrument and I beg to move.

3.53 pm

Lord Clement-Jones (LD) [V]: I thank the Minister for her introduction. I should declare an interest as chair of Ombudsman Services, which deals with customer complaints regarding telecommunications.

I was delighted to hear the noble Baroness extol the virtues of an EU directive, which I think was a bit of a novelty, coming from a Minister. It is sad that we have only three speakers on such an important SI. After all, it encompasses a whole Bill's-worth of changes to our communications laws. When I first looked at it, I thought, "Well, all I can do is to try to stop the ship sailing on regardless and stick an oar in here and there", because quite a few substantive issues are involved.

The Government response to the consultation on implementing the European electronics code states:

"a 'copy out' approach to the Directive"

is being taken

"where we consider change is needed in UK legislation",

but in line with

"our overarching approach of a minimal transposition".

I am not quite sure that we can have it both ways. I am going to kick the tyres on the "minimal transposition" aspect, because the Minister seemed to be quite positive about the impact the directive will have on investment and rollout of our 1 gig capability.

The response also says:

"In some cases, we will adopt an alternative approach to transposition to certain provisions in a way that is tailored to UK markets. We take this approach where there is sufficient justification and evidence for doing so, for example, where it would contribute to the government's ambitions for digital connectivity."

[Lord Clement-Jones]

We heard some of the positive approach, but I am not quite sure whether we fully heard the more minimal approach. We have heard about further aspects—I think the Minister said that there are two categories they are considering—but we did not hear in the interim about where a minimal approach had been taken.

The Government set out three categories in the response:

"Articles which we consulted on given their potential to support the UK's digital ambitions"—

fine;

"Incremental changes to the existing framework which we intend to transpose in a minimal way"—

again, there is the use of the word "minimal"; and

"Deprioritised from 21 December 2020 deadline".

The problem is that there is a rather inadequate approach to this issue in both the Explanatory Notes and the response to the consultation. There is no easy breakout of what changes fall within the three categories. You have to rather laboriously cross-refer when you get to the table which glosses annexe A of the response. I therefore hope that the Minister will forgive me if I go through a few aspects of the statutory instrument and ask a few questions.

The fundamental flaw is where the consumer comes in all this. The list of respondents to the consultation consists solely of telecoms companies. As we go through certain areas, can we be sure that the way the Government have transposed the directive is acting in the best interests of consumers?

The Government say that the transposition of the code

"recasts the objectives and regulatory tools of the current"

European framework on electronic communications

"to place a stronger emphasis on incentivising investment".

They say that:

"The Regulations support the government's digital ambitions and plans to deliver nationwide gigabit-capable connectivity ... This will enable Ofcom to support deployment and investments in gigabit-capable networks … These include ensuring that Ofcom's use of specific market regulatory tools promotes very high capacity networks. Ofcom are also required to promote measures that facilitate a competitive retail market for consumers."

It would be useful if the Minister could unpack some of those statements. Are they going to speed up rollout? Are they going to make up for the fact that Covid-19 seems to have delayed that 1 gigabit capability rollout?

I can see the benefit of transposing Article 22 in terms of survey information and designation of areas where there is no planned coverage, but what are the other benefits? For instance, what substantive difference will these changes make to rollout of 1 gigabit capacity? Why only the minimum transposition of Articles 76 and 79? The Explanatory Memorandum states:

"There are specific conditions known as significant market power … conditions, which can only be imposed on providers with market dominance. Ofcom must analyse markets on a regular basis in what is known as a market review."

The Government seem simply to have decided to swallow Article 61 whole and extend the market review to five years, increasing the maximum time between market reviews from three years to five. In a sense, they are therefore making the situation worse from the competitive point of view. Of course businesses that were consulted prefer this, but what about consumers? Does that not precisely show up the problems with the original consultation?

Surely when major developments occur with great speed, as with a consolidation of digital assets—for instance, specialised mast companies such as Phoenix Tower with its significant market shares, or the joint venture between Liberty Global's Virgin Media and Telefonica's O_2—these kinds of reviews are required at very regular intervals. There are some aspects which I unreservedly welcome, such as the new protection for certain end-users who purchase a bundle of services. There are the social affordability aspects, too.

When we come to the universal service obligation, we see a certain amount of changes. There is no change to the inclusion of affordability requirements, but it should be said in passing that the 10 megabits per second universal service obligation is still miserably unambitious. We have made that point many times before on these Benches and it was, of course, criticised by one of our own Select Committees. I hope that the Minister will give an indication of when it might change. It seems extraordinary that we have this ambition for 1 gigabit capacity, yet we are still hobbling along on 10 megabits per second as a universal service obligation.

What about the impact assessment? If all these provisions are to be so beneficial, as I hope they will be, why do the Explanatory Notes say that there will be an impact of less than £5 million on the economy? Surely the idea is to incentivise investment. Were we doing absolutely fine before we adopted this directive or was the Minister engaging in a bit of hyperbole? Where do we stand on the impact of these new regulations and what are the substantial changes? Will it mean faster rollout and, if so, in what respect?

It is interesting that the Minister's colleague, the noble Lord, Lord Vaizey, wrote a very percipient piece in the *Telegraph* in July. I think the headline was "It's high time we fixed Britain's patchy mobile networks". How will all this contribute to that, or are the Government really just making a virtue out of necessity?

4.02 pm

Lord Stevenson of Balmacara (Lab) [V]: My Lords, I thank the Minister for her very good introduction to this SI. It is a long and complicated one, but she came across the issues quickly and with great clarity. I also thank her for arranging a meeting where I was able to ask direct questions of the officials responsible for this work.

It is, on first glance, a rather strange document—almost hybrid, if that is not a pun too far. It introduces most elements of a European directive positively and helpfully, but it also uses the EU exit regulations to discount a few things that might have got in its way. I say that to position myself on my first point: rather like the noble Lord, Lord Clement-Jones, it seems to me that this is almost primary legislation being achieved through secondary legislation because of the changes that are being made that will have an impact not only for consumers and companies but, more responsibly, for the regulator. This document is so large that one would

almost want to go through it line by line and ask questions by having a due process that allowed more than this important but rather short exchange as a result of it being a statutory instrument.

I asked that question of officials. In a slightly unguarded moment, perhaps, the impression I gained—I will not quote them—was that Ministers presumably could have chosen either to seek a legislative opportunity to put forward primary legislation that might not have been time-efficient, as it certainly would not get us past the deadline of 21 December 2020, which is not far away, or to take the slightly unusual step of doing it through secondary legislation. These are my words, not theirs. For good reason or bad, the decision was taken to do it this way. I am not going to carry on with this point, because it was not picked up by any of our standing committees that looked at the legislation or by the Commons. However, it is quite interesting, and there must be a break point.

I will make one other point about it. One of the things that is looked at in deciding whether something should be primary or secondary legislation is the impact it has on consumers: for example, in criminal penalties or taxes. I do not think there is any such provision in here, but I wonder about the approach to the special subsidy. There is a phrase in the notes which gives the sense that it is not just a question of whether those who are vulnerable or have low incomes can get treated under the special subsidy system; it is also possible for Ofcom to look at whether others should make a contribution.

That point about "others" comes on page 8 of the Explanatory Memorandum in point 7.24, which says:

> "If the burden is unfair, Ofcom may determine that contributions should be made by other providers to help meet the burden".

I wondered whether that was heading towards taxation. I will leave my point in that area.

I want to make only two other points, because the noble Lord, Lord Clement-Jones, has made a substantial contribution to this debate. One is that, as he said, one of the key guiding principles, which we went over at length in earlier legislation and presumably will meet again as we go forward on this journey, is the attempt to get the country to have a gigabit-capable infrastructure. I welcome a lot of the measures here which will point us in that way, but I want to ask about two of them.

