Vol. 809
No. 175

Tuesday
19 January 2021

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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

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

This issue of the Official Report is also available on the Internet at
https://hansard.parliament.uk/lords/2021-01-19

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 19 January 2021

The House met in a hybrid proceeding.

Noon

Prayers—read by the Lord Bishop of Bristol.

Arrangement of Business

Announcement

12.06 pm

The Deputy Speaker (Baroness Garden of Frognal) (LD): My Lords, the Hybrid Sitting of the House will now begin. Some Members are here in the Chamber, others are participating remotely, but all Members will be treated equally. I ask all Members to respect social distancing. If the capacity of the Chamber is exceeded, I will immediately adjourn the House.

Oral Questions will now commence. Please can those asking supplementary questions confine them to no longer than 30 seconds and to two points? I ask that Ministers' answers are also brief.

Railways: Electrification

Question

12.07 pm

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government what estimate they have made of the reduction in the use of diesel oil if railways connecting (1) ports, and (2) quarries, to inland distribution centres were electrified.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, specific information on the reduction of diesel use from rail connections to ports and quarries is not available. However, Network Rail analysis suggests that a decarbonisation strategy to achieve a 97% reduction in rail traction carbon emissions by 2050 would save a total of around 2,000 million litres of diesel used by freight trains, compared to 2019-20 use levels.

Lord Bradshaw (LD) [V]: I thank the Minister for her reply. A modest extension of electrification would bring jobs to the supply industry, many of them in the north, and a big saving in the use of diesel oil in the next 10 years. Will the Government step forward and agree this programme, which has been under discussion for a long time?

Baroness Vere of Norbiton (Con): The noble Lord is completely right that it has been under discussion for a long time—it is very important, and it is a very long-term plan. However, we are informed by the Network Rail-led traction decarbonisation network strategy, which feeds into what the Government are working on at the moment: the transport decarbonisation plan, which will be published shortly.

Lord Young of Cookham (Con): My Lords, given that, as we have just heard, it may be some time before the routes mentioned by the noble Lord, Lord Bradshaw, are electrified, what measures can be taken in the meantime by the freight locomotive industry to minimise harmful diesel emissions—for example, particulate filters, selective catalytic reduction or, indeed, cleaner diesel?

Baroness Vere of Norbiton (Con): Indeed, emissions are not just carbon: particulates play a huge role in poor air quality, and the freight-operating companies are taking active steps to reduce the amount of emissions their locomotives produce. For example, among other interventions the industry has begun using stop-start technologies—rather like we have on cars—on locomotives to reduce emissions when idling. We continue to work with the rail freight industry and the Rail Safety and Standards Board to look at what we can do and what research and development needs to be undertaken to reduce all emissions from rail freight.

Lord Birt (CB) [V]: My Lords, only around 40% of the UK's rail network has been electrified so far, and many diesel locomotives are old and highly polluting. When will the Government set out their plans for achieving a net zero railway system?

Baroness Vere of Norbiton (Con): As I have noted, the Government will publish in spring 2021 the transport decarbonisation plan, which will take a holistic and cross-modal approach to achieving net zero. However, this Government have electrified 700 miles of track in the last few years; we have a very ambitious electrification programme, which goes through the rail network enhancements pipeline to make sure that the right schemes are prioritised and that it secures value for money.

Lord Snape (Lab): Will the Minister accept that these things, to use her words, take a long time because successive Governments, including this one, keep putting them off? Would it not make more sense to have a proper rolling programme of electrification that would meet the aspirations of the noble Lord, Lord Bradshaw, and help bring about stability in the industry for those responsible for electrification? Finally, would it not also help the Government's carbon reduction targets?

Baroness Vere of Norbiton (Con): My Lords, these things take a long time not because of delays but because of all the quite correct processes that these schemes need to go through. The noble Lord points out that the Government need a long-term electrification plan. That is exactly what the rail network enhancements pipeline is: it looks at all the potential schemes, prioritises those that produce the best overall benefits and secures value for money for the taxpayer.

Baroness Randerson (LD) [V]: My Lords, as the Minister has just said, emissions from diesel trains have an impact on the health of staff and passengers

[Baroness Randerson]
waiting at stations, especially large enclosed stations. What regular monitoring is undertaken of emissions levels in stations to ensure that rules on the operation of diesel engines are followed?

Baroness Vere of Norbiton (Con): As I mentioned in response to a previous question, the industry is well aware that emissions consist of not just carbon but particulates as well, and these will impact passengers and staff at large stations, particularly the enclosed ones, as the noble Baroness notes. I do not have details of the exact monitoring that takes place—I am fairly sure that it does take place—but I will write to her with further details.

Lord Rosser (Lab) [V]: As the Minister said, Network Rail's traction decarbonisation network strategy states that the UK rail freight sector will be largely diesel-free by 2050, but do the Government think that is an ambitious enough target? Will they be having discussions with Network Rail and the rail freight sector on how this target date of 2050—some 30 years away—could be brought forward?

Baroness Vere of Norbiton (Con): The Government are in frequent discussions with the rail freight sector. This is an important element of our decarbonisation strategy, as it takes goods away from the roads and transports them with a far lower level of emissions. The Government would actually like to remove all diesel-only trains by 2040, so I hope that makes the noble Lord happy. However, we must be cognisant that we do not want to shift freight from rail to road to achieve that target, because that would raise emissions. We are monitoring the situation, but our ambition is to remove all diesel-only trains by 2040.

Baroness McIntosh of Pickering (Con) [V]: I congratulate Network Rail on the strategy. Will my noble friend do all she can to encourage it to improve rail links to existing ports and, especially, to encourage more multi-modal global rail freight facilities such as that at Doncaster?

Baroness Vere of Norbiton (Con): This Government have invested £235 million in the strategic freight network in the five years from 2014. We appreciate that the intermodal connectivity hubs are incredibly important. The largest amount of rail freight—39%—goes to these intermodal hubs, so we welcome the development of strategic rail freight interchanges. They are incredibly useful, combining warehousing and connectivity for rail and road.

Baroness Jones of Moulsecoomb (GP) [V]: My Lords, moving road freight on to rail is an interesting idea, because that would reduce the amount of diesel used. The port of Dover already has links with HS1, so have the Government investigated the option of moving road freight on to the HS1 line?

Baroness Vere of Norbiton (Con): I am not aware of whether we have investigated the HS1 line specifically, but the Government do support modal shift for freight. For 2021, we increased the modal shift revenue support scheme, which aims to shift road freight on to rail and water, by 28% to £20 million. This has removed 900,000 HGV journeys from the roads.

Lord Faulkner of Worcester (Lab) [V]: I congratulate the Minister on the welcome commitment to modal shift that she made in reply to the last question. Is she aware, however, that extended journey times caused by the need to change from diesel to electric traction are one of the greatest deterrents to growing the rail freight business? The EU Goods Sub-Committee recently took evidence from a major freight operator which said it would it prefer to use the railway from east coast ports like Felixstowe, but journey times by road to the midlands and the north were much shorter. Will the Minister encourage her department to look at modest electrification projects that would make a real difference to the rail freight business?

Baroness Vere of Norbiton (Con): Of course, we will look at modest electrification projects when and if they are brought forward. The issue of journey times is important, but rail freight has the advantage of being able to carry less urgent goods—heavy construction materials, for example—over long distances. Therefore, it can be used for lots of different types of freight, which is to its advantage.

Lord Greaves (LD) [V]: My Lords, by 2010 rail electrification in England had stopped. Thanks to the Liberal Democrats in the coalition, it got going again. It has stopped again. When will it start up again?

Baroness Vere of Norbiton (Con): I do not recognise an awful lot in that question, but I would like to reassure the noble Lord that, of course, it has not stopped; projects do not stop just because you cannot see things being built. A huge amount of work happens before a project starts, as the noble Lord is well aware. This Government are committed to electrification and will look at appropriate schemes that secure value for money.

The Deputy Speaker (Baroness Garden of Frognal) (LD): My Lords, the time allowed for this Question has now elapsed, and I apologise to the noble Lord, Lord Browne of Ladyton, that there was not time to take his question.

Health: Eating Disorders

Question

12.18 pm

Asked by ***Baroness Parminter***

To ask Her Majesty's Government, further to The Health Survey for England 2019, published on 15 December 2020, and the finding that 19 per cent of women aged 16 and over screened positive for a possible eating disorder, what steps they are taking to support those with eating disorders.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, eating disorders are serious, life-threatening conditions, and we are committed to ensuring that people have access to the right support when they need it. We are growing our investment in community healthcare for adults year on year—almost £1 billion extra by 2023—with specific funding to transform adult eating disorder care and, for young people aged 16 to 25, to accelerate provision beyond existing growth and to transform plans.

Baroness Parminter (LD) [V]: The NHS health survey suggests that the prevalence of eating disorders is significantly higher than previously assumed, so will the Government commission a national, population-based study to accurately identify the number of people with eating disorders, as the Public Administration and Constitutional Affairs Committee recommended, to inform research and service-level provision?

Lord Bethell (Con): My Lords, the noble Baroness is right: the statistics on eating disorders are shocking. The Mental Health of Children and Young People in England Survey identified 0.4% of 5 to 19-year-olds and 1.6% of girls aged 17 to 19. The NHS Digital Adult Psychiatric Morbidity Survey showed 6.4% of adults displaying signs of an eating disorder. There is the survey by Beat, and I could go on. I do not think it is an issue of surveys; we have to address the underlying statistics with measures that make a difference.

Lord Winston (Lab) [V]: It is very helpful that the Minister recognises the seriousness of anorexia nervosa and other conditions. It remains puzzling, and the causes are not fully understood, but the long-term risks—for example, infertility or the loss of a child during pregnancy or childbirth—are very serious. Given that some of these patients require almost forced admission to hospital, is there any scope for reviewing this issue when we come to consider the mental health provisions that are due next year?

Lord Bethell (Con): The noble Lord puts it extremely well. Instances of those in pregnancy who have eating disorders are particularly heartrending and disturbing. He is right: sometimes, the condition is so extreme that it needs virtual full admission. We have put six new beds in the south-east, five in the Midlands, five in the east of England and 10 in the north-east. We are putting a massive amount into mental health budgets and this provision covers exactly this kind of disorder because we recognise that more resources are needed. I look forward to further announcements of spending in this area.

Lord Truscott (Ind Lab) [V]: My Lords, as the Minister said, the statistics outlined by the health survey are of obvious concern, but the survey, published last December, does not cover the period of the Covid pandemic. Has the Minister any evidence that eating disorders have increased during the pandemic? If so, what is Her Majesty's Government's response?

Lord Bethell (Con): The noble Lord is right: the pandemic will have added pressure, particularly on young girls. In-patient units are experiencing tremendous pressure, so it is difficult to see those instances working their way through primary care at the moment. We are studying the situation very carefully, but the noble Lord is entirely right: it is quite possible that incidents will increase, and we will put resources in place to address that.

Lord Lingfield (Con): My Lords, is my noble friend aware that around a quarter of all sufferers of eating disorders are men, and that the number of males seeking help has gone up by 70% in the last decade? With the increasing emphasis on young men to attain a certain body type, does he agree that more males might need support in the coming years?

Lord Bethell (Con): My noble friend is right to remind us that this is not a gender-specific condition and that many men have eating disorders of one kind or another. The culture we live in does nothing but encourage that and I think we have to address the underlying causes, both psychiatric and the pressure of social media. We will be putting in place the resources necessary to support that kind of initiative.

Baroness Tyler of Enfield (LD) [V]: My Lords, NHS Digital has reported that admissions for eating disorders have almost trebled since 2007, but there has been very little investment into in-patient treatments since then. With only 400 NHS beds for adult eating disorder sufferers in England, and capacity currently further reduced by the pandemic, what are the Government doing about this chronic shortage of in-patient beds for those suffering from serious eating disorders, which particularly affect young women?

Lord Bethell (Con): The noble Baroness may not have heard my answer to the previous question, where I cited the large number of beds opened in the last year, totalling more than 30 across the country. I recognise that more beds are needed for those who have particularly acute disease, but the large prevalence of the disease among hundreds of thousands of young girls and boys also means that community care has to be at the heart of our response to this condition.

Baroness Fall (Con) [V]: My Lords, this autumn, charities such as Place2Be have recorded a notable increase in issues of self-harm, suicidal thoughts and eating disorders. The impact of shutting schools has been huge, and we will not know the legacy of that for a long time to come. I am reassured to hear the Minister say that he is as concerned as I am to look at ways to deal with this, but will he and others consider making school teachers the first priority for receiving the vaccine, after the most vulnerable and aged in our population, so that schools can open as soon as possible?

Lord Bethell (Con): My Lords, we recognise the contribution of charities to this mental health challenge, and £10.2 million of additional funding has been allocated to mental health charities. We also recognise

[LORD BETHELL]
the importance of keeping schools open: no Government could have tried harder to keep schools open than this one. However, the allocation of the vaccine is based on morbidity—we have to protect those whose lives are most threatened and that is why the JCVI has put the prioritisation list in the form it has.

Baroness Bull (CB): My Lords, a recent literature review found that many GPs feel unequipped to identify and manage eating disorders, meaning that patients who could benefit from primary care are often passed on to specialist services and face long waiting lists. Given the importance of early intervention, can the Minister say what is being done to train and support primary care professionals in diagnosing and treating people with eating disorders, and to improve shared care across the primary and secondary care interface?

Lord Bethell (Con): My Lords, NHS England is working with Health Education England to procure training courses that will increase the capacity of the existing workforce, to allow them to understand these challenging issues better and allocate people to the right course of treatment. It is a problem that we recognise, and resources in training are being put in place to address it.

Baroness Thornton (Lab) [V]: My Lords, following on from the last question, hospital admissions for bulimia rose 75% during lockdown, amid fears about the mental health impact of the pandemic. For children and young people, we also know that these figures have been rising every year for several years. We also know that there are regional disparities in waiting times for eating disorder services. What will the Government do to respond to what seems like an increase in eating disorders and rising regional disparities?

Lord Bethell (Con): My Lords, I recognise the issue of regional disparities, but I reassure the noble Baroness that our ambition is to deliver swift access to treatment for 95% of children and young people with suspected eating disorders within one week. The good news is that in the second quarter of 2021, 83% of urgent cases were seen within one week and 89.6% of routine cases were seen within four weeks. Those figures can be improved but I think that they are impressive. They show that progress is being made and that we are taking this issue seriously.

Baroness Walmsley (LD) [V]: My Lords, the eating disorder faculty at the Royal College of Psychiatrists has recently reported that eating disorder teams are being asked to ignore the NICE guidelines for treatment as being unrealistic and too expensive. Will the Minister either justify this or condemn it?

Lord Bethell (Con): The noble Baroness brings to my attention something concerning. I would be grateful if she would write to me with the details and will be very happy to look into it in more detail.

Baroness Wheatcroft (CB) [V]: My Lords, parents of adult children suffering from the most extreme eating disorders say they are often desperate to help but powerless because of an insistence on patient confidentiality. The desire to give autonomy to patients too often extends to those whose sickness with eating disorders makes them unable to take sensible decisions for themselves. Will the Minister agree to examine the conflict between these two wishes and how it could be resolved?

Lord Bethell (Con): My Lords, the noble Baroness alludes to a conflict for which there is no easy answer. I completely sympathise with any parent whose child is exhibiting eating disorder issues. It is the most awful and frustrating situation for any parent to see their child in a self-destructive loop for which there seems to be no intervention possible, but patient safety is patient safety, and this is the conundrum that faces any mental health situation. The Mental Health Act is undergoing review at the moment—I am grateful to Sir Simon Wessely for his report, which we debated yesterday—and these are exactly the kinds of issues that we are looking at. I express profound sympathy for all those who find themselves in this awful situation.

The Deputy Speaker (Baroness Garden of Frognal) (LD): My Lords, the time allowed for this Question has now elapsed. I apologise to the noble Lord, Lord McColl of Dulwich, that there was not time for his question.

Health: Brain Tumours

Question

12.29 pm

Asked by ***Lord Hunt of Kings Heath***

To ask Her Majesty's Government what steps they are taking to encourage research into (1) the causes, and (2) the treatment, of brain tumours.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, I am hugely grateful to noble Lords for bringing this challenge to my attention. It is House of Lords advocacy at its best. We have met interested parties and I am pleased to say that we have a plan. Workshops are being booked, more research is being funded and we are encouraging more researchers to become involved. I am hopeful that this will mean progress and I am watchful to ensure that it delivers.

Lord Hunt of Kings Heath (Lab) [V]: My Lords, I am very grateful to the Minister for that positive response. Can he assure me that, in addition to seeking ways of being able to spend up to the £40 million research money made available, he will comment on the report of the chair of the all-party group on brain tumours, which says that there is greater need because there are no researchers able to undertake much of this research? Can he consider steps to address this imbalance and attract the brightest of medical and scientific minds into this uniquely complex area?

Lord Bethell (Con): The noble Lord is right: it is extremely complex and one of the challenges we have is that the basic science needed to guide research is an unpredictable and difficult-to-manage process. That is why I have invited representatives of patient groups to try to guide the basic scientific research so that the talented cancer researchers who are available, who can do the more operational and applicable elements of the research, will have the material necessary to get on with their job.

Lord Taylor of Warwick (Non-Afl) [V]: My Lords, it is arguable that, of all the human organs, the brain is the main. People from the black community are nearly three times more likely to develop pituitary tumours at the base of the brain than their white counterparts. The reasons for this disparity are still not clear. Will the Government commit to encouraging further research into this issue? Also, only 14% of UK spending on brain tumour research is from the Government; the remaining 86% is from the charity sector. Although more money is not the total answer, will the Government commit to more funding for this vital area of research?

Lord Bethell (Con): My Lords, £40 million was announced in May 2018 for brain tumour research. To date, £9.3 million has been committed and £5.5 million will be committed from April 2018 to 2023. At this stage, as the noble Lord, Lord Hunt, alluded to, the allocation of budget is not the issue. Making sure that the pipeline of applicable research is in place is our challenge. That is why we have worked well with interested parties to put together a plan for trying to ginger along the basic science necessary to get those research projects activated.

Lord Sharpe of Epsom (Con): My Lords, in 2019, my 22-year-old son, Charlie, was diagnosed with a germinoma, which is a rare form of brain tumour. He was referred for proton-beam therapy at the Christie Hospital in Manchester by the excellent Dr Jeremy Rees of the National Hospital in Queen Square. First, I thank the Government for spending the vast amount of money required to establish this capability in the UK, which, I am pleased to say, I think has been successful. Is the second facility at UCLH still on track to come on stream in 2021? Perhaps the Minister might reflect on the clinical expertise that has developed over the last year since the establishment of the facility at the Christie Hospital.