First, there is the question of whether the ability to share equipment, which is one of the powers that Ofcom has taken or will be given under these regulations, will be sufficient to ensure that the number of not-spots is reduced across the country. As the noble Lord, Lord Clement-Jones, said in citing the noble Lord, Lord Vaizey, it seems that we still have patches of the country, sometimes in major conurbations and many times in London, where the quality of reception is so bad that it is unbelievable that we are even thinking about getting to a USO of 10 megabits per second, rather than to this nirvana that we hope to have of one gigabit.

There are two measures that I thought might help with that. One is the need for a power to make providers share equipment where it is important. In the regulations, that appears to be limited to whether there is unfair competition. Is that right or is it more focused, as the noble Lord, Lord Clement-Jones, was saying, on this question of getting the whole country to a higher level of capability?

The second is the way in which spectrum is allocated, because that has such a major burden on the 5G capability of the country, and who knows what 6G or other Gs would do when they came along? One complaint that we were aware of 18 months or so ago, when we were doing the primary legislation in this area, was that the regulations relating to spectrum sales did not give sufficient fine-tuning of the arrangements under which Ofcom offered it to ensure that the quality of the spectrum available to those bidding for it was being met satisfactorily, given the needs that they identified.

I am probably at the limit of my technical knowledge at this point and will therefore not continue this line. But I am sure that the Minister is fully briefed on it today, and if she is not, perhaps she could write to me. Do the measures in this statutory instrument unblock that problem? When allocating spectrum, it is important to recognise that the bandwidth within it is as important as the amount available under certain measures, particularly 5G, because of its capability in ensuring that local areas are properly linked up so that those who live in blocks of flats, for instance, are not blocked simply because the walls are too thick or the material used in the building is obstructive to travel.

These are the two things we were left with after we went through this the last time around when we were talking about telecommunications development, the partnership that is necessary with the internet service providers and the problems faced by those in rural areas and in the centres of towns. They need to be assured that these regulations will bring this forward.

Finally, like the noble Lord, Lord Clement-Jones, I welcome the new consumer rights that have been brought in. They will be helpful, and I am glad to see them in place at last.

4.10 pm

Baroness Barran (Con): My Lords, I thank both noble Lords for their questions and the constructive tone of their contributions. I am pleased that in principle the regulations command support from all sides of the Committee, and that we share the ambition that this country should be able to benefit from gigabit-speed connectivity and that consumers should benefit from greater protections. I will try to address the points raised but in a couple of cases I will need to follow up with a letter to your Lordships.

In answer to the point raised by the noble Lord, Lord Clement-Jones, about the respondents to the consultation, a number of organisations representing consumers responded; these included Citizens Advice, the Communications Consumer Panel and the Clarion Housing Group, to give just three examples. I hope that that reassures him that a balance of views was sought.

Both noble Lords questioned—perhaps I can express it as—our enthusiasm for implementing this legislation. As I mentioned, the UK was heavily involved in negotiating the final text of the directive to make sure that it would be truly positive for the UK telecommunications market, and we played a really leading role in the negotiations.

[Baroness Barran]

The noble Lord, Lord Clement-Jones, questioned whether we were going above and beyond some of the minimum requirements in the directive. There are more than 100 measures in the directive and in six of them we have gone further, where it has been clearly in the UK's interest to do so. That relates to Ofcom's ability to collect information regularly about gigabit-capable network future build plans; its ability to penalise BT or KCOM if either reneges on voluntary commitments; and the additional powers to promote retail competition in buildings where there is not room for more than network deployment. I think that addresses that point.

In relation to speeding up, questions were raised about the impact of the directive. The £5 million cited in the memorandum relates to the direct impact but we expect the indirect impact to be very substantial in terms of opening up and speeding up the implementation of high-capacity networks. We believe that this will support our plans to incentivise investment in gigabit-capable networks by promoting both competition and commercial investment wherever possible; allowing Ofcom to have longer market reviews, which gives industry greater planning time; and, as I mentioned, supporting the availability of build plan information to industry and government, which supports our rollout plans. There are other examples that I will happily share with your Lordships in a letter.

The noble Lord, Lord Stevenson, is testing my technical knowledge of the impact of the statutory instrument on our spectrum policy framework. If I may, I will include further answers on that in my letter. The statutory instrument does introduce a requirement for Ofcom to consider whether specified level of use conditions would promote efficient use of the spectrum when designing competitive awards, but that does not address the noble Lord's point about the quality of the spectrum, so, if I may, I will include that in my letter.

Finally, the noble Lord, Lord Stevenson, asked about not-spots in both rural areas and some urban areas. As he will be aware, we have committed £5 billion to support the rollout of gigabit-capable broadband in the hardest-to-reach 20% of the country. We are sticking with our target of 2025. We acknowledge that it is a very ambitious target, but we are driving forward with it as hard as we can.

To recap, transposing these changes into UK law will allow us to drive investment in future-proofed networks and communications services through sustainable competition. It will support efficient and effective use of the radio spectrum and provide a high level of consumer protection. It will also ensure that Ofcom's powers remain operable and reflect recent technological innovation. Some of the measures are being transposed through alternative legislation, such as the requirements for the security of networks and services.

With thanks to both noble Lords for their questions, I beg to move.

Motion agreed.

4.17 pm

Sitting suspended.

Arrangement of Business

Announcement

5 pm

The Deputy Chairman of Committees (Lord Alderdice) (LD): My Lords, the hybrid Grand Committee will now resume. Some Members are here in person, respecting social distancing, others are participating remotely, but all Members will be treated equally. I must ask Members in the Room to wear a face covering except when seated at their desk, to speak sitting down, and to wipe down their desk, chair and any other touch points before and after use. If the capacity of the Committee Room is exceeded or other safety requirements are breached, I will immediately adjourn the Committee. If there is a Division in the House, the Committee will adjourn for five minutes.

Common Rules for Exports (EU Exit) Regulations 2020

Considered in Grand Committee

5 pm

Moved by ***Lord Grimstone of Boscobel***

That the Grand Committee do consider the Common Rules for Exports (EU Exit) Regulations 2020.

Relevant document: 29th Report from the Secondary Legislation Scrutiny Committee (special attention drawn to the instrument)

The Minister of State, Department for Business, Energy and Industrial Strategy and Department for International Trade (Lord Grimstone of Boscobel) (Con): My Lords, I hope that the Committee may be unanimous in support of these regulations and their objective. The regulations were laid before the House on 21 September and were approved by a Committee of the House of Commons on 14 October. They are made under powers in the European Union (Withdrawal) Act 2018, which I will refer to as "the Act" from now on. The Committee will be aware that, given the context, these powers are limited. All that they allow is the correction of technical deficiencies in existing EU legislation that, by the operation of the Act, is to be retained in United Kingdom domestic law following withdrawal from the European Union. The amendments made by these regulations correct those deficiencies by, for example, replacing references to the European Union, its institutions and legislation with the appropriate United Kingdom references.

The retained EU regulation, as amended by these regulations, lays down the basic principle that exports from Great Britain will not be subject to quantitative restrictions unless the restrictions are applied in conformity with the retained EU regulation. The new legal regime makes it clear what the purpose of any export restriction should be. In general, export restrictions may be used only where there is a risk of a critical situation arising on account of a shortage of essential products or to remedy such a situation, or where such a measure is needed to fulfil international undertakings entered into by the United Kingdom.

I start by drawing the Committee's attention to the fact that these regulations amend the retained EU regulation only as it applies in respect of Great Britain.

This is consistent with the Northern Ireland protocol, which preserves the ability of the European Commission to exercise these powers in Northern Ireland. However, as is also set out in Article 6 of the Northern Ireland protocol, nothing may fetter the movement of goods from Northern Ireland to Great Britain, other than to fulfil an international obligation. The EU regulation is not used to fulfil international obligations and so does not fetter the movement of goods within the United Kingdom.

Through the course of the year, we have seen the use of export restrictions on medical goods grow around the world in response to shortages arising during the fight against Covid-19. Indeed, the European Commission used the EU regulation in March in response to shortages of personal protective equipment—PPE. Under this EU regulation, the United Kingdom was required to temporarily authorise any exports of PPE, following a review of licence applications from exporters. In the vast majority of cases, the United Kingdom authorised these exports.

While export restrictions can be appropriate in dealing with critical situations in the short term, the restrictions we have seen build up around the world have disrupted the normal flow of trade and exacerbated the efforts of many countries to combat the global pandemic.

The Government have been clear that countries should limit their use of export restrictions as far as possible. In May, the United Kingdom joined calls for the use of export restrictions to be restricted and to be applied only where deemed completely necessary and in a targeted, proportionate, transparent and time-limited way. By applying strict conditions to the use of any export restriction, this legal regime sends a clear signal to our trade partners around the world that, despite the pandemic, the United Kingdom remains open for business.

I underline for the benefit of the Committee that the Government do not need to implement export restrictions pursuant to the United Kingdom's international obligations by making regulations under the retained EU regulation as amended by this SI. Other, more specific legislation provides the appropriate powers with which to do this. For example, restrictions that apply to the export of arms are provided for under the well-established statutory regime under the Export Control Act 2002. In addition, Article 10 of the retained EU regulation does not preclude the use of export restrictions where this is required for the purposes of public policy.

I also point to the role that Parliament will play in overseeing any measures that are put into effect under the retained EU regulation as amended by these regulations. This is clearly set out in Article 7A. It explains that any such measures must be contained within a statutory instrument and describes the nature of parliamentary involvement, where Parliament can annul measures in some circumstances and can vote on the regulations in others.

This statutory instrument is subject to the affirmative resolution procedure because it transfers to the Secretary of State a power to legislate that currently sits with the European Commission. That is a power to put export restrictions into effect in Great Britain in certain circumstances. I commend the regulations to the Committee.

5.07 pm

Lord Liddle (Lab) [V]: My Lords, I do not believe that I have yet spoken in a debate being replied to on behalf of the Government by the noble Lord, Lord Grimstone. I welcome him to his role—although he has been there for some time. I see him as a very capable and grown-up figure. I wish that could be said of the rest of the Government in which he serves.

I am speaking in this debate because I am a member of the Secondary Legislation Scrutiny Committee and this measure came before us a couple of weeks ago. In terms of Great Britain, it seems a perfectly sensible amendment of retained EU law. There is however some uncertainty, which is why I am speaking today, about its implications for Northern Ireland.

Perhaps I may quote from the 29th report of your Lordships' Secondary Legislation Scrutiny Committee. Paragraph 7 states:

> "While we note the Department's explanation that the Commission could impose export controls or restrictions on Northern Ireland only in very limited circumstances, such as in relation to the movement of endangered species, it is not clear what other circumstances may allow the Commission to exercise its powers. These are issues that the House may wish to explore further, given the sensitivities around future trade between Northern Ireland and the rest of the UK."

That is why we drew the regulations to the special attention of the House.

We have already had a rather shameful episode, in my view, where the Government signed up to the Northern Ireland protocol and then, when they considered it in more detail, decided that they did not like its terms. As a result, they attempted something which, as we saw in the Divisions last night, this House regarded as a gross breach of international law to change provisions of the protocol which they did not like. What I am seeking today is an assurance as to what exactly are the circumstances in which this bit of EU law will apply in Northern Ireland, and whether the Government will give an absolute undertaking that they will not seek in any future piece of legislation to override these provisions. Given what we have seen in the last year, I think that is a perfectly reasonable request.

The Minister rightly drew our attention to article 6 of the protocol—I have it open in front of me. He quoted point 1 of article 6, which says:

> "Nothing … shall prevent the UK from ensuring unfettered market access for goods moving from Northern Ireland to other parts of the United Kingdom's internal market."

It goes on to say that any measures which

> "restrict the exportation of goods shall only be applied to trade between Northern Ireland and other parts of the United Kingdom to the extent strictly required by any international obligations"—

Lord Parkinson of Whitley Bay (Con): I am sorry to interrupt the noble Lord but the time limit for speeches in this debate is three minutes.

Lord Liddle (Lab): That is even given the very few speakers in the debate, which I do not understand. I will sum up in a moment. So, the protocol speaks of

> "the extent strictly required by any international obligations of the Union",

[Lord Liddle]
but it goes on to say that, despite Northern Ireland's integral place in the United Kingdom, the applicable EU legislation would apply in Northern Ireland. What would that mean?

Lord Parkinson of Whitley Bay (Con): I am sorry to interrupt the noble Lord once again but we are very tight on time. I am afraid the noble Lord will have to conclude his remarks.

Lord Liddle (Lab): I conclude my remarks, but I hope that we do not get into legal problems similar to those we have seen already.

5.13 pm

Lord Wallace of Saltaire (LD) [V]: My Lords, after hearing Conservatives and Ukippers preach year after year about the unnecessary bureaucracy of European regulations, it is sad that we now have a Government hurrying to transpose European regulations into domestic law as necessary and useful elements in diverse aspects of government and in managing our economy. That is a sad irony.

My first question to the Minister is to ask whether he can tell us yet how many more SIs are still to come before the House from his department before transposition and replacement are complete. We will be very busy between now and the new year with continuing legislation to clarify our future external trade policy and our relations with the EU and others. How many more SIs are still to come? Secondly, has preparation for this transposition been accompanied by any contingency planning in Whitehall about products not easily available in Britain that could be critical in an emergency?

I understand that constraints on exports of specific foodstuffs might be rational and necessary in an emergency. I am aware that the UK produces a range of pharmaceuticals to which this SI might apply. However, we have learned during the current Covid-19 emergency that there are a number of medicines that we do not produce in quantity, and a wide range of other medical supplies of which we have lacked domestic stocks—and which the Government had failed to ensure were available in usable forms in stockpiles.

Now that the UK is abandoning its guaranteed access to its largest market from which to source many essential products, have the Government embarked on any discussions with the EU and its member Governments about future co-operation in any shared or global emergency? Do they have plans to increase domestic production or expand domestic stockpiles?

I shall leave the Irish dimension to others, beyond noting that the growing prosperity of the Irish economy means that Ireland has also become a significant source of medical and related products used within the UK. Instead, I wish to inquire what the officials who gave evidence to our Secondary Legislation Scrutiny Committee meant when they said that our pursuit of national priorities and constraint of exports would be limited by the need "to meet international obligations". What international obligations would limit government sovereignty under such circumstances? Which states or international organisations could impose such obligations on us?

I understood from the Brexiteers that the UK was asserting its sovereignty from international obligations by leaving the EU. Were those officials saying that there are nevertheless unavoidable limits on UK sovereignty? Are they saying that it is not only the European Union that cramps our freedom, but that, even after we have escaped from European domination, we will be held down by other foreign commands?

Lastly, is there any prospect of being able to use the powers set out in this SI in early 2021? The NAO report, published last week, put it bluntly, saying that

"preparations to manage the border at the end of the transition period remain very challenging".

Does this SI set out an aspiration, rather than a deliverable set of proposals?

5.15 pm

Lord Loomba (CB) [V]: My Lords, I will make two points about these regulations. As I have said before, a multitude of retained EU law is coming through Parliament. Some legislation may better serve its purpose if, instead of amending existing EU law with multiple statutory instruments—meaning the original instrument has to be consulted as well—we had one completely new instrument. It would make the law much less complex and possibly less confusing, especially with regard to this instrument and its implications for the Northern Ireland protocol.