Lord Bethell (Con): My Lords, it is fantastic news that my noble friend's son has benefited so well from our considerable investment in proton-beam therapy. I wish both him and his son good luck on behalf of all noble Lords. I am not aware of any current plans to open a PBT site in Birmingham, but I can reassure him that the UCLH site in London is due to open this year and we look forward to that very much indeed. It was hoping to open in 2020 but plans were impacted by the pandemic. As with any ground-breaking technology, clinical expertise in PBT will continue to increase as our hard-working frontline radiological staff treat more and more patients.

Lord Patel (CB) [V]: My Lords, I am most encouraged by the opening statement from the Minister and the Answer he gave to the noble Lord, Lord Hunt of Kings Heath. That goes a long way to answering my question, which was whether he agrees that to improve the outcome for patients with brain tumours, we need a strategy that addresses the clinical and research workforce; basic and clinical research, including genetics; research funding; and diagnostic and treatment centres of excellence—a strategy similar to one that dramatically improved outcomes for patients with breast cancer and leukaemia. Does the Minister agree that the director of the National Institute for Health Research—or anyone else that he feels appropriate—should be asked to develop such a plan?

Lord Bethell (Con): My Lords, the noble Lord makes an excellent suggestion. Indeed, I am pleased to report that exactly such a strategy is in place by working with the Tessa Jowell Brain Cancer Mission, to which the department, the NIHR, NHS England and NHS Improvement are all active contributors. As part of the mission the department is funding new research through NIHR, encouraging new researchers to become involved, and we will be supporting the delivery of research as a key part of the new Tessa Jowell centres of excellence.

Baroness Pitkeathley (Lab) [V]: My Lords, many experts conclude that without new discoveries the outlook for patients with brain tumours is bleak. Given that many sufferers are in their teens or twenties and reliant on the support of their parents or carers, do the Government see it as a priority to support families, both during treatment processes and during the all-too-frequent bereavements?

Lord Bethell (Con): My Lords, the noble Baroness is right that brain tumours and brain cancer are some of the most awful situations, particularly because they so frequently affect the young. That is why infrastructure spend on brain tumour research has increased. I am pleased to say that we received 62 applications for research funding between May 2018 and 2020, 10 of which have been funded so far, but more can be done in that area. Supporting families is, of course, part of the responsibility of the charities and trusts involved, and I wish the best to all those families who have been hit by this awful condition.

Baroness Jolly (LD) [V]: My Lords, when this issue was raised at Questions on 19 November last year, the Minister suggested that the quality of applications needed improving. He kindly offered to meet research charities working in this area to facilitate this. Can he tell the House which of these charities he has met or has an appointment to meet and how many applications have since been received?

Lord Bethell (Con): My Lords, I have had three meetings, particularly with the Tessa Jowell Brain Cancer Mission, which has been extremely constructive and brought with it clinical expertise, patient groups and policymakers. Together we have worked on a plan,

[Lord Bethell]
which I articulated in my opening remarks. It has emerged that it is not a question of the quality of the research applications. The quality of research in this area is fantastic. The problem is that we need to have better basic science at the very early stage of the pipeline in order to guide the later operable research suggestions. That is why we have organised the workshops, are feeding back to the applicants in the previous round of research and are actively engaged in this area.

Lord O'Shaughnessy (Con) [V]: My Lords, I declare my interest as a patron of the Tessa Jowell Brain Cancer Mission. I thank my noble friend for his sincere engagement with the challenge of improving the quality of brain cancer research since my Oral Question last year. He has taken the bull by the horns and I think we have a plan that is going to make a difference. I wonder if he might also comment on the difficulties that medical charities, which are such an important part of the funding landscape, are having at the moment because of the Covid crisis. This particularly affects hard-to-treat cancers such as brain tumours. Are the Government willing to give more support to these charities to ride out the difficult times they face at the moment?

Lord Bethell (Con): My noble friend alludes to a situation that is grave and concerning. Hundreds of millions of pounds have disappeared from medical research charity income, particularly through the closure of second-hand clothes shops, which provide an enormous amount of income for British medical research. I pay tribute to the massive contribution of medical research charities in trying to move forward the science of medical research. This is an area we are deeply concerned about, and colleagues at BEIS and the Treasury are actively engaged with it. My noble friend is right that this a knotty situation to solve that we need to look at very carefully indeed.

Baroness Wheeler (Lab) [V]: My Lords, I was very privileged to be present in the Chamber when my noble friend Lady Jowell made her plea to improve brain tumour treatment, research and survival. The work since her death of the Tessa Jowell Brain Cancer Mission, referred to by the Minister and other noble Lords, on the new national strategy has been inspirational. The mission has developed clear practical steps and pathways to build the quality, quantity and diversity of research that the UK needs, such as addressing delays in opening clinical studies, programmes to train the UK's first generation of brain tumour-specific positions, and dedicated brain tumour centres. What steps are the Government taking to make sure that the NIHR, the MRC and the UKRI work together to ensure that the progress we need comes about? What will happen to the NIHR funding money put aside for brain tumour research in 2018 that remains unallocated at the end of the five-year window announced three years ago?

Lord Bethell (Con): My Lords, I also pay tribute to the Tessa Jowell Brain Cancer Mission and all its work in putting together a really thoughtful strategy for tackling this most difficult issue. NIHR cancer research expenditure has risen from £101 million in 2010 to £138 million in 2019-20, and its settlement in the recent spending review was generous. I am optimistic that there are more resources there. I reassure the noble Baroness that, although the £40 million for brain tumour research has not all been allocated yet, it is not going anywhere and we are working as hard as possible to ensure that the right kinds of research project are put forward for that money. I would like to see it allocated as soon as possible.

The Deputy Speaker (Baroness Garden of Frognal) (LD): My Lords, the time allowed for this Question has now elapsed. I apologise to the noble Lords, Lord Carlile of Berriew, Lord Polak and Lord Jones of Cheltenham, that we did not have time for their questions.

European Union: Visa-free Touring for Musicians

Question

12.41 pm

Asked by ***Lord Berkeley of Knighton***

To ask Her Majesty's Government whether an offer was made by the European Union to the United Kingdom for visa-free touring for musicians in European Union member states; and if so, why any such offer was declined.

Lord Berkeley of Knighton (CB) [V]: My Lords, I beg leave to ask the Question standing in my name on the Order Paper; in so doing, I declare my interests as listed in the register.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Baroness Barran) (Con): My Lords, the Government recognise the importance of the UK's thriving cultural industries and pushed for ambitious arrangements for performers and artists to be able to work across Europe after the end of freedom of movement. During the negotiation, the EU tabled text regarding the paid activities that can be conducted without a visa. These proposals would not have addressed our sector's concerns; they were non-binding, did not include touring or technical staff and did not address work permits. Our proposals, which the EU has admitted to rejecting, were based on the views of the music industry and would have allowed musicians to travel and perform in the UK and the EU more easily, without needing work permits.

Lord Berkeley of Knighton (CB) [V]: I thank the Minister for that reply. I have an email from Guy Verhofstadt which rather puts the boot on the other foot. It details how the UK put its obsession with mobility before a 90-day reciprocal offer. The noble Lord, Lord True, has made it clear that there will be no imminent revisiting of this situation. Given this, can the noble Baroness offer some glimmer of hope to musicians, who generate £5.8 billion for the UK economy? Will Oliver Dowden find financial assistance? Even if he does, how will that ameliorate the loss of cultural exchange, which is so vital to the arts?

Baroness Barran (Con): The noble Lord is right to recognise the incredible contribution of our cultural sectors, including musicians and the connected creative sectors. The Secretary of State is working very hard; he has a round table with sector institutions tomorrow to understand their concerns in detail. We are working with the sector to try to distil and simplify the rules which will apply, but we are committed to ensuring it has the right support at the right time to continue to thrive once we emerge from the pandemic.

Lord Eatwell (Lab) [V]: My Lords, did the Government make any assessment of the impact the free trade agreement would have on musicians touring the European Union? If they bothered to make such an assessment, will they publish the details right away?

Baroness Barran (Con): I am slightly taken aback at the noble Lord's tone; the Government have been incredibly committed to this area. Obviously, there were multiple complex issues that needed to be considered in these negotiations, including the commitments to take back control of our borders and to make sure that our creative industries continue to flourish. We remain entirely committed to both.

Lord Clement-Jones (LD) [V]: My Lords, touring musicians and creative artists are deeply angry at this negotiating failure. Is not the root of the problem refusal by the Home Office to extend permitted paid engagement here to 90 days for EU artists, meaning as a result that work permits will now be required in many member states for our artists? Will the Government urgently rethink this and renegotiate on the instrument and equipment carnet and on trucking issues?

Baroness Barran (Con): There were a number of drawbacks to the EU proposals, which did not meet the requirements of our sectors, as I mentioned; they covered only ad hoc performances, they were non-binding and did not address technical staff or work permits. Our door absolutely remains open to reviewing these points, but in the meantime we will do everything we can to support our sectors.

Lord Black of Brentwood (Con) [V]: My Lords, I declare my interest as chairman of the Royal College of Music. Will my noble friend acknowledge that the current impasse will have a profoundly damaging impact on UK students, who need to travel to progress their careers but, as they will not earn large fees at that stage of their lives, will find themselves priced out of the market because of expensive and complex visa requirements? As there seems to be political will on both sides to ensure that musicians can continue to work freely in Europe, do we not owe it to students, above all else, to get back to the negotiating table to sort this out?

Baroness Barran (Con): My noble friend raises a very important point. There are two different issues here: on going back to the negotiating table, as I said to the noble Lord, Lord Clement-Jones, our door is absolutely open but, in the short term, understanding the picture for students and how we can support them is part of our work—if there are specifics my noble friend would like to share with me, I will endeavour to make sure that fellow Ministers are briefed on them.

Lord Aberdare (CB) [V]: It has been disheartening to hear the UK and the EU blaming each other for the failure to reach agreement on this. Does the Minister agree that a more constructive approach would focus on how a deal could be fashioned on the basis of the positive ideas that each side has put forward? How soon might the Government initiate such a process and, rather than just having an open door, knock on the door of the EU to pursue it?

Baroness Barran (Con): I am sure the noble Lord is right that mutual blame probably does not get us much further forward. However, as I said, in the meantime we are doing everything we can to try to simplify the procedures now in place and to understand the needs of the sector so it can continue to flourish and thrive.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, the Minister's opening response was very carefully crafted but, reading between the lines, it seems the creative industries have lost out in an unseemly internal government squabble. If the door is still open for discussion, what are the Government doing to develop an agreed position which will also deliver the backing of the Home Office and Border Force?

Baroness Barran (Con): The Government had an agreed position, which was to extend the list of permitted activities for short-term business visitors. The EU rejected that.

Lord Wallace of Saltaire (LD) [V]: My Lords, we understand that there are different views as to what actually happened but given that musicians from the continent have been performing in Britain for the past 250 years, and that British musicians now perform on the continent on a regular basis, this is a win-win situation. Cannot the Government therefore take an initiative to reopen negotiations on this topic, which would clearly be of benefit to both sides to succeed in? I declare an interest as a trustee of the VOCES8 Foundation, which provides not only performance but musical education in France, Germany, Italy and Belgium.

Baroness Barran (Con): I am afraid that I will have to disappoint the noble Lord, as I have done on previous questions on this point. We secured a deal that delivers on the result of the referendum. The agreement is not going to be renegotiated. Our job now is to implement it as well as possible.

The Lord Bishop of Bristol [V]: My Lords, senior musicians I spoke to this weekend described experiences of agonising paperwork and fees, and sense that foreign promoters are already hesitant to offer engagements to UK groups. How do the Government intend to ensure that the increased costs associated with obtaining permits and administrating these tours will not, as a result, exclude all but the most privileged?

Baroness Barran (Con): We are absolutely determined to make sure that we protect all parts of the cultural and creative ecosystem. As I have said, the Secretary of State is meeting organisations tomorrow and we continue to work closely to understand their needs, so that as soon as touring can recommence after the pandemic we do so with confidence.

Lord Hunt of Wirral (Con): My Lords, touring is not peripheral to the arts but central and vital—the basis of a major export industry and a vital showcase for the United Kingdom. If we could just lay aside the unfortunate blame game of recent days, can this please be sorted out as a matter of the utmost urgency?

Baroness Barran (Con): I can say only to my noble friend that I hope that the Secretary of State's round table tomorrow constitutes utmost urgency.

The Earl of Clancarty (CB): My Lords, at the very least, we urgently need a 90-day supplementary agreement, which will cover most touring. Will the Government acknowledge that mode 4 should not be explored to resolve this issue? It is clear now that mode 4 is not going to work. There is no precedent in any other agreement for mode 4 to allow creative work and touring. A supplementary agreement should be sought.

Baroness Barran (Con): I can say only to the noble Earl that we tried hard in these negotiations to make the case based on the evidence given to us by the sectors that we represent, and the EU rejected those suggestions.

The Deputy Speaker (Baroness Garden of Frognal) (LD): My Lords, the time allowed for this Question has now elapsed. I apologise to the noble Lord, Lord McNicol of West Kilbride, that we did not have time for his supplementary question.

12.52 pm
Sitting suspended.

Arrangement of Business
Announcement

1 pm

The Deputy Speaker (Lord Alderdice) (LD): My Lords, the Hybrid Sitting of the House will now resume. I ask Members to respect social distancing.

Joint Committee on the Fixed-term Parliaments Act
Motion to Agree

1.01 pm

Moved by ***Lord Ashton of Hyde***

That, notwithstanding the resolution of the House of 24 November 2020, it be an instruction to the Committee that it should report by Wednesday 31 March.

Lord Ashton of Hyde (Con): My Lords, on behalf of my noble friend the Leader of the House, I beg to move the Motion standing in her name on the Order Paper.

Motion agreed.

EU Trade and Co-operation Agreement: Fishing Industry
Commons Urgent Question

The following Answer to an Urgent Question was given in the House of Commons on Thursday 14 January.

"As honourable Members will know, before Christmas the UK and the EU concluded a new trade and co-operation agreement, which established tariff-free trade in all goods and, among other things, sets a new relationship with the EU on fisheries. Before turning to the specifics of that agreement, I should briefly set the wider context.

The withdrawal agreement that was agreed by this House in January last year established the United Kingdom as an independent coastal state. Over the course of the last year we have taken our independent seat at the regional fisheries management organisations, including the North East Atlantic Fisheries Commission and the North Atlantic Fisheries Organisation. In September, we reached a partnership agreement with Norway—our most important partner on fishing interests, and with whom we have responsibility for shared stocks in the North Sea.

We have also developed new bilateral arrangements with our other north-east Atlantic neighbours, including the Faroes, Greenland and Iceland. We have recently commenced annual bilateral fisheries negotiations with the Faroes in relation to access to one another's waters, and a UK-Norway-EU trilateral is about to begin to agree fishing opportunities on shared stocks in the North Sea. There will also be a UK-EU bilateral negotiation on fishing opportunities for the current year in remaining areas. For the first time in almost 50 years, the UK has a seat at the table and represents its own interests in those important negotiations.

The trade and co-operation agreement establishes an initial multi-annual agreement on quota, sharing and access, covering five and a half years. It ends relative stability as the basis for sharing stocks. Under the agreement, we have given an undertaking to give the EU access to our waters on similar terms as now and, in return, it has agreed to relinquish approximately 25% of the quota that it previously caught in our waters under the EU's relative stability arrangement. That means that we move from being able to catch somewhat over half the fish in our waters to two thirds of the fish in our waters at the end of the multi-annual agreement. The transfer of quota is front-loaded, with the EU giving up 15% in year 1. On North Sea cod, we have an increase from 47% to 57%. On Celtic sea haddock, our share has moved from 10% to 20%. On North Sea hake, we secured an uplift from 18% to 54%, and on West of Scotland anglerfish, we have an increase from 31% to 45%. After the five-and-a-half-year agreement, we are able to change access and sharing

arrangements further. The EU, for its part, will also be able to apply tariffs on fish exports in proportion to any withdrawal of access.

Although we recognise that some sectors of the fishing industry had hoped for a larger uplift, and, indeed, the Government argued throughout for a settlement that would have been closer to zonal attachment, the agreement does, nevertheless, mark a significant step in the right direction. To support the UK industry through this initial five and a half years, the Prime Minister announced, just before Christmas, that we will invest £100 million in the UK fishing industry, and I will be bringing forward proposals for this investment in due course.

Finally, although it is not a consequence of the trade and co-operation agreement, the end of the transition period and the fact that we have left both the customs union and the single market does mean that there is some additional administration accompanying exports to the EU. I am aware that there have been some teething issues as businesses get used to these new processes. Authorities in the EU countries are also adjusting to new procedures. We are working closely with both industry and authorities in the EU to iron out these issues and to ensure that goods flow smoothly to market."

1.02 pm

Baroness Jones of Whitchurch (Lab) [V]: My Lords, would the Minister like to join me in condemning Jacob Rees-Mogg's flippant comment about fish being happier in the UK at a time when the fishers' jobs are once more on the line? Does he understand the sense of betrayal they feel now that the reality of the Government's broken promises becomes apparent? As they say, they are furious that the Government have tried to present the agreement as a major success, when it is patently clear that it is not. To begin to make amends, would the Minister like to clarify how much compensation in total will be made available to them? When will the fishers currently tied up in port or delayed in getting their fish to market start to receive the compensation they deserve for this shambles?

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con) [V]: My Lords, the Prime Minister announced that £23 million of funding is being made available to support the seafood sector. It will support those parts of the sector that have suffered genuine loss, through no fault of their own, as a result of disruption and delays of seafood exports to Europe. Details will follow shortly. I would say to the noble Baroness that I think there is an uplift in quota for UK fishers equivalent to 25% of the total value taken by EU vessels from UK waters over the five-and-a-half-year period, and 15% of that uplift is in the first year, so I do not identify with her view. What we want to do is work with all parties to ensure there is a smooth passage for this very important sector, and that is what we are doing, with very regular communication and meetings.

Lord Teverson (LD) [V]: My Lords, I note that the one area where Brexit could have been a real success, and important to one of our important industrial sectors, has been a complete failure in its negotiation. I have two very brief questions for the Minister. First, is it true that EU fleets will continue to have unfettered access to our EEZ to fish species for which there is no quota? Secondly, given the urgency and the crisis there is at the moment for the fishing industry and its exports, have the Government called a meeting of the specialised committee on fisheries with the EU? Has it already done that to resolve these issues urgently?