Secondly, the pandemic has thrown a light on the difficulties that can be faced in accessing goods from other countries, when goods are in high demand and stocks are low, such as with PPE. Even Brexit itself and the end of the transition period may cause some shortages, especially if there is no deal. What if there were a shortage of some vital product and the UK Government put quantitative restrictions on it to ensure adequate supplies within the UK? There is no fetter on the movement of goods between Northern Ireland and Great Britain, as per Article 6 of the Northern Ireland protocol. Those goods are sent across to Northern Ireland where they are needed.

In this situation, the EU does not have any quantitative restrictions on goods, as it does not have a problem with supplies. In such a scenario, can the Minister tell us what precautions are in place to stop a company selling their goods on to the EU without having to follow the same restrictions as in the rest of the UK, and thus gaining a competitive edge over other companies within the UK?

5.19 pm

Lord Moynihan (Con): My Lords, these regulations are presented to the Grand Committee as no more than a correction of technical deficiencies in existing EU law that are to be retained on 1 January, irrespective of the outcome of current negotiations. Specifically, as the Minister confirmed, the regulations address the basic principle that exports from Great Britain will not be subject to any quantitative restrictions unless the restrictions are applied in conformity with the retained EU regulation.

It is to the first point made by the noble Lord, Lord Liddle, and the work of the Secondary Legislation Scrutiny Committee to whom we should be grateful

for the level of interest shown in these Committee proceedings. As has been noted, the purpose of these regulations is specifically focused on the retention of retained EU law on common rules for exports to operate effectively in Great Britain after the end of the implementation period. This provides the Secretary of State with the powers to impose export control or restrictions where this is necessary to prevent a critical situation arising due to a shortage of essential products or to meet international obligations. Vaccines would fall into the former, CITES into the latter. However, these are the only two examples which have been given to Parliament, although I note in the EC note of 17 August that cultural goods are mentioned in this context.

Clearly, under the precise wording of these regulations, their potential application could be wider, and the wider they are, the greater the potential divide between Great Britain and Northern Ireland in trade. Therefore, I ask the Minister to clarify the breadth of their application and the circumstances surrounding it.

One issue of concern is that it is unclear whether proposed export restrictions are specifically to be used where there is a critical situation arising on account of a shortage of essential products. For example, on the definition given by the Minister today, and picking up comments made by the noble Lord, Lord Loomba, is it envisaged that the Oxford AstraZeneca vaccine will be subject to these regulations? If so—assuming that that vaccine will come into use after 1 January—will the only recourse Parliament would have to the recommendations of government be to negate the regulations placed before the House, possibly after the date of their implementation, if the Covid-19 regulations are a suitable precedent?

What is lacking is clarity over exactly the circumstances in which the Government could invoke these regulations and, equally important, what reciprocal action could be taken by the EU in the context of export controls or restrictions as applicable to Northern Ireland as opposed to the rest of Great Britain. How broad is the definition of public policy, since Article 10 of the retained EU regulation does not preclude the use of export restrictions where that is required for the purposes of "public policy"?

Greater clarity on these powers, an understanding of under what circumstances they can be undertaken and clarity on their true scope would be helpful. I regret very much that we do not have the opportunity to debate this critically important subject, particularly in the context of the debate on the Floor of the House yesterday.

5.23 pm

Lord Empey (UUP) [V]: My Lords, in his opening address to the Committee, the Minister said that the European Commission will "exercise these powers in Northern Ireland". Will the Minister explain to the Committee how it is possible for the status of Northern Ireland not to be changed after 1 January if a foreign power, which the EU Commission will become on that date, exercises power within what is supposed to be an integral part of the United Kingdom? How are the two things consistent? If it came to a dispute in so far as products coming from Northern Ireland to Great Britain were deemed by the European Union to be better retained within the EU rather than sent to Great Britain, who would pull the lever and take a decision on that matter?

There has been a consistent refusal by the Government to accept the realities of their proposals to the European Commission, dated 2 October last year, in which they put forward an alternative to the then withdrawal proposals. They have created a border in the Irish Sea but consistently denied it. I ask the Minister again: how is it consistent with the integrity of the United Kingdom if a foreign power has the ability to exercise powers within a part of the kingdom, even though the people living there will have no say whatever in the decisions that the Commission might make? The Minister owes the Committee an explanation for that.

I thank the noble Lord, Lord Liddle, and other committee members who have looked at this. It is interesting that everyone who has spoken so far has zeroed in on this issue. The inconsistency is so obvious. How can you take back control if, where I live, those who I had the pleasure and privilege to represent for many years are effectively abandoned to a foreign power? Does the Minister not realise the implications of this? I hope that, when he comes to sum up, he will be able to give the Committee an explanation.

5.26 pm

Viscount Trenchard (Con): My Lords, the Minister has helpfully explained the purpose of the regulations, and I understand why it is necessary to amend them to replace references to European institutions with references to British ones. It is also welcome that there has been some simplification of the procedure contained in the new legislation. There is no longer a requirement to provide market trends and statistical analysis to the EU and its member states before deciding whether to act on a product shortage. That power now lies with the UK Government, which should lead to swifter intervention when the UK's interests are affected by product shortages. Could the Minister tell the Committee whether the nature of the market trends and statistical analysis which the Government will require before deciding whether to act will be the same or simpler than that presently required by the Commission?

I understand that export restrictions were placed on PPE exports in spring this year, when shortages first appeared. Could the Minister confirm that the introduction of those restrictions in respect of the UK was triggered by the Commission rather than by the British Government? Could they alternatively have been triggered by a member state Government? Could he also tell us how many times this regulation has been used in respect of British exports since its adoption in 2015?

In researching this measure, I wondered whether my understanding is correct that this SI amends EU regulation 2015/479, which is itself also retained in UK law. The Explanatory Memorandum says that the SI makes "technical amendments" to the retained UK version of the EU regulation. However, the Lexology website states that the SI will "replace" the EU regulation. The two statements are not the same, and I would be grateful if the Minister could say which is correct.

[Viscount Trenchard]
I am sure that the same question applies to very many transpositions of EU regulations into UK law, as the noble Lord, Lord Loomba, already referred to.

Of course, the new measures apply only to Great Britain, as the EU regulation will continue to apply in Northern Ireland. Could the Minister confirm that that will be the case whether we enter into a free trade agreement with the EU or not? It is inevitable that UK law and EU law will diverge; if we were to slavishly follow and replicate every change in EU law, there would be no point in our leaving the EU. That is, of course, a wider question, but could the Minister tell the Committee how exports from England which are partly or wholly composed of products manufactured in Northern Ireland will be treated? Can he confirm that the new measures, as they will apply in all parts of the UK, are compatible with the common frameworks proposals? The noble Lord, Lord Empey, has already referred to this subject, and I look forward to hearing the Minister's reply.

5.29 pm

Lord Blencathra (Con) [V]: My Lords, I support these regulations in their entirety. They are eminently sensible at any time, whether or not there is Chinese coronavirus on the go. However, I have two queries for my noble friend the Minister.

First, why are the SIs under Article 5 negative but those under Article 6 affirmative? Secondly, and of more substance to me, can my noble friend update the Committee on Project Defend? We have discussed previously the Henry Jackson Society's report on the vital and strategic infrastructure goods and services for which we are far too heavily reliant on China. Now that China has emerged as a major threat to world peace and security, how is Project Defend getting on?

I see that the International Trade Committee, in a report published in July, cites evidence given by the Trade Secretary, Liz Truss, suggesting that onshoring supply chains "is not being proposed" as part of the scheme. Why ever not? I accept that it is vital to have diverse supply chains and the height of folly, as we have just seen with PPE, to have everything coming from one country, whether a ruthless regime such as communist China or a democracy such as Germany or Taiwan, but surely making more things at home has a part to play. I am not suggesting that we try to manufacture everything vital that we get from China at the moment, nor even half of it in the short term, but if my right honourable friend the Trade Secretary says that some onshoring is not being proposed, then she is utterly wrong and naive. It is contrary to what the British people want. We will lose millions of jobs because of this Chinese disease and our people will not forgive us if we continue to export more jobs to China.

We must not accept the greedy demands of big business that so long as we can get vital supplies from, say, three or four different countries in the world, then we should not worry our pretty little heads about reshoring things back to the UK where it is possible to do so. I hope that my noble friend the Minister can give me some reassurance on Project Defend.

5.32 pm

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, I thank the Minister for his explanation of these regulations. I see a direct read-across to the United Kingdom Internal Market Bill, even if it was unintentional. My interest lies in the fact that these regulations are made under Section 8C(1) of the withdrawal Act to implement the protocol on Ireland/Northern Ireland to the EU withdrawal agreement. In that respect, I have some questions for the Minister to build on what the noble Lord, Lord Empey, said.

I recognise that the protocol is required to prevent a hard border on the island of Ireland and to protect the Belfast agreement. However, there is a problem with the border that will be created in the Irish Sea, a border which the Government insisted for quite some time would not exist. The bottom line is that we in Northern Ireland do not want borders anywhere, whether on the island of Ireland or in the Irish Sea, because both types of border would act as impediments to business development.

Therefore, I ask the Minister: what steps will be taken to ensure that there will be unfettered access between Britain and Northern Ireland in respect of goods? We know that the First Minister and Deputy First Minister have written to the European Commission about the need for checks and controls on food products entering Northern Ireland from Great Britain and how that might impact on the supply of food to supermarket chains. They are concerned about material price increases or reduced supply lines, because that would not be good for Northern Ireland. That issue has already been raised in recent weeks by the Northern Ireland Retail Consortium. What solutions have been considered by the joint committee to resolve this issue? Businesses need clarity.

The Minister will recall that I and the noble Lord, Lord Hain, were signatories to an amendment to the Trade Bill, tabled in Committee, on the trader support service that is to be set up to facilitate GB-NI trade. We need it to be permanent, not just for two years, and that should be put in the Bill. Will the Government bring forward amendments on Report, and what steps will be taken to ensure that Northern Ireland goods that are produced in accordance with EU rules under the Northern Ireland protocol will not be discriminated against in the operation of the UK internal market? In my view, the regulations before us today are intertwined with the Trade Bill, the United Kingdom Internal Market Bill and the Northern Ireland protocol. On behalf of all those operating businesses in Northern Ireland and wider consumers, we need answers to these vital questions.

5.35 pm

Baroness McIntosh of Pickering (Con) [V]: My Lords, I am delighted to follow the noble Baroness, Lady Ritchie, and I echo many of the points that she and other noble Lords, including the noble Lord, Lord Empey, have made. The fact is that after 1 January 2021 there will, effectively, be a border in the Irish Sea, and these regulations reflects the consequences of that. Two separate regimes will apply, one to Great Britain and one to Northern Ireland. It is an indisputable fact and I regret that.

I want to take this opportunity to thank my noble friend the Minister for bringing forward these regulations and giving us a chance to put questions. In that regard, can he clarify paragraph (2) of the regulations, which refers to fulfilling international obligations relating to "primary products" that are defined, for greater clarity, to

"include unprocessed agricultural products and raw materials"?

The noble Baroness, Lady Ritchie, referred to the implications for agri-food. It is extremely important to have a degree of certainty before we reach the end of the transition period. Will my noble friend take this opportunity to further clarify the position?

Equally, can the Minister comment on the questions arising and the conclusions reached from the evidence given by his department for the 29th report of the Secondary Legislation Scrutiny Committee? On pages 3 and 4, it states:

"'we will ensure that the necessary procedures apply only to very minimal volumes of relevant trade necessary to comply with those obligations. For goods affected, the processes put in place in these very specific cases will have negligible implications for trade as a whole.'"

Surely, the issue here is that that is for the EU Commission to decide, not the Westminster Government. I am sure the Minister will wish to clarify that he and other Ministers of the Crown in Westminster have no control over that whatsoever.

Like other noble Lords speaking in this debate, I would like a number of clarifications. Certain circumstances are as yet unclear. May I ask my noble friend directly: under what circumstances will the Commission be allowed to exercise this power? Can we have further clarification and a better understanding of the implications? These regulations prove that there are going to be enormously difficult issues, particularly agri-foods going into and out of Northern Ireland and Great Britain after 1 January.

5.39 pm

Lord Purvis of Tweed (LD): My Lords, this short debate has flagged up a number of critical areas. I have a degree of sympathy with what the noble Lord, Lord Liddle, said about the time that we have; nevertheless, within this short period, all noble Lords have raised appropriate questions and issues.

I want to use most of the time that I have to address points that have already been raised by noble Lords, but I want to close on the wider issue of border preparedness, because we are now a matter of weeks and days from operating an international border outside the European Union and it is valid to raise more recent concerns.

On the valid points already raised, it seems that a lot of the consideration has been about how the UK and the European Union will agree or come to a working relationship on how international obligations are defined for exports from Northern Ireland to GB.

We support this measure as the corrective that it is meant to be, but the concerns that have been raised about the impact on Northern Ireland are valid. Let me ask first about notification. We are replicating a cascading process under the original European regulation whereby the Commission was notified of potential areas of market concern about the shortage of certain goods. That notification would then go to the Council and the European Parliament. As has been asked in this debate, what is the equivalent of notification to Parliament under these elements? Why is there a difference in Regulations 5 and 6 so far as the procedures are concerned?

Given that we are replicating the potential acknowledgement that certain geographical areas could have shortages compared to others, there is nothing in this measure which would allow for consultation of devolved Administrations. The Government have used the example of medical equipment for PPE because it is the most recent, but it could be very broad so far as the potentials are concerned; for example, raw agricultural products or, as the noble Viscount, Lord Trenchard, mentioned, components as part of intermediate trade. That can have a differential effect, whether it is in the north-east of Scotland or the south-west of Wales, but there is no element of consultation. Before the Government bring forward orders, can the Minister commit that there would be consultation with devolved Administrations, because certain areas may need certain protections?

This brings me on to the position of the Government with regard to the continuing authority of the European Commission in Northern Ireland. It was very interesting before coming to this Committee to read the report of the European Scrutiny Committee in the House of Commons and that of the European Union Committee in this House. The latter was interesting in that it highlighted the Government's view—repeated by the Minister—that the continuing authority of the Commission to bring Northern Ireland under the existing EU regulation is strictly limited to a number of procedures relating to specific international obligations binding on the UK and the EU under the Northern Ireland protocol. Can the Minister state where these are outlined? The committee rightly asked for further information about how the Government define these "limited number of procedures". It cited CITES and those regarding endangered species, but this is not necessarily the position of the European Union. As referred to by the noble Lord, Lord Liddle, the European Union's position as set out in its technical note is that

"all goods leaving Northern Ireland to either a third country or Great Britain are subject to prohibitions and restrictions applicable to exports under relevant Union law, without prejudice to Article 6(1) of the Protocol".

The definition that the European Union is using is different from that used by the UK, which could bring about certain interesting tensions and is likely to be very difficult.

The House of Commons European Scrutiny Committee report asked for further clarification with regards to ongoing regulations and Northern Ireland. Not only do we have the successor regulations; the House of Commons committee report asked the Government for further information about "ongoing" changes that the European Union would make in regard to the specific regulation that we are inheriting. There is nothing in the mechanism that indicates that there should be an ongoing working relationship if the European Union changes its definitions. Under one interpretation, the European Union could consider its obligations under the WTO in that light.

[Lord Purvis of Tweed]

In the final few seconds, I will refer to the National Audit Office report. It is a sobering independent analysis of the major problems that businesses will face on 1 January. I hope that the Minister can provide greater reassurance that the issues raised in that NAO report will be considerably addressed. They have not been, so far. The clock is ticking. Businesses are waiting for clarity. So far, they have not got it and they desperately need it.