Lord Gardiner of Kimble (Con) [V]: My Lords, on the specialised committee on fisheries, those matters are being worked through and there will be an update on that in due course. What I would I say to the noble Lord is that we have been working with industry and also, particularly, with Dutch, French and Irish officials to resolves issues with documentation, which is the key point. On the issue of the trade agreement, I disagree with him. With a 25% uplift in quota, what we want to do is to work with industry, and that is why we have said there is this £100 million fund programme to modernise fleets and the fish processing industry, precisely because we think there is a great future for UK fishing.

Lord Kerr of Kinlochard (CB) [V]: It seemed very odd at the time, but maybe it is just as well that the Prime Minister chose to focus on fish not finance. The City survives, while the fishing industry is on its knees. I really would not advise the laid-back Mr Rees-Mogg to repeat his uncaring quips on the pierhead at Peterhead. In my day, the UK team in Brussels Fisheries Councils always included an expert Scottish Minister. The autumn negotiations might not have ended in such a disaster if that precedent had been followed. Why was it not followed?

Lord Gardiner of Kimble (Con) [V]: My Lords, my experience, having been at Fisheries Councils where I have been with the Scottish Fishing Minister—and, indeed, the Welsh and Northern Irish—is the close collaboration that we have with all part of the United Kingdom as we, in this case, work towards a more successful future for fishing. All I can say is that my experience is precisely that: that there is a very close dialogue across the United Kingdom.

Lord Holmes of Richmond (Con) [V]: My Lords, I ask my noble friend the Minister what urgent work the Government are undertaking to roll out a digital solution to this largely paper-caused crisis. We have the technology, and it is on public record that the EU is prepared to accept digital certification, not least for capture and other requirements. If it is good enough for other nations, what digital means currently available to us can we put in to unblock the border?

Lord Gardiner of Kimble (Con) [V]: My Lords, we will look at all ways to improve the passage of goods from this country to the EU and for a digital solution wherever possible. I understand that there will be requirements for paperwork, but this is a sensible way forward and I am grateful to my noble friend. We should be working on this area, as we all want an improved flow.

Lord Liddle (Lab) [V]: My Lords, I have the greatest respect for the noble Lord, Lord Gardiner, but his answers on this real crisis in the fishing industry at the moment are inadequate. When Michael Gove introduced the Government's negotiating strategy for Brexit, in the House of Commons last spring, he said, with great enthusiasm, that Brexit would bring tens of thousands of new jobs in fishing to Britain. Does the Minister now regret that those promises were made?

Lord Gardiner of Kimble (Con) [V]: My Lords, I said that there would be a £100 million programme to modernise fleets and improve and increase the fish-processing industry. I also said that the agreement involved the equivalent of 25% of the total value taken by EU vessels from UK waters going to UK fishers. This is a feature of the first section, of five and a half years, of our new relationship as a sovereign state. I am sorry if the noble Lord thinks that my answers are not adequate, but the investment we intend to undertake is because we think there is a very strong future for British fishing.

Baroness McIntosh of Pickering (Con) [V]: Will my noble friend join me in regretting that fish are going to rot, having made their way to a French port? Will he join me in pressing for training, so that the computer problems experienced on both sides of the channel can be resolved as soon as possible? Does he agree with me that, once again, inshore fishermen are the poor relations? They do not have exclusive access up to 12 nautical miles, as they were promised; nor have they been given an additional quota, which we did not need to leave the European Union for them to receive.

Lord Gardiner of Kimble (Con) [V]: My noble friend is right that we should bear down on any waste, particularly on this issue. That is why, at official and ministerial level, there have been meetings with the Dutch, Irish and French to ensure that there is flow of food from this important sector, as well as a recognition that we need to ensure that companies know what documentation is required. On the issue of six to 12 nautical miles, access by EU vessels to the UK is limited to a number of ICES areas—the southern North Sea, the channel and the Bristol Channel. We want a vibrant future for all parts, but we understand that the inshore sector is important and will work with it on this.

Baroness Wheatcroft (CB) [V]: My Lords, we were promised that Brexit would free the UK from EU red tape. Having seen the troubles of our fishing industry, the *New York Times* describes that promise as "a macabre joke." The chief executive of the Scottish Seafood Association describes the situation now as "red tape gone crazy." The Minister acknowledges that there will be continuing requirements for paperwork, so could he tell the House how he equates the former promises with the current reality?

Lord Gardiner of Kimble (Con) [V]: As I have already said, there is obviously work to be done on this side of the channel and with our neighbours to improve some early problems, which we need to resolve. Officials are working with individual companies to ensure that the situation improves rapidly, and I have already said that there will be a compensation package. Pulse trawling, for instance, is no longer permitted in the UK EEZ from 31 December. As a sovereign country, we will be able to resolve issues such as these now that we are able to make our own decisions about sustainable fishing in our waters.

The Deputy Speaker (Lord Alderdice) (LD): My Lords, I am afraid that the time allowed for this Question has elapsed.

1.13 pm

Sitting suspended.

Arrangement of Business

Announcement

1.30 pm

The Deputy Speaker (Lord Alderdice) (LD): My Lords, hybrid proceedings will now resume. If the capacity of the House is exceeded, I will immediately adjourn the House. We now come to consideration of Commons amendments to the Pensions Schemes Bill. These proceedings will follow guidance issued by the Procedure and Privileges Committee. When there are no counterpropositions, as for the first group, the only speakers are those listed, who may be in the Chamber or remote. When there are counterpropositions, as for the second group, any Member in the Chamber may speak, subject to usual seating arrangements and the capacity of the Chamber. Any Members intending to do so should email the clerk or indicate when asked. Members not intending to speak on a group should make room for Members who do. All speakers will be called by the Chair.

Short questions of elucidations after the Minister's response are permitted but discouraged. A Member wishing to ask such a question, including Members in the Chamber, must email the clerk. The groupings are binding. Leave should be given to withdraw. When putting the question, I will collect voices in the Chamber only. Where there is no counterproposition, the Minister's Motion may not be opposed. A participant, whether present or remote, who might wish to press a proposition other than the lead counterproposition to a Division must give notice to the Chair, either in the debate or by emailing the clerk. If a Member taking part remotely wants their voice accounted for if the question is put, they must make this clear when speaking on the group. Noble Lords following proceedings remotely but not speaking may submit their voice—content or not content—to the collection of the voices by emailing the clerk during the debate, but Members cannot vote by email. The way to vote will be via the remote voting system. We will now begin.

Pension Schemes Bill [HL]

Commons Amendments

1.32 pm

Relevant Documents: 4th, 7th, 8th and 16th Reports from the Delegated Powers Committee

Motion on Amendment 1

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

That this House do agree with the Commons in their Amendment 1.

1: Clause 27, page 17, line 38, leave out from beginning to end of line 40 and insert "The notice must specify—"

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Stedman-Scott) (Con): My Lords, before turning to the Commons amendments, I will take a moment to remind the House of what the Bill does, as a lot has happened since it was last here.

If enacted, the Bill will affect the lives of millions of people throughout the country. It will make pensions better by creating a new style of pension scheme that has the potential to increase future returns for millions of working people, and by delivering pensions dashboards that will help individuals to make informed decisions about their financial futures. It will make them safer by helping to prevent scams and by clamping down on those who recklessly try to plunder the pension pots of hard-working employees. It will make them greener by requiring pension schemes to take the Government's net-zero climate targets into account in managing their own climate risk. I know that your Lordships agree that this is a worthwhile and important piece of legislation, and it has received cross-party support in both Houses. I hope that we are now at the final stage of its passage, and that we can agree and allow it to move on for Royal Assent.

I turn to Amendment 1. We welcome the strong interest shown in both Houses on ensuring that CDC schemes treat their members fairly and, in particular, operate in a way that is intergenerationally fair. As we explained in both Houses, requiring trustees to assess fairness is likely to generate confusion, as the concept means different things to different people, and there would be uncertainty about what was required. That is why we have intentionally avoided referencing fairness in such a way within any of the CDC provisions. Instead, following consultation, we intend to use these regulations to set out clear principles and processes that schemes must follow to ensure that different types of members are treated the same where appropriate—for example, when accruing and calculating benefits and making adjustments to benefits. These requirements will form part of the authorisation process for CDC schemes overseen by the Pensions Regulator.

For example, we intend that regulations under Clause 18 will require CDC scheme rules to ensure that there is no difference in treatment when calculating and adjusting benefits between different cohorts or age groups of scheme members, or between members who are active, deferred or receiving a pension. This is a clear and effective approach to delivering fairness in practice that is not only easy to understand, but also easy for members and trustees to apply, because it avoids a subjective interpretation of what is fair. We are all pleased that Royal Mail agrees with our approach, and it is for these reasons that we do not consider the amendment to the Bill necessary.

I will move on to Commons Amendments 2 and 3. Pension dashboards will help to revolutionise the pensions industry and bring it into the 21st century. This innovative programme will help to reconnect consumers with their otherwise lost pension pots and engage millions of UK citizens with their pension savings in a safe, secure and convenient way. These amendments on delaying the introduction of dashboards from other providers and preventing transactions through dashboards were overturned in the other place. This was in recognition of the approach taken to ensure that consumers were protected as part of the development of dashboard services. In respect of multiple dashboards, it has always been the Government's belief that individuals should be able to access information about their pension savings from a service of their choosing. I am delighted that, following the changes that we made in this House, consumers will be able to access a dashboard service that is publicly owned, provided by the Money and Pensions Service. I restate the commitment that was made by my noble friend Lord Howe in this House on 30 June last year that

"the Government wholeheartedly agree that such a dashboard should be available to all users from day one, alongside dashboards offered by other organisations."—[*Official Report*, 30/6/20; col. 668.]

We will not allow any qualifying dashboard to be launched before that of the Money and Pensions Service. However, we remain firmly of the belief that allowing other properly regulated dashboard providers to operate is the best way to drive engagement, reaching out to consumers where they may already interact with digital services, and unlocking innovative potential. I have said before that dashboards will launch with a simple find-and-view capability; this remains the case. However, enabling transactions through dashboards can provide an innovative way of safely giving people more effective control of their pension savings. Functionality on dashboards will be increased only as a result of user testing, after careful review and with the right level of consumer protections in place. It is important that we maintain the ability to meet the needs of the user by not prohibiting functionality that can put individuals in control. The ability to have this type of functionality in the future could bring real and significant benefits for consumers—for example, when consolidating small pots of pensions savings.

Dashboards are a hugely exciting innovation that will benefit and empower millions of citizens. We should support the development of dashboards so that they reach their potential and change the way that people interact with their pensions savings by placing them in control of all their pensions.

Finally, Commons Amendment 5 removed the privilege amendment made in the Lords, as is the norm in these cases. I beg to move.

Lord Vaux of Harrowden (CB) [V]: My Lords, as there are no counterproposals to these Commons amendments, I shall try to brief, but there are a couple of points I would like to make in relation to Commons Amendments 1, 2 and 3.

Throughout the passage of the Bill, we have had lengthy discussions around the risk of unfairness, intergenerational or otherwise, that is inherent to collective money purchase schemes, or CDCs as they seem still

[Lord Vaux of Harrowden]
to be called. I regret that the Government chose not to accept the amendment which required trustees to make an assessment of the extent to which a scheme is operating in a manner fair to all members; it has been removed by Commons Amendment 1. That seemed a fairly uncontroversial concept. However, the Minister has been very clear that the Government acknowledge the risk of unfairness, that they intend to learn from experiences in other countries, such as the Netherlands, and that they intend to deal with this issue in the regulations that they will publish in relation to Clause 18.

Commons Amendments 2 and 3 remove the amendments your Lordships agreed to in relation to pensions dashboards which required that there should be a period during which pensions dashboards are initially restricted to the MaPS dashboard and that they should not become transactional platforms without primary legislation. On the second point, I remain quite uncomfortable with the idea of a pensions dashboard becoming a transactional platform without very serious thought and experience. However, these matters will also be dealt with by regulations and I am confident that the Minister has heard the concerns that have been raised, even if she does not agree with the proposed method of dealing with them.

The Minister has been very generous with her time and commendably willing to meet to listen to and discuss concerns throughout the passage of the Bill. As a result of changes made to the Bill as it passed through your Lordships' House, most of the regulations that will follow will be subject to the affirmative procedure. However, even under the affirmative procedure, it will not be possible to amend regulations. I therefore urge the Minister to continue her constructive and collaborative approach in relation to the regulations that will now follow by consulting across the House before draft regulations become set in stone. That way she will be able to take advantage of the very deep pensions knowledge and experience in this House and the regulations will be all the better for it.

Baroness Janke (LD) [V]: My Lords, I thank the Minister for her clear presentation and her response to the issues raised during the passage of the Bill, as expressed in these amendments, which were based on concerns about protecting members of the public from criminal scams and malpractice and about minimising potential risks and threats to the value of pension schemes.

The amendments sent to the other place for consideration related, first, to the wish to ensure fairness, particularly to younger and newer members of the new CMP schemes; and, secondly, to the protection of pension scheme members from scams and exploitation in the operation of the dashboard by preventing financial transactions on it and by allowing the operation of the public dashboard for one year before allowing private sector models.

I understand from the Minister's opening remarks that the concerns of the movers of those amendments have been at least partially addressed by Ministers. However, I support the proposal from the noble Lord, Lord Vaux, about consultation across the House before the regulations are drafted for consideration. Once the Bill is passed into law and these measures come into operation, we expect that they will be closely monitored and that if further concerns arise they may be reconsidered during the passage of regulations at a later stage. In view of this, we are not proposing to pursue these amendments further.

The fourth amendment concerns the need for different treatment of open and closed schemes and is the subject of further amendments today. My noble friend Lady Bowles will address the important issues raised when this amendment is considered in the next group.

1.45 pm

Baroness Sherlock (Lab) [V]: My Lords, I, too, am grateful to the Minister for explaining why the Government asked the Commons to reject the amendments passed in this House. We have come a long way since the Bill had its First Reading in this House on 7 January—more than a year ago, although it seems more like a lifetime. The Bill now makes some important changes, creates CDC schemes, legislates for the pensions dashboard and strengthens the regulatory environment on pensions.

During the Bill's passage through this House, the Government have made some welcome concessions. For example, we ran an amendment to require a public dashboard from the outset. The Government brought forward amendments requiring that, and I am grateful for the confirmation that the Minister has given today. We ran amendments saying that the FCA should regulate the provision of dashboard services, and the Minister has confirmed that that will happen. We ran an amendment to say that using the dashboard to see your own data must be free, and the Minister has confirmed that it will remain free.

The Bill initially made no reference to climate change, but my noble friend Lady Jones of Whitchurch, the noble Baroness, Lady Hayman, and Members from across the House worked together to persuade the Government to amend the Bill to require trustees and managers to take the Paris Agreement and domestic climate change targets into account in their overall governance and their disclosure of climate change risks and opportunities. This is the first time that the words "climate change" have featured in domestic pensions legislation.

This is a better Bill than it was when it started, and I am grateful to all noble Lords who have worked so hard on it, especially my noble friend Lady Drake and Dan Harris in our Opposition Whips team. I am also grateful to the Minister for engaging with our concerns and to the Bill team and all the officials who have engaged with us.

That said, the Government have rejected the amendments which this House voted for. On CDC schemes, I hope they will review the intergenerational impact of any schemes as they are developed and will keep an eye on that. I am particularly disappointed that our amendments on the pensions dashboard system were rejected. They would have put in place two essential safeguards: that the MaPS public dashboard should be in operation for a year and that the Secretary of State should lay a report before Parliament on its operation and effectiveness before commercial dashboards enter the market, and that the delegated powers in the Bill could not be used to authorise commercial dashboards to engage in transactions.

Like the noble Lord, Lord Vaux, I remain deeply concerned about the risks to consumers. Those amendments were especially important given the sheer breadth of the delegated powers the Bill grants and how little we know at the moment about how the dashboards will work. We still do not know how many dashboards there will be, who will run them, what information they will have, how it will be displayed or how consumers will respond. We do not know where liability will lie for each link in the chain or how consumers will be compensated if they lose out. We do not know what the charging model will be or how data security, identity verification or third-party access will be managed.

Given all those things that we do not know, I have sought to persuade the Government to come to Parliament to allow us to debate the proposals they make before the regulations are published. I regret that I have not succeeded in that. Given that this remains a very high-risk programme and that parliamentary scrutiny would surely be an advantage not an impediment, I hope that in her reply the Minister can give us some assurance of our continued involvement in debate on this process. I look forward to hearing her reply.

Baroness Stedman-Scott (Con): First, I thank the noble Lord, Lord Vaux, and the noble Baronesses, Lady Janke and Lady Sherlock, for their contributions. I think it is right to say that we have listened, we have engaged and we have valued and appreciated all noble Lords' contributions, and I assure noble Lords that that will continue.

I reassure the House that the Government are fully committed to continue transparency and engagement through the development, delivery and operation of pensions dashboards. We greatly value the insight and input from colleagues from across the House in shaping, testing and ensuring the proposals and want that to continue throughout the more detailed stages of development. The pension dashboards programme is committed to publishing six-monthly progress updates, the most recent of which, in October 2020, outlined the work undertaken to define the data standards and the work towards finalising the requirements for the digital architecture and the identity service. It also set out an indicative plan for delivery.

Future updates, in advance of the launch of dashboards, will provide greater detail, engagement opportunity and assurance on key areas of specific interest. These will include the digital architecture and identity service; user consents and permissions, including delegated or third-party access; the consumer protection regime, including the liability model; and further work on how data will be presented to consumers, based on a growing body of user research and a greater understanding of user needs.

I facilitated a meeting between noble Lords and the pensions dashboards programme team just before Christmas. As promised at that meeting, I will ensure that these regular meetings continue. They will provide your Lordships with the opportunity to have meaningful discussions directly with the programme team at the publication of each progress update report and a chance to scrutinise this work at an early stage of development. I will ensure that copies of these reports are placed in the House Library on their publication.

I recognise the concerns that many have expressed about the broad nature of the delegated powers within this area of the Bill. There is a statutory duty on the Secretary of State to consult before making regulations for pensions dashboards. Consultation will cover proposals across the range of areas which are critical to the safe, secure and effective delivery of dashboards, and give all those interested the opportunity to influence the detail before the regulations are laid in draft in this House under the affirmative procedure.