5.45 pm

Lord Bassam of Brighton (Lab) [V]: My Lords, these regulations transfer from the EU to the Secretary of State the power to impose export controls or restrictions after the end of the transition period, as noble Lords have observed. In Northern Ireland, as has been seen, the relevant EU regulations will continue to apply directly under the EU (Withdrawal) Act 2018 and the Northern Ireland protocol. We should be grateful to the Secondary Legislation Scrutiny Committee for drawing attention to this SI, because we require more clarity. Throughout this year, we have seen export controls being used to help deal with the pandemic and shortages in medicines, paracetamol and PPE, around the world. The use of export controls should not be exercised lightly, as they have serious consequences and, as we know, can invite retaliation, if not prompt other countries to take a view of us that is not in our interests.

The UK Trade Policy Observatory said that it is important that we acknowledge the role of reciprocal trade in our own fortunes, and acknowledged how important it is that we have strong bilateral arrangements and relationships. Therefore, it would be helpful to hear from the Minister today about what the Secretary of State will take into consideration when they decide to use their powers. Will there be consultation, and with whom? What assessment will be made? Will it be published? Will there be proper parliamentary scrutiny? How much warning will be given before controls are introduced?

After the votes yesterday on the removal of Part 5 of the United Kingdom Internal Market Bill, I was intrigued to see the Government's response to the SLSC on trade between Northern Ireland and Great Britain. The Government said that, despite the EU regulations still applying in Northern Ireland, Article 6.1 of the protocol on Ireland/Northern Ireland makes clear that

"Nothing in this Protocol shall prevent"

Northern Ireland businesses from enjoying

"unfettered market access for goods moving … to other parts of the United Kingdom's internal market."

To me, this demonstrates not only the lack of cross-government understanding of the protocol, but how Clauses 42 to 47 of the internal market Bill were not needed to, as the Government said, stop any EU blockade.

I hope the Government do not try to reinstate these clauses. The committee said that

"the Commission could impose export controls or restrictions on Northern Ireland only in very limited circumstances, such as in relation to the movement of endangered species".

Does the Minister recognise this limited power and will he now clarify, as noble Lords from all sides asked in Grand Committee, exactly when these regulations will be used? It is not clear to us how and when they will be operable and in what circumstances they will become effective.

The Minister has done a good job trying to explain the regulations, but he also said that they represent a small technical change. We are not convinced that is the case. I think that we, in this Committee, see that such changes could have profound implications and consequences on implementation. I am grateful to the Minister for his observations and I am sure other Members of the Committee are too, but we need greater clarity if we are to better understand how to operate these regulations in the post-transition period.

5.49 pm

Lord Grimstone of Boscobel (Con): My Lords, I thank Members for their contributions and will respond as fully as I can in the time available. I am conscious that I will not be able to do full justice to the many points that have been raised which, as always, show the great expertise of your Lordships. If I may, I will write to those noble Lords whose questions I am not able to do justice to during my closing statement.

As I have set out in my opening remarks, the SI makes technical amendments to the retained domestic version of the EU common rules for exports regulations. This will ensure that the retained EU regulation can apply effectively at the end of the implementation period. Many of the complexities to which noble Lords have referred are not as a consequence of this SI, which in a sense has quite a simple purpose; they relate to the complexity of the underlying regulations of the EU. I repeat that the purpose of this SI is to make technical changes to those regulations to bring them into line with our leaving the European Union.

This is a debate about the application of the retained EU regulation as amended in relation to Great Britain. I completely understand the many and varied points that noble Lords have made about Northern Ireland, but for those who want additional information about Northern Ireland, I direct colleagues to the Government's Command Paper, *The UK's Approach to the Northern Ireland Protocol*. This sets out that any procedures that are necessary to comply with any international obligations provided for under Article 6(1) will apply only to—and I stress this—minimal volumes of relevant trade. I take this opportunity to make absolutely clear that any such processes put in place in these very specific cases will have negligible implications for trade as a whole. An important point is that they will be administered by UK authorities, which will, of course, retain operational responsibility. I assure noble Lords that these authorities are able to, and will, exercise their discretion as appropriate.

To make it clear to noble Lords, I repeat that, as I set out in my opening remarks, Article 6(1) of the Northern Ireland protocol makes it clear that nothing—I repeat, nothing—shall fetter the movement of goods from Northern Ireland to Great Britain, except in order to fulfil an international obligation. The EU regulation is not used to fulfil international obligations, and therefore will not fetter the movement of goods

from Northern Ireland to Great Britain. The noble Lord, Lord Wallace, asked where on earth these international obligations come from. They come about if the UK agrees to enter into any such international obligation and agrees to be bound by them.

Since the regime in Northern Ireland will be unchanged after the end of the implementation period, the United Kingdom Government will still be able to implement export restrictions in Northern Ireland in circumstances permitted by Article 10 of the EU regulation; that is where they are required on grounds of public policy, or for the protection of health and life for humans. These restrictions under Article 10 are very specific in this effect, and noble Lords can see those in the original regulation.

I ought to again make it clear that this SI is compatible with the United Kingdom Internal Market Bill. The objective of the United Kingdom Internal Market Bill is to protect the highly integrated market across the United Kingdom, guaranteeing that, as EU law falls away at the end of the year, companies will be able to continue to trade unhindered in every part of the United Kingdom. This SI will ensure that the retained EU regulations on the common rules for exports will operate effectively in Great Britain from the end of the implementation period. As I have described, in no way will trade be fettered between Northern Ireland and Great Britain, except in circumstances not covered by these regulations, and therefore perhaps not appropriate for us to debate in great detail today.

A number of noble Lords, including the noble Lords, Lord Blencathra and Lord Purvis of Tweed, asked how the role of Parliament operates and, in particular, about the differences between Articles 5 and 6. As I said earlier, the role of Parliament is as set out in Article 7A in the regulations. The difference between why that article is subject to the negative resolution procedures and Article 6 is subject to the affirmative procedure relates directly to the urgency of the situation in front of us.

Let me explain further. If the Secretary of State implements a measure under Article 5 of the retained EU-authorised regulation as amended, that export authorisation can only be implemented for up to six weeks to prevent a critical situation arising on account of a shortage of essential products or to remedy such a situation. That seems appropriate if the urgency is such that this has to be brought forward quickly and last for only six weeks. A negative resolution SI, which can be annulled in either House of Parliament, is therefore appropriate. If the Secretary of State implements measures under Article 6 of the retained EU regulation as amended, they can take a wider range of forms and are not time-limited. In those circumstances, because of the greater scan, scope and longevity of such regulations, they would be set out in a "made affirmative" SI, which must be voted on within 40 days of being made.

The noble Lord, Lord Purvis, asked about the information that would be available at that time and drew a contrast with the Commission report under the EU regulation. In both cases, further information would be provided to the Houses of Parliament as part of an Explanatory Memorandum. I can assure noble Lords, particularly the noble Lord, Lord Wallace of Saltaire, that in coming to their conclusions about the necessity for the use of regulations, the Government would take account of the whole UK and, if necessary, any views expressed by the devolved Administrations.

I should stress that we are not rushing or looking to find ways in which to use these powers. The Government have been clear throughout the Covid-19 pandemic that the use of export restrictions around the world should as far as possible be limited. No one would be happier than us if we found that we never had the need to use these powers. The Prime Minister underlined that view recently in a speech to the United Nations, in which he urged countries to lift export controls on Covid-critical products wherever possible. The Government have no plans at present to bring forward further export restrictions under this retained UK regulation.

The Government do not apply any restrictions on medicines under these regulations and do not intend to do so. I can reassure the noble Lord, Lord Wallace of Saltaire, on those points. The UK applies certain limited restrictions on the export of medicines designed for UK patients on the UK market where there is a risk of a shortage in the UK, but those restrictions are made pursuant to the Human Medicines Regulations 2012, which require wholesalers to ensure, as far as possible, that the needs of patients in the UK are met.