I know that some of your Lordships have asked whether we can go even further, requiring the Government to lay a report before Parliament for debate in advance of draft regulations being laid. I do not believe this to be the right way forward, as the consultation on the Government's proposals for regulations will already have taken place.

I have listened further to the noble Baroness, Lady Sherlock, and, although we have not always been in agreement, we are together on Peers having ongoing future involvement, and we are prepared to engage, engage and engage. Therefore, in addition to updating the House in the usual manner, I am prepared to commit to the Government tabling Written Ministerial Statements during the consultation phases, prior to the debate on the proposed dashboard regulations.

I reassure the noble Baroness that I will continue to work with her collaboratively in the way we have done throughout the Bill's progress. On the matter of facilitating further debate on the issue, I am sure that the Chief Whip has heard our debate today, and, when the Written Ministerial Statements are laid, I will draw them to his attention for him to consider further discussion in the usual channels.

Some concerns have been expressed about governance of the dashboard service going forward. The Money and Pensions Service has responsibility for delivery of the dashboard architecture and ongoing oversight and control, and it is clear that our focus for the foreseeable future must be on the development and implementation of the service. Meeting the demands of the scale and complexity of this challenge comes first. Reaching a live and steady state of operation will take a number of years, as set out in the pensions dashboards programme activity plan. As such, I confirm that the Government have no plan to move ownership of dashboards architecture away from the Money and Pensions Service.

My department has clear governance arrangements in place to ensure the delivery of dashboards. As well as the regular published updates that I mentioned earlier, there is an existing legislative requirement, in the Financial Guidance and Claims Act 2018, for MaPS to report to the Secretary of State annually on the exercise of its functions, which includes its responsibilities for pensions dashboards. This report is laid before Parliament.

Chris Curry, the senior responsible officer for the pensions dashboard programme, and Sir Hector Sants, chair of the Money and Pensions Service, regularly report progress to Ministers. The department also undertakes formal quarterly accountability reviews with the Money and Pensions Service. We recognise the importance of effective evaluation, including monitoring of consumer behaviours and outcomes.

[Baroness Stedman-Scott]
My department is responsible for overall evaluation of the policy and is working with the pensions dashboards programme and regulators to develop a comprehensive evaluation plan.

Research will also be undertaken with providers and users alike throughout the project life cycle. This will include user testing to understand likely reactions and behaviours, and research to understand the impact that dashboards will have on the market. My department is developing a joint set of critical success factors to complement delivery and measure the success of policy objectives. These are relevant to all stages of the programme and will give insights on, among other things, usage of the service, delivery and compliance. Review of the critical success factors will also play a part in evaluation and service developments.

I finish by repeating the commitment that I made in my opening remarks. We will not allow any dashboard to which schemes are required to supply data to be launched before that of the Money and Pensions Service. On the point raised by the noble Baroness, Lady Sherlock, about a review of intergenerational impact and fairness, we will of course review how CD schemes operate and will monitor how different groups are treated.

I hope that my comments reassure noble Lords that the Government are acting diligently and responsibly in the delivery of dashboards.

Motion on Amendment 1 agreed.

Motion on Amendments 2 and 3

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

That this House do agree with the Commons in their Amendments 2 and 3.

2: Clause 118, page 104, leave out lines 20 to 22

3: Clause 122, page 116, leave out lines 38 to 45

Motion on Amendments 2 and 3 agreed.

Motion on Amendment 4

Moved by Baroness Stedman-Scott

That this House do agree with the Commons in their Amendment 4.

4: Clause 123, page 118, line 1, leave out subsection (2)

Baroness Stedman-Scott (Con): My Lords, this amendment was overturned in the House of Commons because, as the Minister for Pensions and Financial Inclusion explained in Committee in the Commons, no Government can commit to ensuring that all defined benefit pension schemes that are expected to remain open are treated differently from other schemes. Although, of course, the extent to which a scheme is open, and how that affects whether and how it will mature, must be considered, open schemes do not all share the same characteristics, and it would be wrong to treat them all in a similar way. Each scheme must be treated taking account of its own particular circumstances.

The original amendment touched on a number of important factors to be taken into account in the scheme funding arrangements. They are some, but by no means all, of the factors that we think trustees or managers should have to consider when setting a scheme's funding and investment strategy. These are complex and inter-dependent metrics and most appropriate to be considered in secondary legislation rather than being put on the face of the Bill. The Bill provides for this through delegated powers that will enable secondary legislation to set out in some detail what the new funding and investment strategy will need to include.

Addressing those matters in regulations will give interested parties a chance to contribute to the consultation on draft regulations. It will also allow flexibility to ensure that the arrangements can be adapted as economic conditions change, so that the scheme funding system can continue to operate effectively over time. But we absolutely do not want to see good schemes close unnecessarily. We have made a clear commitment to ensuring that regulations work in a way that does not prevent appropriate open schemes investing in riskier investments where there are potentially higher returns, provided the risks taken can be supported and that members' benefits and the Pension Protection Fund are effectively protected. With that explanation, I beg to move.

Motion 4A (as an amendment to the Motion on Amendment 4)

Moved by ***Baroness Bowles of Berkhamsted***

At end insert ", and do propose Amendment 4B in lieu of the words so left out of the Bill—

4B: Page 117, line 44, at end insert—

"( ) In exercising any powers to make regulations or otherwise to prescribe any matter or principle under Part 3 of the Pensions Act 2004 (scheme funding) as amended by Schedule 10, the objectives of the Secretary of State must include supporting the ability of the scheme trustees to decide the specific funding, investment risk management and diversification strategy that is appropriate for the long-term time horizon, liquidity and employer covenant of the scheme.""

Baroness Bowles of Berkhamsted (LD) [V]: My Lords, we have come a long way since the probing discussions in Committee, when the noble Baroness, Lady Altmann, first raised concern about whether there were steps afoot to cause de-risking of open DB schemes and the effect that that might have of shifting investment to gilts. I was among several noble Lords who agreed with that concern, and I followed up on Report with an amendment, kindly signed by the noble Baroness, Lady Altmann, and the noble Lords, Lord Young of Cookham and Lord Vaux of Harrowden, which was passed.

2 pm

In the light of experience, it could perhaps have been better framed. The message is that there is a difference between open defined schemes that are not on the path to maturity—when investments have to be progressively used up to pay pensions—and closed schemes that are on that inexorable path to maturity. This difference opens wider investment possibilities in

relation to liquidity and risk. Absent such recognition—which is the status quo—schemes would become unnecessarily expensive for both employers and employees. They would become unaffordable. There would be knock-on effects for the wider economy because a great source of investment would be removed.

My amendment was followed up with cross-party vigour in the Commons. Although the Government have not accepted any amendments, there have been many helpful meetings and written exchanges with our Minister, the Pensions Minister, Guy Opperman, and the Pensions Regulator. Progress has been made and I think we have all learned something. I am particularly grateful to the Minister for enabling those meetings, for giving us the time to think about our response and for proposing statements that addressed our concerns.

Most open schemes will follow what is now called the bespoke approach; that is, one tailored to individual circumstances. Recently, I had a helpful email exchange with the regulator about fast track, which was described in the consultation and which can be used by open schemes, which acknowledged the more general recognition that open schemes do not have to progressively derisk: "If you are an open scheme with a strong flow of new entrants, then you might always be 20 years from maturity. You might, therefore, always be at the same point in the covenant to maturity table and you may never be constrained by a lowering of the discount rate consistent with that." Trying to correct arguments that have gone backwards and forwards is always slightly distracting. Is the word "different" useful, or will it be played on by those wishing to avoid appropriate contributions? What is meant by maturity? These terms have been challenged, yet they are inevitably used by all sides.

The noble Baroness, Lady Altmann, and I put our heads together to suggest statements and the reserving Amendment 4B, which we shared with other noble Lords for their comments. The amendment states simply that regulations should support the ability of scheme trustees to decide

"the specific funding, investment risk management and diversification strategy that is appropriate for the long-term time horizon, liquidity and employer covenant of the scheme."

The long-term time horizon is another way of saying maturity. Liquidity relates not only to investments but to the cash flow of schemes. The strength of the employer covenant is a further factor in how trustees assess risk to the scheme and how to manage deficits. It covers the assets that have been pledged to support the scheme and, more generally, what assets the employer has.

We submitted five points to the Minister. First, we proposed that the DB funding regime should remain scheme-specific; any bespoke approach should build on this foundation and be flexibly applied to take account of individual scheme circumstances.

Secondly, member benefits can sometimes be safeguarded, not by derisking investments, but by an appropriate risk management strategy determined after careful analysis by the trustees, taking account of time horizon, liquidity, employer covenant and appropriate diversification.

Thirdly, detailed provisions for ongoing DB funding, including any necessary assessment criteria and metrics, should be set out in regulations. These would acknowledge the position of open and less mature schemes and be encompassed within the Pensions Regulator's defined benefit funding code of practice.

Fourthly, prior to publication of draft regulations, the Government should commit to an engagement programme with a range of schemes, particularly those remaining open and immature, and launch a consultation document informed by this engagement.

Fifthly, the Government should also publish a comprehensive regulatory impact assessment of the draft regulations, including an analysis of the impact of any suggested derisking approach on members and sponsors of schemes that are open, immature or have no intention of buyout. To clarify, I hope there would also be impact assessments for the regulator's code of practice. Perhaps this is already a requirement. While I accept that it may not be possible to know whether buyout is intended, there should not be a general assumption that all employers want to get to buyout of their DB schemes, even if the insurance companies wish to funnel them in this direction.

I reserve my right to call a vote on my amendment, but I am optimistic that it will not come to that. I beg to move.

Baroness Sherlock (Lab) [V]: My Lords, I thank the Minister for her introduction and the noble Baroness, Lady Bowles, for her contribution. I hope that the debates in both Houses have caused the Government to reflect further on whether their DB funding requirements are fit for purpose. I acknowledge the work done by the noble Baroness, Lady Bowles, and other Members in this regard.

I wish that the Government had supported the Labour amendment to the Bill in the other place. The essence of it is captured in my Amendment 4D here. It is regrettable that so many DB pension schemes outside the public sector are closed to new members and to future accrual of benefits for existing members. It is also important to recognise that there are DB schemes which remain meaningfully open to new members, which are sustainable, and which have strong employer covenants.

I support the Pensions Regulator in wanting to ensure that DB schemes are well run and properly funded, thereby increasing the likelihood that members will receive their accrued benefits in full when they become due. We have seen enough examples of poor corporate behaviour and the decline or collapse of companies providing the covenant to DB schemes to know the consequences of having a weak funding regime.

Today's debate does not challenge this principle. It is concerned with how the principle is applied and specifically whether the approach to scheme funding by the Government and the regulator sufficiently recognises the difference between the funding regime for a sustainable, meaningfully open DB scheme and that for an increasingly mature and closed DB scheme. There is real concern that, unless the difference is recognised, the Pensions Regulator and any regulations from the Secretary of State could perversely pose a threat to the continuation of open, relatively immature,

[Baroness Sherlock]
sustainable schemes. This would thereby deny the opportunity for millions of workers to benefit from a DB pension. Many sections of the Railway Pensions Scheme are an example of such an open DB scheme.

A closed DB scheme will, of course, see contributions decline and the remaining scheme members progressively age. As more and more of the assets will be needed to pay the pensions, they will need to be lower risk and provide liquidity to ensure that members receive their benefits when they become due. A sustainable, meaningfully open scheme has an ongoing flow of new contributions, including from future members. These can be invested for the long term, providing higher returns. Their investment profile does not need to be as risk-averse as that required for a declining DB scheme. If sustainable, open DB schemes are unnecessarily pushed into the same investment and derisking strategies required for declining closed schemes, there is the risk that the regulator will push up the ongoing contributions of members and employers to such a level that, perversely, they encourage open, sustainable DB schemes to close. This cannot be right. It does not benefit employees, employers or the economy.

My amendment aims to ensure that regulations on DB scheme funding recognise the characteristics of sustainable open schemes, rather than setting a one size fits all policy for both closed and open DB schemes. It specifies that

"the objectives of the Secretary of State must include supporting the ability of the trustees of a relevant scheme to decide the funding and investment strategy for the scheme taking into account the current and future maturity and liquidity of the relevant scheme consistent with the trustees' duty to invest assets in the best interests of members and beneficiaries."

I know that the Pensions Regulator has issued an interim response to its first DB funding code consultation. It is apparent from some of the comments, including those of the PLSA, that there are misunderstandings or lack of clarity about the position of open schemes. Assurances are being sought from some in the pensions industry and elsewhere that the DB funding regime will remain scheme-specific. The noble Baroness, Lady Bowles, referred to this. Any bespoke approach under the new funding proposals should build on that foundation. The DB funding regime should continue to apply flexibly to take account of individual scheme circumstances.

I will listen carefully to the Minister's answers to my questions and to those detailed by the noble Baroness, Lady Bowles. Given the concerns expressed in both Houses, it will be important to hear some answers to these questions and I do hope to hear the Minister tell us whether the Government plan to consult with open and immature schemes before publishing the draft regulations, including reflecting on the impact on members and sponsors of schemes that are meaningfully open. I hope the Minister can respond today in a way that addresses the concerns raised and indicates a way forward. I too have valued the conversations of which I have been a part. I have no wish to press my amendment to a Division, although I will listen carefully to what she has to say before making a final decision. I look forward to her reply.

Lord Vaux of Harrowden (CB) [V]: My Lords, we had lengthy discussions on Report around the concern that a one-size-fits-all derisking policy could render uneconomic otherwise healthy defined benefit schemes which remain open, and which are not close to maturity. The noble Baronesses, Lady Bowles and Lady Sherlock, have already described the issue in better detail than I ever could, so I will not repeat the case, but it would be a great shame if a laudable intent to derisk had the unintended consequence of leading to the premature end of healthy, well-run defined benefit schemes, which are of particular importance to lower-paid employees. I know that this is not the intention of the Government, as the Minister has just restated; I am confident that the Minister will be able to set our minds at rest by confirming the points asked by the noble Baroness, Lady Bowles, and that Divisions on Motions 4A and 4C will not be necessary.

As this is likely to be the last time I speak on the Bill, I hope the House will not mind if I take the opportunity to put on record my thanks to the Minister for her open and collaborative approach throughout its passage. She and her team have been extremely generous with their time and I am very grateful to them all. I am also grateful to all noble Lords for their patience as I have fumbled through my first involvement in amending a Bill; I have learned a lot from them. The Bill has been an excellent demonstration of the depth of expertise that resides in this House and of how well the House can work across parties to improve legislation. As the Minister said after Third Reading

"we collaborated, we talked, we listened and we made the Bill better."—[*Official Report*, 15/7/20; col. 1671.]

I agree with her and, as I said earlier, I very much look forward to that same collaborative spirit continuing into the discussions on the regulations that will put the flesh on to the skeleton of this Bill.

The Deputy Speaker (Baroness Garden of Frognal) (LD): Noble Lords in the Chamber have indicated that they wish to speak. I call the noble Baroness, Lady Altmann.

Baroness Altmann (Con): My Lords, I congratulate my noble friend the Minister on introducing this group of amendments and particularly thank her, the Bill team officials and the Pensions Regulator for engaging with us in such a collegiate manner. The co-operativeness and openness that have been shown to all noble Lords across the House have been hugely welcomed and already commented upon; I reiterate that this approach has improved the Bill and that this will continue into the future when it comes to the regulations. I congratulate the noble Baroness, Lady Bowles, the noble Lord, Lord Vaux, my noble friend Lord Young of Cookham, as well as the noble Baronesses, Lady Sherlock and Lady Drake, on the way in which we have all been able to co-operate on this important issue.

I briefly express concerns about the MaPS dashboard being sidelined and the data-security issues that may be involved in the dashboard, as well as, importantly, the fairness issues that will be dealt with in regulations of CDC schemes. Having dealt with that, I turn to Motions 4A and 4C. It is important that my noble

friend can provide reassurance that scheme-specific approaches that have endured so far will be preserved. As the noble Baroness, Lady Bowles, has outlined—echoed by the noble Baroness, Lady Sherlock—there are issues on which I am confident my noble friend will be able to reassure us.

2.15 pm

I certainly hope that this is the case: that any new defined benefit funding code, and the regulations that will encompass it in respect of any bespoke route to funding, will continue to be scheme-specific and flexible to accommodate appropriate integrated risk management that trustees—having carefully assessed the appropriate long-term time horizon, employer covenant and liquidity forecasts for their scheme—can use to build a diversified portfolio that will benefit from long-term expected returns and risk premia on assets such as infrastructure, social housing and early-stage growth businesses. This would enable pension assets to be used to boost growth directly and conserve corporate assets, as well as ensuring that pension schemes are sustainable, both in the sense of them being able to continue to provide benefits and in terms of being sustainable relative to the climate challenge that we all face.

Especially with the current monetary policy of quantitative easing having driven long-term interest rates down to exceptional, unprecedented low levels, forcing schemes with long-term time horizons—or even leading trustees and their advisers to believe that it is appropriate—to sell higher expected return assets and buy much lower return investments, in competition with the Bank of England and other financial firms, seems to be a recipe for failure rather than success. Member benefits are not necessarily best protected by so-called derisking. Clause 123 was an attempt, sadly removed in the Commons, to give some reassurance on these points, particularly to open schemes but, indeed, also to other schemes, which have no intention to buy out and are not close to doing so.

I am grateful to my noble friend the Minister and my honourable friend the Pensions Minister for recognising, and now, I hope, publicly endorsing, the idea that these pension assets could be valuable to the economy. Lower expected return investments mean that employers must put more money into pensions now, in the short term. Not only is this a waste of corporate resources and an unnecessary extra cost on sponsoring employers—whose assets are particularly valuable right now as we try to recover from the damage of the pandemic—but it is a massive drain on the Exchequer. This point is not often mentioned but the vast majority of the £50 billion a year that goes on pensions tax relief has been spent on deficit-reduction contributions in defined benefit schemes. This money would surely be better used to allow pension fund assets directly to boost growth. Pension funds are the ideal long-term investors for infrastructure, for projects to mitigate and offset climate change, and for social housing; all these should be able to deliver better returns than gilt. Equity participation too adds upside to everyone's benefit.

I believe and fervently hope that my noble friend the Minister will confirm the Government to be in agreement with the issues raised by the noble Baronesses, Lady Bowles and Lady Sherlock, and the noble Lord, Lord Vaux, about avoiding what might be called reckless conservatism or counterproductive caution, so that our £2 trillion worth of defined benefit scheme assets can feed into the rebuilding of our economy and support sustainability both of the schemes and of the environment. I once again thank my noble friend and her team for all their hard work on the Bill, and thank colleagues across the House for all the work they have done.

The Deputy Speaker (Baroness Garden of Frognal) (LD): I call the noble Lord, Lord Davies of Brixton.

Lord Davies of Brixton (Lab): My Lords, I draw the attention of the House to my entry in the register of interests.

I need to ask the indulgence of the House because I accept that it is unusual for a Member who has not contributed at any previous stage of a Bill to intervene at this stage. However, I was not a Member of the House then, and so I was unable to take part. It will be recalled that the Bill was introduced almost exactly a year ago, and it is almost exactly a year ago that I was first aware that I would be joining your Lordships. I watched the entire progress of the Pensions Bill—with only slight exaggeration—like a child locked out of a sweet shop. I so much wanted to take part in the debate and discussions. I am not suggesting for one moment that the incredible work by my noble friends on the Bill has not been effective; I just would have liked to have been with them.

It is also worth mentioning, since the House places some stress on being a repository of expertise, that on Clause 123 I can claim considerable expertise because I am a fellow of the Institute and Faculty of Actuaries. In the course of my actuarial work I was a scheme actuary and I produced valuations, and that is what this clause is about. Since this is the first time that I have had a chance to speak when I have not been subject to a three-minute time limit, I am tempted to speak for a long time about scheme valuations, but I will spare your Lordships that.

Before I get to the substance, I thank the Minister. As I say, I have watched the debates, and I pay tribute to the way in which the Bill has been handled. I highlight that the introduction of what I still think of as collective DC is an excellent move forward and of considerable importance, as is—although of course there is more to be done—the work that has been done on the dashboard.

Turning to the amendments, I strongly support what is proposed here. The issue is the valuation of open defined benefit pension schemes. Real concern has been expressed by employers and trade unions representing their members about such schemes that the changes foreshadowed in the regulatory regime by the legislation will not work for such schemes, and the result will be higher costs and lower benefits. I am glad to see that a response has been made on the behalf of the Pensions Regulator, assuring us that it is not saying, "Don't worry, just trust us with it all", and making various commitments about how open defined benefit schemes will be handled. Well, why not put such assurances into the legislation? I certainly hope they will be included in the regulations.

[Lord Davies of Brixton]

At this point, it is worth acquainting the House with some evidence that the Institute and Faculty of Actuaries has presented on this clause. It said:

"Any employer that has left their DB scheme open to new entrants to date is highly likely to have done so as a conscious choice, and usually with strong support from members and associated trade unions. The risks inherent in DB are typically well understood not only by the employers but also by the scheme's members, and their trade union representatives. These schemes should therefore not necessarily be treated the same, or need the same level of security, as closed schemes. In our view it is critically important that viable and successful open schemes are not caused to close through adverse legislative change or guidance from The Pensions Regulator."

I fully endorse what the institute says there and what has been said by previous speakers, with which I concur. What is notable about what the institute said in that statement is that it emphasises how pension schemes emerged from the employment relationship. One thing that really worries me about leaving it to the regulator is that there is not a single person on the board of the Pensions Regulator who has any experience of employment or industrial relations, or at least not significant enough for them to put it in their biographical details.

I have one final point. This debate is about open schemes, as others have mentioned. I do not want anyone to think that the situation is that there is no more debate to be had about closed schemes. The noble Baroness, Lady Altmann, mentioned the issue of closed schemes. I concur with what has been said there, and that we have to get that right as well; there is more debate to be had on that issue. It is not just about open schemes. So there will be a continuing debate, but I hope the Minister will be able to give us some reassurance about the treatment of open schemes.

The Deputy Speaker (Baroness Garden of Frognal) (LD): I call the noble Baroness, Lady Janke, whose name was left off the list inadvertently.

Baroness Janke (LD) [V]: My Lords, it is a great pleasure to follow the noble Lord, Lord Davies. No doubt we will welcome his expertise and experience into what is already a considerable group of experts and knowledgeable people in your Lordships' House.

I support the amendment of my noble friend Lady Bowles. I pay tribute to her for the way in which she has pursued this matter with great skill and tenacity by working across the parties and seeking agreement on a way forward. There is clearly a problem for open DB schemes, as has been expressed to us already, particularly by the railway workers' union but also by other pension funds. Clearly, as my noble friend has said, it is unrealistic and wrong for the same restraints to be imposed on open DB schemes that are not destined for closure in the immediate future as those imposed on closed schemes. As others have said, if that were to be the case, currently open DB schemes not on the path to maturity would suffer and may close as a result, with dire effects for their membership and a considerable impact on the wider economy.

I very much welcome the Minister's opening statement, in which she indicated her willingness to ensure that open schemes not on the path to maturity should not be prevented from making more beneficial investments. I hope the five points clearly outlined by my noble friend Lady Bowles will form the basis of the future operation of these healthy open schemes, as the noble Lord, Lord Davies, referred to.

I too record my thanks to all those who have contributed to the Bill, such as the ministerial team, who have provided information and expert advice, and noble Lords who have demonstrated their knowledge, experience and expertise in considering the Bill. They have shown how this House has not only provided scrutiny and challenge but enabled improvements to the legislation and benefits to those who will depend on this in future.

I thank the Minister and her colleague in the other place for their willingness to keep an open mind and not only to listen but to take on board suggestions and use their best endeavours to address the issues raised by Members. I also thank all the teams supporting Members, particularly Sarah Pughe in the Lib Dem office, who has provided us with marvellous support. I very much look forward to the Minister's response and hope that it will reassure my colleague that she is able to let this matter move forward and that her concerns will be listened to and acted upon.

The Deputy Speaker (Baroness Garden of Frognal) (LD): Does anyone else in the Chamber wish to speak? I think probably not.

2.30 pm

Baroness Stedman-Scott (Con): My Lords, I will first respond to the question of my noble friend Lady Altmann on long-term horizons. The scheme funding measures in the Bill, together with secondary legislation and a revised scheme funding code of practice, seek to support trustees and employers to manage this scheme funding with a focus on longer term planning. As now, the scheme's liquidity requirements, investment timelines and the amount of risk each scheme can support will depend on factors including its maturity and the strength of its employer covenant. Trustees can and do invest in illiquid assets such as infrastructure, and our measures do not seek to discourage such investments where they are appropriate.

I also thank the noble Lord, Lord Davies, for his contribution. The thought of being locked out of a sweet shop gives me more heartache than your Lordships will know. We will do our very best to make sure that it does not happen again. We welcome the noble Lord to the House and have no doubt that he will add a lot of expertise. He has joined the formidable band of brothers on pensions and we are very glad he is with us.

I am very grateful to the noble Baronesses, Lady Bowles and Lady Sherlock, for their amendments. I am also grateful to all those who have contributed to the debates we had relating to schemes that are open to new members. They have been highly influential and have helped us refine our thinking on how schemes in these circumstances should be treated. The Government are very sympathetic to the thinking behind these amendments, but there are good reasons why we do not want to deal with these matters on the face of the Bill.

One of the main drivers behind our reforms to the scheme funding arrangement is the desire to be able to more effectively tackle the small minority of schemes and employers who push the flexibilities of our scheme-specific arrangements further than is appropriate, to the detriment of their members. As the detail of the arrangements is necessarily complex, there is a real risk that attempting to deal with it in primary legislation will inadvertently weaken the funding regime as a whole and undermine the ability of the Pensions Regulator to tackle the very issues that these reforms were designed to address. Rather, we think that the best place to deal with these matters is in regulations—following a full consultation. That way, we can work closely with the full range of interested parties, effectively calibrate the system and get the right balance between member security and employer affordability. By placing such matters in regulations, we will retain the flexibility in the future to adjust the relevant parameters should the evolving economic situation demand it.

What I can do now is set out some key principles of how we will proceed with framing the secondary legislation, which I am happy to put on the record and am confident will provide noble Lords with the reassurance they are looking for. Much of our original thinking was driven by the fact that most schemes are closed and maturing, but we completely accept that we need to be clearer about our thinking on other important groups of schemes. These are the schemes that continue to admit new members. Many of these schemes will not be maturing in the same way as closed schemes and some of them will be admitting sufficient new members to avoid maturing at all. A genuinely scheme-specific approach has to recognise the characteristics of such schemes and treat them appropriately. I am therefore grateful to the noble Baroness, Lady Bowles, and others for helping us to focus our thinking on these schemes. Let me make it clear now that the Government, having further considered the debate on the Bill and feedback from the pensions industry, fully intend that the defined benefit funding regime will remain scheme specific, and any bespoke approach should build on this foundation. This regime will continue to apply flexibility to take account of individual scheme circumstances.

The department confirms that detailed provisions for ongoing defined benefit funding, including any necessary assessment criteria and metrics, will be set out in regulations and in the Pension Regulator's defined benefit funding code of practice, which will acknowledge the position of open and less mature schemes. As noble Lords have said, Ministers at the DWP have gone to great lengths to make themselves available to those who have pressed them on the position of schemes that remain open to new members. Both Ministers and officials have had extensive discussions with interested Peers, and others, including on schemes that remain open to new members. I also understand that interested Peers have been able to discuss these matters in detail with senior officials at the Pensions Regulator. This has been a highly productive engagement and, as I have said, it has been instrumental in guiding us to a better and more refined policy position. That is something I expect to continue.

Prior to the publication of the draft regulations, the Government can commit to an engagement programme with interested parties, including a range of schemes. These will include those remaining open and immature. They will launch a consultation document informed by this engagement. The Government will also publish a regulatory impact assessment of the draft regulations and the Pensions Regulator will publish an impact assessment alongside its revised funding code. These will include analyses of different de-risking approaches on members and sponsors of all schemes, including those that are open or immature, and those that are not targeting buyout.

We absolutely do not want to see good and viable defined benefit schemes close unnecessarily. We want them to be treated on their merits in a truly scheme-specific regime. We have said that open schemes should be able to provide the same level of security for members as closed schemes. I want to make it absolutely clear that this does not mean that they necessarily need to invest in the same way. We simply mean that members in an open scheme should be able to enjoy the same level of confidence that the benefits they have worked hard to build up will be paid in full, as for members in a closed scheme. We completely agree that open schemes that are not maturing and have a strong employer covenant should not be forced into an inappropriate de-risking journey. We will ensure that such schemes and employers which can support a higher risk and higher expected reward investment strategy can continue to invest in this way. If they are already doing the right thing, they should not need to significantly increase contributions as a result of these new measures.

The Government accept that for some schemes, depending on the circumstances, de-risking is not the best way to safeguard members' benefits. Member benefits can be best safeguarded by an appropriate integrated risk management strategy determined after careful analysis by the trustees, which takes account of time horizon, liquidity, employer covenant and appropriate diversification.

This is the way that we intend to proceed as, with the help of close engagement with interested parties, we work on the regulations that will set out the detail of how the funding regime will operate. I hope that what I have said reassures noble Lords of our intentions and that the noble Baroness will feel able to withdraw her amendment.

The Deputy Speaker (Baroness Garden of Frognal) (LD): My Lords, I have not received any requests to speak after the Minister, so I now call the noble Baroness, Lady Bowles of Berkhamsted, to reply.

Baroness Bowles of Berkhamsted (LD) [V]: My Lords, I am not normally a speaker on DWP matters—I am usually in the business and Treasury box—but, after a first foray on this Bill, or into this sweet shop, as the noble Lord, Lord Davies, would put it, maybe I should come again.

I thank all those who have spoken in this debate. The issues have already been explained and the Minister in reply has given the reassurances that were sought. Before I formally withdraw the amendment, I thank

[Baroness Bowles of Berkhamsted]
the Minister for the way in which these proceedings have been conducted, for her geniality and openness and, similarly, thank the officials from the department and the Pensions Regulator, and everyone for tolerating me.

As has been said, the issues are complex and interlinked. I am grateful to hear the Minister say that the debate around this has been influential and has refined thinking. I acknowledge that some employers will abuse the system and, because of its complexity, I accept that the Government do not want to put words into the Bill that are hard to change and which might give rise to unintended consequences. Of course, I would have preferred to see a little something there, but I understand the reasoning. I accept that there will be good consultation around the regulations and that all of us are looking for the same results.

I thank again noble Lords who have spoken today and supported me in my previous endeavours and all those who gave their expertise in earlier stages of the Bill. I am pleased that we are joined by the noble Lord, Lord Davies of Brixton, and think that we will benefit from his presence greatly in future. Others who have also assisted include my noble friend Lord Sharkey from these Benches, as well as the noble Baronesses, Lady Drake and Lady Young. I also thank the various pension schemes that have been generous with their time and information, so we were able to look at the sort of spread of assets and risks that they were talking about and did not come to this debate without a good basis of information; we knew that our arguments were supported.

It has been a good co-operative effort. I doubt that it is the end of the story, as there will be more consultations and things to watch. I hope and expect that the engagement with noble Lords by the Minister and the department and our co-operation with one another will continue. For now, I beg leave to withdraw the Motion.

Motion 4A withdrawn.

Motion 4C (as an amendment to the Motion on Amendment 4)

Tabled by ***Baroness Sherlock***

At end insert ", and do propose Amendment 4D in lieu of the words so left out of the Bill—

4D: Schedule 10, page 185, line 29, at end insert—

"221C Guiding objectives

(1) In exercising any powers to make regulations or otherwise to prescribe any matter of principle under this Part, the objectives of the Secretary of State must include supporting the ability of the trustees of a relevant scheme to decide the funding and investment strategy for the scheme taking into account the current and future maturity and liquidity of the relevant scheme consistent with the trustees' duty to invest assets in the best interests of members and beneficiaries.

(2) In subsection (1), "relevant scheme" means an occupational pension scheme that is not near significant maturity and is open to new members and is reasonably expected to remain so, either indefinitely or for a significant period of time.""

Motion 4C not moved.

Motion on Amendment 4 agreed.

Motion on Amendment 5

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

That this House do agree with the Commons in their Amendment 5.

5: Clause 132, page 125, line 17, leave out subsection (2)

Motion on Amendment 5 agreed.

2.42 pm

Sitting suspended.

Arrangement of Business

Announcement

3 pm

The Deputy Speaker (Baroness Barker) (LD): My Lords, the hybrid sitting of the House will now resume and I ask Members to respect social distancing.

Police National Computer

Statement

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

"With permission, Mr Speaker, I would like to make a Statement about the technical issues that we have experienced with the police national computer over the past week.

The records and information held by the police help to keep us safe, but they, like many other public bodies, have an obligation to ensure that the information they hold is properly managed. As I am sure you are aware, Mr Speaker, not all information and records held by the police can be held indefinitely. To ensure that the police are complying with their legal obligations in respect of the records they hold, a regular housekeeping process is undertaken to delete personal data and records from the police national computer and linked databases: in this case, data relating to individuals who were investigated by the police but where no further action was taken. This is undertaken for a variety of reasons, but chiefly to abide by legal obligations.

With such a large database, holding some 13 million records, an automated process is used to remove records that the police national computer has no legal right to hold. A weekly update was designed by engineers and applied to the police national computer, which then automatically triggers deletions across the PNC, and other linked databases. Last week, the Home Office became aware that, as a result of human error, the software that triggers these automatic deletions contained defective coding and had inadvertently deleted records that it should not have, and indeed had not deleted some records that should have been deleted. An estimated 213,000 offence records, 175,000 arrest records and 15,000 person records are being investigated as potentially having been deleted. It is worth the House noting that multiple records can be held against the same individual, so the number of individuals affected by this incident is likely to be lower. Operational partners are still able to access the police national computer, which holds, as I say, over 13 million records. Clearly this situation is very serious, and I understand that colleagues across this House will have concerns, which of course I share.

By your leave, Mr Speaker, I want to set out for the House the steps that we have taken to deal with this complex incident. On the evening of 10 January—the same day the Home Office became aware of the incident—engineers put a stop on the automated process to ensure that no further deletions took place. All similar automated processes have also been suspended. Early last week, Home Office civil servants and engineers worked quickly to alert the police and other operational colleagues, and established a bronze, silver and gold command to manage the incident and co-ordinate a rapid response. The gold command provided rapid guidance for police forces and other partners to ensure that they were kept abreast of the situation.

Secondly, Home Office officials and engineers, working closely with the National Police Chiefs' Council, police forces and other partners, immediately initiated rapid work, through the gold command, to assess the full scale and impact of the incident. This included undertaking a robust and detailed assessment and verification of all affected records, followed by developing and implementing a plan to recover as much of the data and records as is possible, and to develop plans to mitigate the impacts of any lost data. This is being done in four phases. Phase 1 involves writing and testing a code to bring back accurate lists of what has been deleted as a result of the incident. Phase 2 will involve running that code and then doing detailed analysis on the return to fully analyse the records that have been lost and establish the full impact. Phase 3 will be to begin the recovery of the data from the police national computer and other linked systems. Phase 4 will involve work to ensure that we are deleting any data that should have been deleted as usual when this incident first began. Phase 1 of the process has taken place over the weekend, and I am assured that it has gone well. The second phase is now under way, and I will hopefully have an update in the next few days.

While any loss of data is unacceptable, other tried and tested law enforcement systems are in place that contain linked data and reports to support policing partners in their day-to-day efforts to keep us safe: for example, the police national database or other local systems. The police are able to use these systems to do simultaneous checks.

I urge patience while we continue our rapid internal investigation and begin the recovery. I hope the House will appreciate that the task in front of us is a complex one. Public safety is the top priority of everyone working at the Home Office, and I have full faith that Home Office engineers, our partners in the National Police Chiefs' Council and police forces throughout the country, with whom we are working, are doing all they can to restore the data. Although that is rightly our immediate priority, the Home Secretary and I have commissioned an internal review as to the circumstances that led to this incident, so that lessons can be learned. I will update the House regularly on the process. I commend this Statement to the House."

3 pm

Lord Rosser (Lab) [V]: I thank the noble Baroness the Minister for being here—unlike the Home Secretary yesterday in the Commons—as the senior government Minister in the Lords covering the Home Office, to be accountable to this House for the worrying events detailed in the Statement.

The Statement says that it is estimated that up to some 400,000 offence, arrest and person records have, due to human error, inadvertently been deleted from the police national computer. There will be an internal investigation. Something described as human error can hide a multitude of failures covering, for example, inadequate training or supervision, previous warnings of the likelihood of an incident occurring being ignored, people working under pressure, out-of-date or unreliable equipment and lack of provision of readily available safeguards to override the consequences of human error—all factors for which responsibility should ultimately lie at the highest level within the department. Yet the Commons Minister yesterday stated:

"Sadly, human error introduced into the code has led to this particular situation".