In conclusion, my noble friend Lord Blencathra asked about Project Defend, as it is commonly known. The coronavirus pandemic has demonstrated the importance of resilient supply chains to ensure the continued flow of critical goods and to keep global trade moving. We are working closely across the Government to analyse UK supply chains for a range of critical goods, excluding food, and to help define strategies to ensure that the UK has resilient and diverse critical supply chains.

My noble friend Lord Trenchard asked about how this SI would technically operate in conjunction with the retained EU regulation. It amends the retained EU regulation, which then passes into UK law in this amended form if noble Lords agree to these regulations today.

I have my eye on the clock and am conscious that I have not done full justice to the detailed points raised by noble Lords. As I said at the beginning of my wind-up, I will write to them and place a copy of my reply in the Library. On that basis, I commend these regulations to the Committee.

Motion agreed.

The Deputy Chairman of Committees (Baroness Barker) (LD): The Grand Committee stands adjourned until 6.15 pm. I remind noble Lords to sanitise their desks and chairs when leaving the Room.

6.01 pm

Sitting suspended.

Arrangement of Business

Announcement

6.15 pm

The Deputy Chairman of Committees (Baroness Barker) (LD): My Lords, the hybrid Grand Committee will now resume. Some Members are here in person, respecting

[Baroness Barker]
social distancing, others are participating remotely, but all Members will be treated equally. I must ask Members in the Room to wear a face covering except when seated at their desk, to speak sitting down, and to wipe down their desk, chair and any other touch points before and after use. If the capacity of the Committee Room is exceeded, or other safety requirements are breached, I will immediately adjourn the Committee. If there is a Division in the House, the Committee will adjourn for five minutes.

Prevention of Trade Diversion (Key Medicines) (EU Exit) Regulations 2020

Considered in Grand Committee

6.15 pm

Moved by ***Lord Grimstone of Boscobel***

That the Grand Committee do consider the Prevention of Trade Diversion (Key Medicines) (EU Exit) Regulations 2020.

Relevant document: 26th Report from the Secondary Legislation Scrutiny Committee

The Minister of State, Department for Business, Energy and Industrial Strategy and Department for International Trade (Lord Grimstone of Boscobel) (Con): My Lords, I hope that the Committee will be unanimous in support of these regulations and their objective. I have no reservation in saying that these regulations perform a laudable function. They ensure that pharmaceutical companies in Great Britain can continue to produce and sell certain medicines to developing countries at a low cost to help fight key diseases such as HIV and malaria without the potential drawback of these medicines being reimported into Great Britain for sale at a price lower than the domestic market price.

As noble Lords will recognise, many of the poorest developing countries are in urgent need of access to affordable essential medicines for the treatment of communicable diseases. These countries are heavily dependent on imports of medicines because local manufacturing may be limited. Price segmentation between developing and developed countries is necessary to ensure that the poorest developing countries have access to essential pharmaceutical products at heavily reduced prices, while also ensuring that fair market prices in wealthier markets incentivise drug development and investment.

Pharmaceutical manufacturers will produce large volumes of pharmaceutical products at reduced prices for the developing world only if they are assured that these products will not find a way into developed countries' markets. These regulations correct deficiencies in legislation to establish a procedure that identifies the products, countries and diseases covered and prevents the reimport of such products through seizing and disposing in accordance with national legislation.

These regulations were laid in draft before this House on 2 September. They are made under powers in the European Union (Withdrawal) Act 2020. The Committee knows that, given the context, those powers are limited. All that they allow is the correction of technical deficiencies in existing EU law that, by the operation of the Act, were retained in UK law following withdrawal. These regulations correct such deficiencies by, for example, replacing references to the European Union, its institutions and legislation with the appropriate UK references.

This statutory instrument follows the affirmative procedure because it transfers to the Secretary of State a power that currently sits with the European Commission. That is a power to amend the list of pharmaceutical products under the regulations and the criteria for products to remain on that list. This statutory instrument also replaces the requirement that pharmaceutical products, packaging and connected documents should be affixed with an EU logo with a power for the Secretary of State to make regulations providing for marking, labelling or other identification requirements. This relates to a logo more appropriate for the UK now that we have left the European Union. I beg to move.

6.19 pm

Lord Lansley (Con): I thank noble Lords for the opportunity to participate in this brief debate on these regulations. I do not dissent from anything that my noble friend Lord Grimstone of Boscobel has said about the regulations, although I have one or two questions about the manner in which we are proposing to adopt them and incorporate them into UK practice.

I particularly wanted to come to say a word about the regulations themselves. Tiered-price products—which is, I think, in a sense what we are talking about here—or the concept that developing countries can have greater access to medicines in circumstances where the price can be lowered is a very important objective. Indeed, it is in the EU regulation, in these terms:

"to encourage pharmaceutical manufacturers to make pharmaceutical products available at heavily reduced prices in significantly increased volumes by ensuring through this Regulation that such products remain on the … markets."

That is an entirely laudable objective, as my noble friend rightly said.

Of course, this regulation was established with, I think, initially three principal disease groups in mind. One was HIV, the second was TB and the third was malaria. Of course, where TB and malaria were concerned, there were relatively few requirements for those drugs in the most developed countries, so, in fact, the scope for diversion was relatively modest. However, the scope for diversion in relation to HIV products was potentially much greater.

I want first to say that my noble friend did not offer a view about the long-term future of the regulation but, of course, back in 2015 the European Commission undertook an independent evaluation of the regulation. At that time, the evaluation took the view that trade diversion from poor countries into high-income countries was still largely theoretical. It did not find that much evidence of it. The question is, why did it not? On the face of it, you would find low-price products. Partly it was because of the disease groups it was looking at, but it is also because, notwithstanding the regulation, there are mechanisms by which many pharmaceutical companies are able to segment their markets.

They do so by way of second brands, different branding in different markets, different packaging and often different formulations, which make it very difficult for people to try to divert product. Of course, product traceability is an essential part of pharmaceutical marketing, so one hopes it makes it increasingly difficult for these products to be diverted. Of course, some of these products can be counterfeited or falsified, and those who want to make illegal profits are perhaps more likely to go down that route than simply through diversion. Indeed, many of the supply chains we are talking about are becoming more secure; organisations such as the Global Fund and Gavi are making supply chains more secure over time.

So, the evaluation of the regulation back in 2015 did not arrive at the conclusion that the regulation had achieved much. However, it arrived at the view that the regulation was itself an important signal in relation to tiered pricing and the desirability of securing additional lower-cost, higher-volume pharmaceutical presence in developing country markets. It was also a backstop power. If there were not to be many of these other pharmaceutical industry initiatives that would enable these products to be available in those markets, this would create a mechanism by which that could be achieved. On the basis of that, the Commission renewed the regulation, and I think we are due to see the Commission come back to this, after a five-year period, in the latter part of 2021. So the first question is: will we review the regulation, or is our intention for the time being simply to carry on and wait and see whether the Commission proceeds with it?

I will make a general point. The Bill and Melinda Gates Foundation has done research and published its views, with which I very much agree. I take the view that value-based pricing is important for this country—I talked about this in our discussions on the Medicines and Medical Devices Bill. Actually, value-based tiered pricing in different markets across the world is an extremely important objective. It enables the expectation to be that pharmaceuticals are priced at different levels in different markets according, substantially, to the capacity to pay in those markets.

In the absence of that, we are at risk of what is called reference pricing, where everybody thinks that they should pay no more than other people. Very often, what they say is that they should not pay any more than the average; in fact, they all aim to be below the average. We know where such a policy leads us: to a downward spiral in pricing. The significance is that the present United States Administration have pursued the concept of reference pricing themselves, which creates perhaps the largest single threat to the long-term capacity of the pharmaceutical industry to undertake innovation and drug development. As such, as an objective, value-based tiered pricing is really important.