The Government appear to have already determined the outcome of the internal investigation. I therefore ask the noble Baroness, who speaks for the Government: why is this investigation not going to be independent and, secondly, will the full report of the investigation be placed before Parliament? Can the Government also say whether Statements would have even been made to Parliament if reports of this serious loss of data had not appeared in the media?

The police national computer and the police national database are due to be replaced by the national law enforcement data programme. However, the assessment by the Infrastructure and Projects Authority is that successful delivery of the project is in doubt. The Policing Minister admitted in the Commons yesterday that the replacement of the PNC

"has had its fair share of problems, it is fair to say we have undergone a reset. There is now a renewed sense of partnership working between the Home Office and the police, to make sure we get that much needed upgrade in technology correct."—[*Official Report*, Commons, 18/1/20; col. 624.]

When a Minister uses those kind of words, one knows that there have been big problems with the replacement of the outdated PNC, from which up to 400,000 records have been deleted, not because it is no longer fit for purpose but apparently due solely to human error. How could up to 400,000 records be deleted without apparently there being a proper back-up system in place? Was that lack of a proper back-up system also due to "human error"?

Is it true, as was asked in the Commons yesterday, but without a reply being given, that Ministers were warned many months ago that their approach to the police national computer and database posed a significant risk to policing's ability to protect the public, and that the databases were "creaking" and operating on

"end of life, unsupported hardware and software"?—[*Official Report*, Commons, 18/1/20; col. 627.]

If so, what did the Government do about that?

In the Commons, the Government sought to say that, first, the data deleted might be available on other systems or databases and, secondly—because the data related to people arrested and in respect of whom, for the specific matter for which they were arrested, no further action was taken—it really is not that serious that this data has been deleted. The National Police

[Lord Rosser]
Chiefs' Council lead for the police national computer has said that the deleted DNA contains records marked for

"indefinite retention following conviction of serious offences."

Is it still the Government's view that this deleted data is not important? If so, could the Government explain why this data is retained at all, and may be on other systems, if it has no real value in preventing crime in the first place, in the fight against crime and in bringing criminals to justice? In the absence of a credible answer to that question, clearly the data deleted is of significance. In responding, could the Government set out the potential damage that could be done, or has perhaps already been done, as a result of these inadvertent deletions?

We need greater openness and frankness from the Government, now and in promised further updates, about what has happened—merely

"technical issues … with the police national computer"

according to the Statement—and why. We do not need an attempt to brush it all off as down to a "human error" with consequences of little significance.

Lord Paddick (LD) [V]: My Lords, let me try to bring some clarity to what has happened. The records that have apparently been deleted are those of people arrested but not charged, or charged but not convicted. These are sometimes, but not always, deleted. If someone is arrested but not charged or not convicted for one of more than 200 serious offences, their fingerprints and DNA can be retained for up to five years. If they have previous convictions for a serious offence, their fingerprints and DNA can be retained indefinitely. It may be that there are no fingerprint or DNA records for any of these people, other than those taken when there was no conviction. These are the records that have apparently been deleted. Meanwhile, some that should have been deleted have not been.

Although the people whose records have been deleted may not have been charged or convicted on this occasion, their DNA or fingerprints may be found at crime scenes in the future. If their fingerprints and DNA have been deleted, there is no way of proving forensically that they were at these crime scenes.

Some 213,000 offence records, 175,000 arrest records and 15,000 person records have potentially been deleted. Some 26,000 DNA records, 30,000 fingerprint records and 600 subject records may also have been deleted. This mistake could result in criminals who would otherwise be convicted of serious criminal offences not being identified, arrested, charged or convicted.

The Statement says that other databases such as the police national database can be checked, but my understanding is that the script run on the PNC deleted records on linked databases. Can the Minister confirm that?

Because of the variety of records that have been deleted—offence records, arrest records, person records and DNA and fingerprint records—it will be very difficult to put the jigsaw puzzle back together by collecting the pieces from different databases where the data may still be recorded. Is that the Minister's understanding?

The first question, which the noble Lord, Lord Rosser, also asked, must be: why was there no back-up? In October, senior police officers wrote to the Home Office to say they had "lost confidence" in its ability to complete big IT projects. What evidence is there to support this view?

Work on the national law enforcement data programme is in serious trouble, as the noble Lord said. This replacement for the police national computer and the police national database began in 2016 but is not expected to be completed until 2023, significantly delayed and overbudget. That is despite the existing systems running on obsolete hardware, using obsolete software.

To take another example, the new emergency services network was due to replace the system of radios and other mobile communications used by the police, the Motorola Airwave network, by 2019. That Home Office IT project has been delayed, meaning the existing Airwave system has had to be maintained for at least three years beyond its planned end of life, which is costing an additional £1.7 million a day. The final total is expected to reach close to £2 billion.

The facts are that the Government not only cut police officer numbers by over 20,000 between 2010 and 2020 but failed to invest in the systems that the police rely on to be effective. They have committed to recruiting 20,000 new police officers—dressing the window—meanwhile allowing what is unseen but vital to fall apart.

Following the end of the transition period on 1 January, the police lost real-time access to the European Union Schengen Information System, SIS II, meaning that front-line officers no longer have real-time access to data on 40,000 fugitives and dangerous criminals. It is now clear that these officers, who put their lives on the line for us every day, cannot rely on UK systems either. What are the Government going to do, not just to retrieve the lost data, but to ensure that the Home Office IT systems that the police rely on are fit for purpose? At the moment, it is absolutely clear that they are not.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, I will start with that assertion by the noble Lord, Lord Paddick: this does not relate to SIS II. This issue was a human error. Both noble Lords talked about IT systems; again, this was a human error, but it would be churlish of me not to discuss what the Home Office is doing about IT systems. We are delivering a number of new national IT systems to replace ageing critical national infrastructure and provide modern digital services that extend and enhance police capability. They have already delivered some valuable new capabilities to front-line policing: for example, to do fingerprint checks in the field and to extend ANPR coverage significantly.

Noble Lords are right that there have been some delivery challenges. The noble Lord, Lord Paddick, talked about the ESMCP, where I share his frustration. I have been focusing on it closely, and a new programme director was appointed in August last year, with the support of an interim SRO. The focus has been on greater transparency to the emergency services. On that note, the emergency services need confidence that the programme will deliver, for which testing has to be done.

The noble Lord, Lord Paddick, was right in his breakdown of the numbers. On the point that this is not serious, it is. I do not think that my right honourable friend the Policing Minister tried to downplay that yesterday, in any way. It is serious. In answer to the noble Lord, Lord Rosser, who asked whether the deletion is not that important—no, it is important. It is important to show how the process that my right honourable friend outlined yesterday is going to work. The first stage is to bring back the data, not to try to restore that which has been deleted, as that could cause worse problems. We will do a close analysis by the close of play tomorrow. We will recover the relevant data and, fourthly and importantly, we will ensure legal compliance in all the moves that we make.

Back-ups are, of course, held for all systems but due to the scale, the complexity and the dynamic nature of how the affected systems interact, restoring from back-ups needs to be undertaken in a very controlled manner. Our technical teams are now working at pace to identify how to do this safely. As I said, we should complete this analysis very shortly, and it will give us the full picture of what needs to be done.

On the question from the noble Lord, Lord Paddick, about deleted records on police systems, I understand that the engineers managed to stop some of the activity before it could proceed any further. That is certainly a part of the analysis that is being done today, and the extent of that will be further understood.

The noble Lord, Lord Rosser, asked why we do not have an external review. The reason it is an internal review is because it is an issue of human error and the Home Office engineers are having to work at pace to identify the full list of affected records. The analysis is due to be completed, as I say, very shortly. There will be a lessons-learned exercise. Of course there will be a full lessons-learned review. As for who will carry out that, it may be an external person. I can certainly find that out for the noble Lord, Lord Rosser.

The Deputy Speaker (Baroness Barker) (LD): We now come to the 20 minutes allocated for Back-Bench speakers. I ask that questions and answers be brief so that I can call the maximum number of speakers.

3.16 pm

Lord Davies of Gower (Con) [V]: [*Inaudible*]—that the Home Office is moving swiftly to rectify what we now learn was the result of human error. That error was in fact exposed by the *Times* last week. What troubles me—this has already alluded to by the noble Lords, Lord Rosser and Lord Paddick—is the latest report, again in the *Times*, that the Metropolitan Police Commissioner has apparently told the Home Office that the police has lost confidence in its ability to complete big IT projects—that is really serious—and that

"the Home Office was warned 18 months ago that a lack of investment in 'creaking' databases put the public at 'significant risk'".

That is at odds with the opening paragraph of this government Statement. Does the Minister accept that this, combined with the loss of access to certain EU databases from 1 January this year, now has the potential to present us with a perfect storm with regard to our security and policing? What plans do the Home Office have to alleviate this problem and to reassure law enforcement agencies and indeed the public?

Baroness Williams of Trafford (Con): I do not disagree with my noble friend that the confidence of the police and our operational partners is absolutely crucial to the delivery of these systems. Many of our systems are of course large and complex, and some of them date back some time—the noble Lord, Lord Paddick, talked about the Motorola project. We share the concerns about delays. That is why we are reviewing delivery, to ensure that projects are delivered as efficiently as possible to protect the public. As I said to noble Lords previously, I have taken a personal interest in the ESMCP because it is an absolutely crucial project to get right and to get delivered without any further delay.

Lord Houghton of Richmond (CB) [V]: My Lords, I draw attention to my relevant technology interest in the register. We rightly worry about sophisticated technological attacks on our national digital infrastructure and we worry post-Brexit about access to relevant European intelligence databases. However, is not our most critical national concern evidenced by seemingly systemic failures in our ability to effectively and securely manage data? Do we not appear to lack appropriate understanding of the necessary interdependence of technology, policy and user competence? Specifically, in an age when it is technological feasible to ensure that data cannot be truly lost through human error, can the Minister say what active consideration is being to adopting blockchain technologies to both secure and manage access to our most vital national data?

Baroness Williams of Trafford (Con): Technology and the sorts of things the noble Lord talks about are being developed all the time; he asked about technology not being lost through data loss, I think. This issue was human error in the coding. Much as I would like to say that human error does not exist, occasionally it does. This happened with the best technology systems in the world; how a system is coded will unfortunately predict what comes out the other end. I do not disagree with the noble Lord's assertion at all.

Lord Thomas of Gresford (LD) [V]: My Lords, I recall being involved in a case in Southwark Crown Court where DNA convicted a man of rape 35 years after the offence. There was no other evidence. Statistically, there were would be only four people in the UK with the same DNA. What database exists for the recording of all DNA and other forensic scientific evidence where a crime is unsolved but the possibility of detection in the future remains? Will scenes of crime information of this sort be kept securely as part of the national law enforcement data programme, in the process of being developed by the Home Office, and if not, on what programme will it be kept?

Baroness Williams of Trafford (Con): I am slightly surprised by the noble Lord's question because there has been quite strong feeling in your Lordships' House,

[Baroness Williams of Trafford]
particularly from the Liberal Democrats, that DNA information should be automatically deleted after a certain period of time. The DNA records that were deleted required "no further action". I totally understand the noble Lord's point; I saw something about a conviction in Wales that went back years, and it was DNA that convicted that individual. On the holding of DNA, in most cases the data of unconvicted people has to be deleted.

Lord Lancaster of Kimbolton (Con): My Lords, this is a serious matter. I was going to ask about alternative sources of data, but such is my disappointment at the attempt by the noble Lord, Lord Rosser, to take an unfortunate event caused by human error and seek to score political points, that I feel compelled to remind him of his own party's policy, as stated on 11 June 2018 by the then shadow Home Secretary, Diane Abbott. She said:

"The state has no business keeping records on people who are not criminals."—[*Official Report*, Commons, 11/6/18; col. 640.]

I believe that the police should have access to all the data and technology they need to arrest criminals. Does my noble friend agree?

Baroness Williams of Trafford (Con): We have just seen from the previous question that there is a bit of contradiction in some of the points raised by noble Lords on the Opposition Benches. Personally, I would allow my data to be kept for as long as anybody wanted for the purposes for which it might be used. Those pleas from the Opposition Benches have certainly been quite contradictory over the years.

Lord Scriven (LD) [V]: My Lords, we now know that a weekly weeding session from the database owned and operated by the Home Office takes place for DNA and fingerprint records, and this has links to local police force databases. The Minister answered a Written Question that I tabled by saying:

"The police in England and Wales cannot at present automatically wipe facial images at the point when a person is determined to be innocent."

So why are "no further action" facial recognition images not included in the Home Office's weekly weeding?

Baroness Williams of Trafford (Con): Facial images have to be manually removed from the database, whereas the DNA database allows for automatic deletion. That is the answer.

Lord Dobbs (Con) [V]: This is an embarrassment and, sadly, not the first. My noble friend must be as frustrated as anyone about this. Does this not suggest some impenetrable and deep-rooted shortcomings in the Home Office structures, as the noble Lord, Lord Reid of Cardowan, pointed out so forcefully 15 years ago? If, after all these years, with attention from all sides, we have still not been able to make the Home Office fit for purpose, do we not need to stop kidding ourselves that our Civil Service structure is a Rolls-Royce operation that just needs a fine tune? Without entering into a blame game, do we not need to ask the really difficult questions about why it keeps breaking down—and, in the interests of Ministers, civil servants and, not least of all, the public, do more to find an updated model that works?

Baroness Williams of Trafford (Con): My Lords, we need to get to the heart of what happened here, which was human error in the coding of a programme. As I said earlier, all the best IT in the world cannot prevent human error—it will happen. I am not in any way undermining the seriousness of what happened, but it was indeed human error.

Lord Dholakia (LD) [V]: My Lords, we are facing a sorry state of affairs in policing issues in this country. First, despite the introduction of 20,000 new police personnel, we learn that a large number of crimes are not reported, including one in four serious crimes in the Manchester police force. Secondly, we have lost records, despite a number of requests to renew our technologies in this area. My noble friend Lord Paddick asked a question on this. Have any discussions taken place with our EU colleagues about whether this deletion of records has any implications for proceedings in their countries?

Baroness Williams of Trafford (Con): I confirm to the noble Lord that this has no relation to SIS II, so our European partners are not relevant in this case, which is one of human error. The noble Lord talked about criminal records from Greater Manchester Police; it is terrible that crimes have not been recorded and followed up, which my right honourable friend the Policing Minister is incredibly concerned about.

Baroness Pidding (Con) [V]: My Lords, can my noble friend confirm that those who are currently relying on data searches via the police national computer for investigations will be able to rerun those searches once the recovery work on the computer is complete? Do we have an estimated time for this work?

Baroness Williams of Trafford (Con): I say to my noble friend that they can run them now. On the recovery timescale, as I said, the analysis should be complete by close of play today, and the work will be done to remediate the system as soon as possible after that.

Baroness Harris of Richmond (LD) [V]: My Lords, it is not just 175,000 arrest records of people arrested and released without charge, is it? My noble friend Lord Paddick told us just how many offence and person records have also gone missing. Can the Minister tell us how many of these were under live investigation?

Baroness Williams of Trafford (Con): These were "no further action" records—but, as I say, the further analysis of this will be completed, and I am sure I will be able to explain this to the House in more detail in due course.

Lord Mackenzie of Framwellgate (Non-Afl) [V]: My Lords, the development of the police national computer, in which I was involved many years ago, was a massive leap in the progress of law enforcement in the UK. As the noble Baroness well knows, the value of real-time data from the PNC is critical to all front-line police officers. DNA and fingerprint evidence is also essential, not only in convicting but in establishing innocence in our courts, in historic and current investigations. For the record, I agree with her that, once taken, DNA should be retained forever. Can she shine any more light on how the error occurred? Can she also give your Lordships any idea of whether it will be possible to recover all or part of the lost data, which is perhaps also held elsewhere?

Baroness Williams of Trafford (Con): I am very happy to give the noble Lord an update: last week the Home Office became aware that, as a result of human error, the software which triggers these automatic deletions contained defective coding and had inadvertently deleted records that it should not have and had not deleted some records which should have been deleted. An estimated 213,000 offence records, 175,000 arrest records and 15,000 person records are now being investigated as potentially having been deleted. It is worth explaining to the House, which I did not do before, that multiple records can obviously be held against the same individual, as the noble Lord will know.

On how we dealt with it, on the same day as the Home Office became aware of it, engineers put a stop to the automated process to ensure that no further deletions took place. All similar automatic processes have also been suspended. Earlier last week, Home Office civil servants and engineers worked very quickly to alert the police and other operational colleagues, and established a bronze, silver and gold command to manage the incident and co-ordinate a rapid response. The noble Lord will have heard me say to two previous speakers just what the process will be over the next few days.

Lord Vaizey of Didcot (Con) [V]: My Lords, I, of course, accept my noble friend's assurances that this was human error. Indeed, human error has brought down the biggest and most sophisticated IT companies, such as Facebook, Google and Twitter. Nevertheless, this shines a light on the still creaking government IT procurement systems. I echo the comments of my noble friend Lord Dobbs. Is it not time to get departments out of their fiefdoms and working more effectively with the Government Digital Service to provide an IT strategy that is fit for purpose as we end the first quarter of the 21st century? We still have these fiefdoms procuring huge IT projects at vast cost and overrun which are not fit for purpose. It is time to centralise this procurement process.

Baroness Williams of Trafford (Con): My Lords, I do not know whether I am speaking as a Minister or not, but on a personal level I totally agree with my noble friend. A whole-of-government approach would be so much better in so many areas, but each department is very protective of the money it seeks from the Treasury. Perhaps in future we will begin to have much more of a common approach on technology and procurement.

Lord McNally (LD) [V]: My Lords, I think the Minister has just pleaded guilty. Of course, it was human error—she must have repeated that 20 times. But what else has emerged in this questioning, to use the old phrase of the noble Lord, Lord Reid, is that the department is not fit for purpose, certainly not for the purpose of making a major data investment. I repeat and emphasise the request of the noble Lord, Lord Rosser. I do not think that an internal inquiry will not work for this. We must have a proper external inquiry with a report to Parliament, which Parliament can then study and debate. From her last reply, I suspect the Minister will agree.

Baroness Williams of Trafford (Con): My Lords, I have said that it was human error—probably fewer than 20 times, actually—because it was human error. I also repeat that there will be a full lessons learned review. I am not undermining the seriousness of this at all, because it is a very serious matter.

3.35 pm

Sitting suspended.

Domestic Abuse and Hidden Harms during Lockdown

Statement

The following Statement was made in the House of Commons on Thursday 14 January.

"With permission, Madam Deputy Speaker, I would like to make a Statement. The coronavirus pandemic has presented this country with enormous and unprecedented challenges. In order to control the spread of the virus, we have had to ask the public to follow a simple but crucial instruction: stay at home. Earlier this month we entered a new national lockdown, and while we are absolutely clear that these measures are necessary, it is also important to recognise the potential impact on what we refer to as hidden harm crimes, which include domestic abuse, child sexual exploitation and modern slavery. These are some of the most pernicious, harmful types of offending in society, and they often occur behind closed doors. Given that fact, let me reiterate a crucial message that the Prime Minister delivered to the public last week: notwithstanding the restrictions in place, those at risk of abuse can leave home to seek safety and avoid the risk of harm.

Protecting those at risk of abuse and exploitation remains a priority for this Government, which is why I am so pleased that today I can announce the launch of a new codeword scheme for victims of domestic abuse called Ask for ANI. From today, thousands of pharmacies across the UK will provide this service, enabling victims to seek help discreetly. Through a signal to a pharmacist, a victim will be provided with a safe space in the pharmacy, and taken through the support available to them, whether that is a call to the police or a domestic abuse helpline service. The codeword scheme will offer a vital lifeline to all victims, ensuring that they get help in a safe and discreet way.

[Baroness Williams of Trafford]

Let me set out more of the steps that we have taken to ensure that victims and those at risk can continue to access critical advice and support. We have provided unprecedented levels of additional funding to critical frontline services helping victims of domestic abuse. As part of wider charitable funding, the Home Office, the Ministry of Justice and the Ministry of Housing, Communities and Local Government have between them distributed more than £25 million in emergency Covid-19 funding for domestic abuse organisations. That has provided almost 1,900 bed spaces in safe accommodation and enabled domestic abuse organisations of all sizes to provide advice and support to victims. For example, Home Office funding allowed the charity Safelives to train hundreds of frontline workers online, including new independent domestic violence advisers. To help sustain those charities through the second part of the year, we are providing further funding of nearly £11 million from the Ministry of Justice and the Home Office.

Although funding forms an important strand of our response, it is also vital that victims of domestic abuse, and those worried about them, know how to access help and advice. In April, the Home Secretary launched the #YouAreNotAlone communications campaign to do precisely that. The campaign has reached almost 25 million people through paid advertising and has been supported by a range of celebrities and influencers who have shared its messages with more than 130 million followers on social media. Materials have been translated into 16 languages. The campaign directs victims to sources of specialist help and support. It also makes clear that the 'stay at home' restrictions do not apply to those at risk of abuse who need to leave home to seek help or refuge. We have relaunched the campaign over the winter to reaffirm those messages, and I ask honourable Members across the House to do everything they can to highlight that campaign, and make clear to victims that help continues to be at hand, should they need it.

The police have been and will continue to be proactive in tackling domestic abuse during this period. Courts have continued to prioritise domestic and child abuse cases throughout, as well as civil protection orders relating to domestic abuse, stalking, forced marriage and female genital mutilation. We have seen many innovative police responses to domestic abuse during the pandemic. The Metropolitan Police has developed an online function for the domestic violence disclosure scheme, whereby police can disclose previous domestic violence history to new partners. Nottinghamshire Police is applying the disclosure scheme in every domestic abuse occurrence. Other forces are able to use discreet technology to take witness statements remotely, without leaving any trace on the victim's phone. Some forces, such as Gloucestershire Police, have used spare capacity to instigate dedicated domestic violence response vehicles, while independent domestic violence advisers are helping to support victims.

There are, sadly, other forms of hidden harms within domestic abuse, and we are acutely aware that the pandemic has increased risks to some children and young people and reduced their contact with trusted professionals and adults. The Government are committed to doing everything they can to continue to support and protect children at risk, and they have provided more than £11 million since last June to Barnardo's 'See, Hear, Respond' service, to support more than 50,000 vulnerable or hidden children, whose usual support networks have been affected by national and local pandemic restrictions.

The Home Office has also launched a national communications campaign, Something's Not Right, to help children who have been exposed to a range of harms, reaching millions of secondary school children in England. At this time, we are particularly concerned about online harms. With children spending more time on the internet, parents have been signposted to materials for staying safe online, including from the National Crime Agency's Thinkuknow campaign.

A record number of reports of online child sexual abuse have been processed by the UK's Internet Watch Foundation, including a large increase in self-generated indecent images of children. The Home Office is providing £80,000 to support the development of the IWF's campaign to support parents in starting conversations with their children around keeping safe online, and to help young people to identify the signs of coercion and to report abuse. In December, we published the full government response to the online harms White Paper, which sets out our expectations on companies to keep their users safe, especially children. At the same time, we published the interim code of practice on online child sexual exploitation and abuse, which sets out steps that companies can take now to tackle these crimes on a voluntary basis, ahead of any regulatory system being introduced.

Another form of hidden harm is modern slavery. The Government are committed to the safety and security of victims of modern slavery, particularly during the pandemic, by ensuring that victims are provided with the support they need and that those responsible for these crimes are prosecuted. Last year, we made an additional £1.73 million available for modern slavery services in England and Wales. The funding has enabled providers to adapt the ways in which they provide support during the pandemic, including by reducing face-to-face contact where appropriate and ensuring that support can be accessed remotely. The new victim care contract came into force last week and will help to ensure that victims receive the care they need. In early adopter sites, child victims of modern slavery continue to be supported by the independent child trafficking guardian scheme which is working flexibly to continue to provide effective and responsive support remotely, both to trafficked children directly and to other professionals. Law enforcement agencies continue to pursue high-risk modern slavery cases where there is a risk of harm or detriment to individuals.

Throughout the coronavirus pandemic, we have remained resolute in our commitment to tackling abuse that takes place behind closed doors and out of sight. We continue to work across Government to monitor, assess and respond to the ongoing situation, but I ask all honourable Members to consider ways in which they can point victims in their constituencies to support. We will continue to prioritise domestic abuse during and after the pandemic. To do this, we remain committed

to delivering our landmark Domestic Abuse Bill to further strengthen protections for victims and bring perpetrators to justice.

In addition, this year we will publish the *Tackling Violence against Women and Girls Strategy*, which will help us to better target perpetrators and support victims of these abhorrent crimes. We are currently running a call for evidence to inform the new strategy, and I urge honourable Members to share this via their networks within their constituencies to help us reach as wide an audience as possible. This will be followed by a dedicated and complementary domestic abuse strategy that will ensure progress following the passage of the landmark Domestic Abuse Bill. We will soon publish the first-of-its-kind strategy on tackling all forms of child sexual abuse, outlining our long-term ambition to drive a whole-system response in tackling this heinous crime.

In conclusion, I thank everyone involved in helping victims of hidden crimes in this pandemic and beyond, from those working in domestic abuse refuges and community services and in modern slavery safe accommodation, to those scouring the internet to remove images of children being raped, as well as our police officers, our National Crime Agency officers, our Border Force officers and those working in the security services to support this work. I thank them all for what they are doing to help support victims and to stop perpetrators of these terrible crimes. I would like to finish by reassuring all victims of hidden harms that they are not alone, that their voices are heard, and that help will continue to be there for them. I commend this Statement to the House."

3.40 pm

Lord Kennedy of Southwark (Lab Co-op): My Lords, I thank the Minister for bringing the Statement to the House today. I welcome a lot of what is in it but I wonder whether we are going fast enough to tackle effectively all the problems that we are all aware of. It was good to read about the launch of the Ask for ANI scheme, which is a real step forward. Can the Minister tell the House what her department has done to ensure in launching this scheme that, when a victim comes forward, there will be support beyond an initial phone call, and what co-ordination of resources has taken place to ensure that this happens in all cases?

The "stay at home" message for the pandemic is right, to help us defeat the virus, but we need to hear clearly from all quarters that individuals who wish to leave their homes to escape domestic abuse can do so. That message was not given in March, and it still needs to be said through an array of media platforms, because unless messages are repeated consistently, they just do not get through to those who need to hear them.

Getting funding to the front line is extremely important. Can the Minister tell the House why the £75 million of funding announced has been so slow in getting to the front line, with only a third of the money having been spent? Can she also tell us when the unspent £51 million will be allocated, and confirm that the £11 million extra is in excess of the £75 million already announced and not just a reannouncement of funding already pledged? That is a very important point to be clear on.

I pay tribute to all those who work in the refuge sector for the brilliant work that they do every day in keeping women and children safe. What is being done to increase capacity in the sector? Is the Minister confident that there will be the capacity to meet demand? What specific provisions have been made for specialised services for victims who are black, Asian, minority ethnic, migrants, LGBTQ, male or disabled? Children are often the hidden victims of domestic and sexual abuse in the home. What work is the Minister's department doing to ensure that vulnerable children who are out of school are kept safe?

There are huge issues about how children are faring generally in the pandemic, and considerable justifiable concern over the significant failures of the Department for Education—everything from the food parcels being made available to families and the supply of computers, to understanding what it is like to grow up poor. Can the Minister reassure us that the Home Office is better equipped to deal with children and domestic abuse, sexual abuse, slavery and other issues that are their responsibility? We need to deal with those in a much better way than the Department for Education, given its record.

Looking at youth work, is there support for the proactive targeting of children—at the very least, those on child protection plans? What work has been done to reach children living in dangerous and violent homes? The £11 million of funding for the See, Hear, Respond scheme will target 50,000 children, not the three-quarters of a million children living in dangerous homes today. So can the noble Baroness tell us whether any of the schemes that have been announced will cover every child, so that all child victims can benefit, not just those in some areas, where a postcode lottery determines whether we fund a child's safety? That surely cannot be a situation that we would want or would allow to continue.

Turning to independent child trafficking guardians—a scheme that we welcome—can the noble Baroness confirm that that support is available for all children trafficked in our country, as was promised some years ago by this Government, or is it still, as I understand, just a pilot for some areas, leaving some trafficked children without support?

Domestic abuse and community support services are currently planning for redundancies in March. That is shocking in the middle of a global pandemic and a national lockdown. What is the noble Baroness's reaction to that? The staff being made redundant are the very people whom the Home Office and the noble Baroness need for the Ask for ANI scheme to have any chance of success. Can she confirm that there have been discussions with the sector and/or the Treasury about multiyear funding and putting an end to concerns that we have every financial year about dangerous year-on-year short-termism and redundancies in the sector?

With the thought of the lockdown carrying on until March, it is imperative that the Government act, and act faster than they have been doing. I have posed a number of questions to the noble Baroness and would be grateful for any response that she can give today from the Dispatch Box. Equally, I accept entirely that

[Lord Kennedy of Southwark]
she might have to write to me on some of the points, and I would be delighted to accept a letter from her. Perhaps she could confirm that and agree that, if she writes to me, she will place a copy of the response in the Library of the House.

Baroness Burt of Solihull (LD) [V]: I am grateful to the Government for the Statement and for all the things they are doing to support victims of domestic abuse in the pandemic and in the longer term through the Domestic Abuse Bill and in other ways. It seems clear thar the repercussions of Covid will last for a long time after we all emerge from the lockdown. Some victims will not report their abuse for years. Women's Aid figures show an average of six years between the abuse beginning and a victim coming forward for help. So, we must put the support in place, ready for whenever it is needed.

There is no doubt that help is urgently needed now. The Government have announced £125 million for safe accommodation and £40 million for victims' services, but there is still no clarity about when the money will reach services, and many face a cliff edge in March. Many are already preparing for the worst, including redundancy processes in some cases. Can the noble Baroness give any clarity on when funding will reach them? Can funding be planned on a longer-term basis so that services can focus on helping victims instead of worrying about having to close?

The Statement says that the £25 million emergency Covid funding has provided almost 1,900 bed spaces in safe accommodation. However, the Routes to Support database, which is the UK-wide directory of refuge vacancies, reported in November a net increase of only 317 spaces. Can the noble Baroness explain this huge shortfall?

The latest initiative being announced today, the "Ask for Ani" code for requesting help at selected pharmacies, is a great idea and very welcome. However, I wonder about the practicalities of how it is going to work. Training for staff will be absolutely vital if the victim is to be helped and not endangered further. Can the Minister confirm that the actual training consists of watching a video? Does she feel confident that people will feel confident and equipped to respond to a survivor effectively?

Finally, I make a helpful suggestion about victims who are migrant women with no recourse to public funds. I understand the considerable effort and money invested in a pilot project to investigate how best to help, and we have to be patient. However, while all this evaluation is taking place, women are suffering and dying because they are faced with the impossible choice of destitution or remaining with their abuser. Why not extend the destitution domestic violence concession to all victims, just for now? All victims deserve compassion and help, whatever their immigration status. Would not the Minister agree?

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): I thank the noble Lord, Lord Kennedy, and the noble Baroness, Lady Burt, for their questions. First, I pay tribute to the noble Lord, because it was he and I who exchanged words in a debate around the code word, and it is very pleasing that it has now come to fruition. He asked about taking it forward and about co-ordination. Taking it forward is not just about a phone call; it is absolutely about the first port of call to enable the woman—usually it is a woman, although it might be a man—to be dealt with in the appropriate way, at the appropriate time. Obviously, that may not be in the pharmacy; it will be by the relevant professional, depending on the case. But, yes, it is not just about picking up the phone in the pharmacy and hoping for the best. There has to be far more of a co-ordinated approach.

The noble Lord also talked about the reach of the statement by the Prime Minister that anybody who needs to leave home because of domestic abuse can do so—they are the exception. I agree with him that that statement got far more traction this time than last time, but it was not that it was not mentioned; I think it was the fact that the Prime Minister mentioned it so publicly in the daily update. I think people are in no doubt about the fact that, if you are a victim, you can leave home.

The noble Lord also said that the £76 million was slow to get out. I understand that £27 million of that funding has already got out, so he is not wrong about it being a third—but, of course, it is the annual amount and, therefore, we would not want to spend the whole lot now. I think that the £11 million is on top, but I shall correct that if I am wrong. The £76 million is for four of the organisations that have been granted awards, which are focused on the impact on children; the noble Lord talked about children, and a number of funds focus on them. The Department for Education and the Home Office have funded Operation Encompass, with £194,000 of funding to provide a support helpline for teachers to assist children affected by domestic abuse. There is an £8 million fund for the "well-being for education return" scheme, funded by the DHSC, DfE and PHE. Of course, he will know about the "You are not alone" campaign, which has been incredibly successful, gaining 130 million take-ups on social media.

Some forces have actually developed incredibly clever technology for taking statements discreetly so that a woman or a victim of domestic abuse does not very obviously have to go to a police station. I know that Gloucestershire police have instigated DA response vehicles.

The noble Lord mentioned the £11 million Barnardo's fund to support 50,000 vulnerable or hidden children. The Home Office launched the "Something's Not Right" communications campaign to help children exposed to a range of harms. On top of that, there is the NCA's Thinkuknow campaign for parents concerned about the online safety of children, which is vital during the lockdown. There are quite a number of packages of support, so noble Lords will see that children are at the heart of our response.

The noble Lord talked about the increase in the capacity of the sector to meet the demand. I think that noble Lords will agree that some packages of funding that we have delivered or will be delivering will meet that capacity. He also talked about the postcode lottery, which is important. When I first went into MHCLG, there was a really patchy picture of people who could

access DA services versus those who could not. The duty on first-tier local authorities goes some way to address that.

Both noble Lords talked about the sustainability of funding. I cannot disagree with that because it is crucial for services to be able to make long-term decisions instead of having to lurch from one set of funding to the next.

The noble Baroness, Lady Burt, talked about migrant women. We had the opportunity to discuss them during the passage of the Domestic Abuse Bill. She will know that there is a £1.5 million pilot programme up and running to see where some of the gaps in the provision for migrant women lie. However, let me make it clear that any woman or man suffering domestic abuse will get the support she or he needs.

The Deputy Speaker (Baroness Barker) (LD): We now come to the 20 minutes allocated for Back-Bench questions. Questions and answers should be brief. I call the first speaker, the noble Baroness, Lady Jenkin of Kennington.

3.57 pm

Baroness Jenkin of Kennington (Con) [V]: My Lords, I too welcome the innovation in the Statement and congratulate the Government on their progress. However, given that so much of the violence takes place when perpetrators are under the influence of alcohol or drugs, can the Minister update the House on the use of new technologies and, most especially, on what consideration is being given to the use of tagging of offenders via compulsory sobriety orders, which I think are still being trialled around the UK?

Baroness Williams of Trafford (Con): My noble friend is right that a lot of domestic abuse happens when alcohol has been taken, hence the police and the Government are very much alert to the probability that levels of domestic abuse will increase when there are big events such as the World Cup. Of course, lockdown has also meant an increase in drinking for some people. The Home Office and the Government are very concerned for the welfare of people who may be stuck at home, notwithstanding the Prime Minister's statement that you do not have to remain in your home if you are the victim of domestic violence. On how we can ameliorate alcohol abuse through the various things that we might require perpetrators to do, a domestic abuse protection order may specify alcohol abstinence—or there may be tagging, as my noble friend said—and on breach it becomes a criminal matter.

Baroness Butler-Sloss (CB) [V]: I refer to my interests in the register. This is a very helpful Statement from the Minister, but I ask her to include forced marriage in government strategy, communication and training programmes. Will she also look at the position of some wives whose marriages are not registered and therefore fall outside the spousal domestic violence immigration status?

Baroness Williams of Trafford (Con): I am acutely aware of the woman who finds herself either in a forced marriage or in a marriage that is not actually a legal marriage at all. One thing that will be very important for ensuring the passage of the Domestic Abuse Bill will be to keep it focused on the issue of domestic abuse. I am not in any way saying that forced marriage is not a form of domestic abuse, but certainly there are laws against forced marriage, and it is something that the Home Office is acutely aware of.

The Lord Bishop of Bristol [V]: My Lords, I, too, express my thanks to the Government for their work on domestic abuse issues, particularly following the announcement of "Ask for Ani". However, as the Minister will know, there are certain issues that particularly impact minority ethnic groups and people of faith. Will the Government look to take on the recommendations of the *Keeping the Faith* report and seek to increase faith literacy within secular bodies so that they are equipped to respond to particular harms found within a faith context?