Finally, will my noble friend explain why it would not be simplest, from the industry's point of view, to retain the EU logo? In this particular context—the one in Annexe V—this is not particularly indicative of the European Union; it is a winged staff with a set of stars around it. It would not hurt us too much to accept the same logo. To be clear: from the point of view of the desirability of making it possible for pharmaceutical companies to produce, the more we add cost and inconvenience, the less likely they are to use this regulation. Many do not do so as it is because of the additional bureaucracy involved, which is not great. We need to minimise the bureaucracy on this regulation.

Additionally, however, I was rather pleased to see that the Government will not try to reproduce the European Commission's biannual reports. It is reasonable for them simply to review the products that have been put forward. Presumably, it will be the Government's intention—I hope the Minister can confirm this—that the bureaucracy involved in putting a product into our regulation in parallel with the European Commission's regulation will be kept to an absolute minimum because the benefits of having products in this regulation to the pharmaceutical companies can sometimes be quite modest. With that, I hope I have explained why I think that there is an interesting issue here, but I do not think it is completely obvious that we would keep this regulation for ever.

6.28 pm

Lord Bassam of Brighton (Lab) [V]: My Lords, the Minister has said that these regulations will ensure that the tiered priced product system for certain medicines can operate effectively after the end of the implementation period. I am sure that we are all grateful for that because it is a very important regulation, as the noble Lord, Lord Lansley, has said. It is important because it aims to ensure that the poorest developing countries have access to affordable essential medicines for the treatment of communicable diseases, focused, as the noble Lord, Lord Lansley, said, on HIV/AIDS, TB and malaria.

Access to medicines for developing countries remains of critical importance for all nations across the world: it is in all our interests. While there has been huge success over the last 20 years in bringing down the numbers infected with HIV and dying of AIDS, we need to recognise that there are still just under 1 million deaths a year from both. We must continue with programmes like this.

Developing countries need to ensure that their citizens have access to the medicines produced by the pharmaceutical giants. The prices these medicines typically retail at in developed countries would put them out of reach for many if prices were not adjusted. Tiered pricing, which is used to make these drugs affordable to the poorest and most vulnerable, was a significant step when it was agreed, and it continues to be an important practice in pharmaceutical markets.

Without the regulations, Britain could also suddenly become a very attractive market for those wanting to exploit Brexit to export drugs meant for the world's poorest to the UK at a higher price. For all these reasons, we recognise the importance of these regulations.

I too have one or two questions about the SI for the Minister. First, how many staff members does the Department for International Trade have who are specialists in access to medicines in developing countries or in medicines? What is the process for consultation between the FCDO and the Department of Health and Social Care, which has expertise in those areas?

[Lord Bassam of Brighton]

We are in negotiations with Ghana, Kenya, Cameroon and Côte d'Ivoire to try to roll over trade agreements but those have not yet been completed. Is there any reason to be concerned that the export of drugs to those four countries, which could reasonably be sold into neighbouring and even poorer countries, might be affected if those crucial trade agreements cannot be rolled over?

At the moment, the pharmaceutical companies which are exporters have to apply to the Secretary of State to have a product listed under the EU regulation. What consultation, if any, has there been with developing countries or experts on access to medicines to encourage pharmaceutical companies to seek listing under these regulations? What are the processes for encouraging pharmaceutical companies to provide drugs for the treatment of other diseases, such as cancers? Rates in developing countries are rising fast in these diseases, so this becomes more important.

Finally, what arrangements are being developed for tiered pricing of Covid vaccines? As the Covid pandemic spins out, access to those treatments and vaccines that will become available in the marketplace will clearly be important. We must do all that we can to ensure developing nations have access to the medicines they need at affordable prices, and all that we can to help protect millions of people to avoid illnesses that are eminently avoidable, right across the world. We therefore support these regulations.

6.32 pm

Lord Grimstone of Boscobel (Con): My Lords, I thank my noble friend Lord Lansley and the noble Lord, Lord Bassam of Brighton, for their contributions to this debate. I am pleased to acknowledge that they also support the reasoning behind the existence of regulations such as these; as I said, I completely concur with that. Let me respond briefly to some of the important questions that were raised directly by the noble Lords.

My noble friend Lord Lansley asked about the logo. Indeed, it is a rather fine logo; for those who have not seen it—I hope noble Lords with a classical education will not mind if I no doubt mispronounce this—it is the winged staff of Aesculapius, with a coiled serpent in the centre of a circle formed by 12 stars. Obviously, there is a relationship between this and other EU logos but it may be important in future, more so than just a sense of "Why can't we have our own logo?", to distinguish drugs that have come from the European Union and are subject to its regulations. Who knows, those may over time move differently from our regulations. We therefore need a logo of our own.

That is why the SI contains a power for the Secretary of State to make regulations providing for the marking, labelling or other identification requirements for tiered-price products as the Secretary of State considers appropriate. Obviously we would do this only in consultation with the manufacturers, and new labelling or other identifications will be provided for in future regulations after consultations with stakeholders.

It is perhaps a shame, given the benefit of these regulations, that only one pharmaceutical company takes advantage of them at the moment. The noble Lord, Lord Bassam, asked whether the Government should be more evangelical about the regulations. I suppose my answer is that in a sense the regulations are neutral. They are there for a pharmaceutical company to take advantage of when it makes an application. I am not sure it is the role of the Government to proselytise and evangelise about the regulations, but maybe the mere existence of this debate today will encourage others to raise these points and ask the valid question, "Why are these regulations not made more use of?"

The need for member states to report to the Commission is not relevant to the United Kingdom after withdrawal. This instrument provides for the Secretary of State to review from time to time whether a product listed as a tiered-price product fulfils the requirements of the retained regulation. How that will work is that information on imports and Border Force activity will be collected, reviewed and, where appropriate, made public by the Government as part of standard procedure. We will remain accountable to Parliament in relation to this in the usual way.

As I said, manufacturers or exporters of pharmaceutical products who wish their product to be added to the list have to submit an application to that effect. The noble Lord, Lord Bassam of Brighton, quite properly, and with a great deal of perception, asked what expertise there is in my department, the Department for International Trade, to handle applications in this area. I am happy to reassure the noble Lord that, although DIT has the role of approving these applications, we will work very closely with the Medicines and Healthcare products Regulatory Agency, the MHRA, which of course has the required expertise to assess any medicinal information provided by manufacturers or exporters, to ensure that all considerations are given appropriate weight.

My noble friend Lord Lansley asked about reporting under these regulations. As he noted—having, as always, done his homework very carefully—the last report was published in October 2015 by the European Union. As my noble friend said, the report said that although the net benefits of the scheme are small, what you might call the signalling impact of these regulations is very large, and it came to the conclusion that there was an economic justification for maintaining the regulation. My understanding is that the next report by the EU will be published towards the end of 2020. We await that to see whether it comes to a similar judgment.

The regulations set a requirement for the Secretary of State to publish a report before the end of the period of five years, beginning with the date on which this instrument comes into force. Because we are about to get a report from the European Union, I believe we will not be rushing to do a report of our own under these regulations. We will allow time to pass to assess how these regulations are used, and then we will bring a report forward in due course within the required timescale.

I hope that I have managed to answer all noble Lords' questions in relation to this short debate, but of course if either of the noble Lords who spoke today wishes to approach me subsequently for any further

information or clarification of the points that I have made, as always I will be delighted to do so. On that basis, I commend these regulations to the Committee.

Motion agreed.

The Deputy Chairman of Committees (Baroness Barker) (LD): That completes the business before the Grand Committee this afternoon. I remind Members to sanitise their desks and chairs before leaving the Room.

Committee adjourned at 6.40 pm.