Baroness Williams of Trafford (Con): I certainly know that officials have been working with bishops and others on developing the guidance, but I think the right reverend Prelate is taking about something slightly different, which is abuse that happens within a faith context—that is, using faith as a reason to abuse. I hope that some of the work she and others are doing with officials is cognisant of that type of abuse. I am sure it is, and I am sure that is the reason why she raised it.

Baroness Gale (Lab) [V]: While I welcome the Statement, there is one group of people that does not get a mention—those who are victims of elder abuse. Will the Minister say what measures are being taken to support such people, as they fall into a category that often differs from other forms of domestic abuse? Is she aware that Heléna Herklots, the Older People's Commissioner for Wales, is doing very good work in this area? Will she agree to consult the commissioner in Wales and take advice from her on the special needs of older people suffering domestic abuse, as she is doing such valuable work in this field?

Baroness Williams of Trafford (Con): I am sure that the noble Baroness will be aware that the ONS will now be including the over-74s in its statistics, which is very helpful indeed. I am very aware of elder abuse—particularly as some older people do not even know that what they are going through is in fact domestic abuse. I am very happy to speak to the commissioner in Wales and glean any areas of good practice that we might learn from here.

Baroness Sheehan (LD) [V]: My Lords, the surge in domestic violence since the start of the pandemic is appalling and the launch of "Ask for Ani" is really very welcome. However, of the nearly 12,000 pharmacies in the UK, less than a quarter are registered on the scheme. What plans do the Government have to carry out monitoring and rapid evaluation of the scheme? If results are encouraging, what plans are in place to promote it to all pharmacies with suitable premises?

Baroness Williams of Trafford (Con): I agree with the noble Baroness. I would like not to just promote it to all pharmacies but—as in the point made by the

[Baroness Williams of Trafford]
noble Lord, Lord Kennedy—to see how it could be rolled out more widely to more premises. She says that fewer than a quarter of pharmacies are registered. I do not know whether that is the case at all, but it has just been launched and I assume that the take-up will improve as time goes on. We will certainly promote it to more than just pharmacies as time goes on.

Lord Harries of Pentregarth (CB) [V]: I congratulate the Government on the initiatives that they have taken on this issue; they are very much to be welcomed. My question concerns the strategies outlined at the end of the Statement. There is one to tackle violence against women and girls, another to tackle domestic abuse and one to tackle child sexual abuse. There is clearly overlap here as, after all, most domestic violence is directed against women and girls. Can the Minister clarity how potential confusion and muddle will be avoided in relation to these different strategies?

Baroness Williams of Trafford (Con): I understand the noble Lord's feeling that there might be some confusion but, looking at the various strategies he has outlined, I do not think we can lump them all into one, because we would then start to fail to support the people who very much need our help. I am content with how it is outlined although, as he said, there is the possibility of some overlap.

Lord Randall of Uxbridge (Con) [V]: I refer to my entries in the register. Does my noble friend think that underreporting is an issue in the lockdown, particularly in households where abuse cannot be reported by an outsider? Does she consider that may disproportionally impact male victims as statistics show that 35% of all victims are male and they are three times less likely to report domestic abuse?

Baroness Williams of Trafford (Con): What we have seen is a sharp increase in the number of calls to domestic abuse helplines, but that does not necessarily equate to underreporting generally. I think that the numbers reported have gone up, and the extent to which they have gone up will probably be unravelled only subsequently, as some people feel too scared to report in any event. It is a problem generally in lockdown, and it remains to be seen just how much has occurred. I do not know why men might feel more reluctant to report; there is possibly some issue of feeling ashamed to report domestic abuse. The number of men who do come forward are to be commended for sharing what some men feel too ashamed to admit.

Lord Singh of Wimbledon (CB) [V]: My Lords, measures like the "Ask for Ani" scheme outlined in the Statement are welcome and will help reduce domestic abuse and hidden harms in the majority community. Does the Minister agree that we need to do more to meet the sometimes differing concerns and hidden harms in minority communities? Does she agree that the Government should look beyond the routine round-table meetings with sometimes questionable faith leaders to clear social agenda-led initiatives for a more cohesive and fairer society?

Baroness Williams of Trafford (Con): I agree with the noble Lord that different communities have different problems in different situations. Perhaps lockdown is the most appropriate one to be talking about now. I do not think we should listen to the same voices; we need to get a range of voices before deciding what our interventions should be and in what context.

Baroness Uddin (Non-Afl): My Lords, I thank the Government for their wonderful efforts on all these different initiatives. I particularly acknowledge the Minister's role in their formation. We are all grateful. She is aware that women still do not report or seek advice services early enough and have experienced many episodes of violence and abuse. Equally stark is the fact that women of south Asian heritage may take even longer in accessing services or reporting abuse, particularly because they find it difficult to access specialist accommodation and counselling services, which remain in extremely short supply, including in my borough, where policy over the years has meant the complete and utter destruction of specialist services, particularly for bilingual women; they say it is about budgets. Given that there seems to be £50 million outstanding, will the Minister undertake to have a broader discussion with women's organisations across the country, as the noble Lord, Lord Singh, has just suggested, so that we can mitigate some of the shortfall in their budgets and services?

Baroness Williams of Trafford (Con): I do not know whether the noble Baroness knows but we did extensive pre-legislative scrutiny on this topic. I have never been involved with so much engagement with various stakeholders across the sectors. The engagement has certainly been broad and of course we want to get the money out to the organisations that need it, to support the people who need it.

Lord Walney (Non-Afl): The Government's proactive approach on this and, indeed, the Minister's personal commitment are vital. However, given that we are more than three-quarters of the way through the financial year and, according to the figures that she confirmed, only just over a third of the funding available this year has been spent, does she accept that there seems to be some kind of bottleneck and problem in getting the money out? Is she tasking her officials to look to getting it out before the end of the financial year?

Baroness Williams of Trafford (Con): The noble Lord makes a good point. If there is money there to be spent for people who need our support, we should try to ensure that it gets out. I shall certainly discuss the matter with my honourable friend the Minister for Safeguarding, Vicky Atkins, and see what we can do to expedite some of the money for the remainder of this year.

Lord Mann (Non-Afl) [V]: There are additional complications in dealing with domestic violence in the Gypsy, Roma and Traveller community, and the lockdown, in all its forms, has significantly worsened this. Is the Minister confident that measures are in place to ensure that that community is sufficiently serviced by the services and facilities available?

Baroness Williams of Trafford (Con): The noble Lord mentions an important section of the community and I am aware of some of the issues that it faces. As I say, we have engaged extensively across the various sectors. However, I thank him for raising that point. I will check on that matter because that community needs our support.

4.13 pm
Sitting suspended.

Xinjiang: Forced Labour
Statement

4.21 pm
The following Statement was made in the House of Commons on Tuesday 12 January.

"With permission, Mr Speaker, I would like to update the House on the situation in Xinjiang and the Government's response.

The evidence of the scale and severity of the human rights violations being perpetrated in Xinjiang against the Uighur Muslims is now far-reaching. It paints a truly harrowing picture. Violations include the extrajudicial detention of over 1 million Uighurs and other minorities in political re-education camps; extensive and invasive surveillance targeting minorities; systematic restrictions on Uighur culture, education and, indeed, the practice of Islam; and the widespread use of forced labour. The nature and conditions of detention violate basic standards of human rights. At their worst, they amount to torture and inhumane and degrading treatment, alongside widespread reports of the forced sterilisation of Uighur women.

These claims are supported now by a large, diverse and growing body of evidence that includes first-hand reports from diplomats who visit Xinjiang and the first-hand testimony from victims who have fled the region. There is satellite imagery showing the scale of the internment camps, the presence of factories inside them and the destruction of mosques. There are also extensive and credible third-party reports from non-governmental organisations such as Human Rights Watch and Amnesty International, with the United Nations and other international experts also expressing their very serious concerns.

In reality, the Chinese authorities' own publicly available documents also bear out a similar picture. They show statistical data on birth control and on security spending and recruitment in Xinjiang. They contain extensive references to coercive social measures dressed up as poverty alleviation programmes. There are leaks of classified and internal documents that have shown the guidance on how to run internment camps and lists showing how and why people have been detained.

Internment camps, arbitrary detention, political re-education, forced labour, torture and forced sterilisation —all on an industrial scale. It is truly horrific—barbarism we had hoped was lost to another era is being practised today, as we speak, in one of the leading members of the international community.

We have a moral duty to respond. The UK has already played a leading role within the international community in the effort to shine a light on the appalling treatment of the Uighurs and to increase diplomatic pressure on China to stop and to remedy its actions. I have made my concerns over Xinjiang clear directly to China's Foreign Minister Wang Yi. We have led international joint statements on Xinjiang in the United Nations General Assembly Third Committee and the UN Human Rights Council. In the Third Committee, we brought the latest statement forward together with Germany in October last year and it was supported by 39 countries.

China's response is to deny, as a matter of fact, that any such human rights violations take place at all. They say it is lies. If there were any genuine dispute about the evidence, there would be a reasonably straightforward way to clear up any factual misunderstandings. Of course China should be given the opportunity to rebut the various reports and claims, but the Chinese Government refuse point blank to allow the access to Xinjiang required to verify the truth of the matter.

We have repeatedly called for China to allow independent experts and UN officials, including the United Nations High Commissioner for Human Rights, proper access to Xinjiang, just as we in this country allow access to our prisons, our police custody suites and other parts of the justice system to independent bodies who hold us to account for the commitments to respect human rights that we have made.

China cannot simply refuse all access to those trusted third-party bodies that could verify the facts and, at the same time, maintain a position of credible denial. While that access is not forthcoming, the UK will continue to support further research to understand the scale and the nature of the human rights violations in Xinjiang. But we must do more, and we will.

Xinjiang's position in the international supply chain network means that there is a real risk of businesses and public bodies around the world, whether inadvertently or otherwise, sourcing from suppliers that are complicit in the use of forced labour, allowing those responsible for violations to profit—or, indeed, making a profit themselves—by supplying the authorities in Xinjiang. Here in the UK, we must take action to ensure that UK businesses are not part of supply chains that lead to the gates of the internment camps in Xinjiang, and to ensure that the products of the human rights violations that take place in those camps do not end up on the shelves of supermarkets that we shop in here at home week in, week out.

We have already engaged with businesses with links to Xinjiang; we have encouraged them to conduct appropriate due diligence. More widely, we have made a commitment to tackling forced labour crystal clear. With the introduction of the Modern Slavery Act 2015, the United Kingdom was the first country to require companies by law to report on how they are tackling forced labour in their supply chains. Today, I can announce a range of new measures to send a clear message that those violations of human rights are unacceptable and, at the same time, to safeguard UK businesses and public bodies from any involvement or links with them.

I have been working closely with my right honourable friends the Home Secretary, the Secretary of State for International Trade and the Chancellor of the Duchy

[Baroness Williams of Trafford]
of Lancaster. Our aim, put simply, is that no company profits from forced labour in Xinjiang, and that no UK business is involved in their supply chains. Let me set out the four new steps that we are now taking.

First, today the Foreign, Commonwealth and Development Office and the Department for International Trade have issued new, robust and detailed guidance to UK businesses on the specific risks faced by companies with links to Xinjiang, and underlining the challenges of conducting effective due diligence there. A Minister-led campaign of business engagement will reinforce the need for UK businesses to take concerted action to address that particular and specific risk.

Secondly, we are strengthening the operation of the Modern Slavery Act. The Home Office will introduce fines for businesses that do not comply with their transparency obligations, and the Home Secretary will introduce the necessary legislation setting out the level of those fines as soon as parliamentary time allows.

Thirdly, we announced last September that the transparency requirements that apply to UK businesses under the Modern Slavery Act will be extended to the public sector. The FCDO will now work with the Cabinet Office to provide guidance and support to UK Government bodies to exclude suppliers where there is sufficient evidence of human rights violations in any of their supply chains. Let me say that we in the United Kingdom—I think rightly—take pride that the overwhelming majority of British businesses that do business do so with great integrity and professionalism right around the world. That is their hallmark and part of our USP as a global Britain. Precisely because of that, any company profiting from forced labour will be barred from government procurement in this country.

Fourthly, the Government will conduct an urgent review of export controls as they apply, specifically geographically, to the situation in Xinjiang, to make sure that we are doing everything we can to prevent the export of any goods that could contribute directly or indirectly to human rights violations in that region. The package that has been put together will help to ensure that no British organisations—government or private sector, deliberately or inadvertently—will profit from or contribute to human rights violations against the Uighurs or other minorities. I am of course sure that the whole House would accept that the overwhelming majority of British businesses would not dream of doing so. Today's measures will ensure that businesses are fully aware of those risks, will help them to protect themselves, and will shine a light on and penalise any reckless businesses that do not take those obligations seriously.

As ever, we act in co-ordination with our like-minded partners around the world, and I welcome the fact that later today Foreign Minister Champagne will set out Canada's approach on these issues. I know that Australia, the United States, France, Germany and New Zealand are also considering the approaches they take. We will continue to work with all of our international partners, but the House should know that in the comprehensive scope of the package I am setting out today the UK is again setting an example and leading the way.

We want a positive and constructive relationship with China, and we will work tirelessly towards that end, but we will not sacrifice our values or our security. We will continue to speak up for what is right and we will back up our words with actions, faithful to our values, determined, as a truly global Britain, to be an even stronger force for good in the world. I commend this Statement to the House."

4.21 pm

Lord Collins of Highbury (Lab): My Lords, the serious human rights violations in Xinjiang are of enormous concern across all sides of this House. I welcome the Statement and the Government's recognition of the need for the UK to act. However, it is disappointing that, once again, the Government have been unable to bring forward proposals for sanctions against those responsible for the abuses. We in this House have repeatedly asked whether they will apply Magnitsky-style sanctions to officials involved in the persecution of the Uighur Muslims, only to be told that they will not provide a running commentary on the designation of sanctions. The evidence of slave labour, in addition to forced detention and other serious abuses, is overwhelming. So, in the absence of such a proposal, can the Minister at least confirm whether discussions with global allies are taking place to prepare for sanctions like those already authorised by the US?

On the measures in the Statement, first, the Government have announced guidance to UK businesses on the specific risks faced by companies with links to Xinjiang. Such guidance is welcome but, unless it is legally enforceable, there may regrettably be some who do not feel the compulsion to comply. What representations has the Minister made to British companies that have supply chains running through the province, particularly those in the apparel industry? Considering that the European Union will introduce legislation next year on due diligence, does the Minister believe that such guidance should be legally enforceable?

Secondly, on changes to the operation of the Modern Slavery Act, I appreciate that the Foreign Secretary acknowledged that the Act is not working, and the proposed changes are welcome. Can the Minister indicate when we can expect the necessary legislation to be laid before Parliament, and will the affirmative procedure be used to allow both Houses to consider it in full? I hope that the Government will consider strengthening the Modern Slavery Act with more substantive changes; for example, Section 54 applies only to large companies with a turnover above £36 million. Do the Government intend to broaden the scope of the provisions?

Thirdly, on the guidance, is the Minister able to confirm that he is confident that this guidance alone is sufficient at this stage—or whether the Government intend to introduce necessary legislation to hold to account those who act against such guidance?

Finally, on the review of export controls, I warmly welcome this step. The Minister will be aware of the amendment to the Trade Bill, in my name and those of the noble Lords, Lord Purvis and Lord Alton, and the right reverend Prelate the Bishop of St Albans; that amendment is, of course, being considered by the Commons as I speak. Whatever the outcome of the Commons' consideration of those amendments, I hope

that the noble Lord will be able to explain tonight how the Government will ensure future trade agreements will not contribute to human rights abuses such as those in Xinjiang. The best way is to give Parliament proper opportunity to scrutinise, which it has not had with the rollover agreements we have seen since Brexit.

Whatever action we take must involve like-minded international partners. It is now over a year since the Government called for United Nations observers to be given "immediate and unfettered access" to Xinjiang to verify claims, and the Government of China continue to refuse. Can the noble Lord set out what steps the United Kingdom will take at the UN, including at the Human Rights Council, to hold the Government of China to account? What steps are being taken to support the appointment of a UN special rapporteur for the investigation of forced labour and ethnic persecution in Xinjiang?

In addition to the UN, there is the G7 in June of this year, which the UK is set to host. Can the noble Lord tell the House whether there are any plans to place the horrendous human rights abuse in Xinjiang on that agenda? The human rights violations in Xinjiang have shocked the world in recent months, and it is now time for the world to respond and act.

Baroness Northover (LD) [V]: My Lords, I too thank the noble Lord for bringing us this Statement. The Foreign Secretary describes an appalling situation, with which we have become familiar. It is vital that our businesses do not benefit from slave labour in Xinjiang or anywhere else. The possibility of genocide must always be at the forefront of our minds, not least as we come up to Holocaust Memorial Day.

The Commons is indeed currently considering the amendments to the Trade Bill that we sent there. Ministers have been saying that Parliament, not the courts, should decide on genocide in relation to trade agreements. The noble Lord usually says international courts should decide on genocide, but he also admits that this is impossible when it comes to China. Yesterday, in relation to Nagorno-Karabakh, he said that

"it is a long-standing government policy that genocide is a matter for judicial decision rather than for Governments or non-judicial bodies."—[*Official Report*, 18/1/21; col. 991.]

That seems in line with the amendment in the Commons. He said, "judicial decision", not "international judicial decision" or "Parliament": could he comment?

The Chinese Communist Party has described the forced sterilisation of Uighur women as "emancipation". The UN convention on genocide clearly forbids this. The noble Lord will know that under the convention, when a state learns, or should have learned, of the serious risk of genocide, it must take action. Is his department making an assessment in relation to the Uighurs, and will he publish its conclusions? Given that China blocks routes to international courts, does he agree that the United Kingdom has a responsibility to find alternative routes to make the legal determination?

The second area I want to ask about, as the noble Lord, Lord Collins did, is the Magnitsky sanctions. The Government always say they keep these under review. The Minister will no doubt say that today, yet the US applies such sanctions in relation to China. Why do we not? The Foreign Secretary noted last week:

"Of course, many countries are nervous in their dealings with China because of its asymmetric economic clout."—[*Official Report*, Commons, 12/1/21; col. 173.]

That is indeed so. The noble Lord rightly says that sanctions are most effective when undertaken jointly with others. There are three major economic blocs in the world: the United States, China and the EU. We now have to work that much harder to gain traction among European allies, not just France and Germany, so what progress are the Government making here?

The last area that I want to ask the noble Lord about is in relation to company law. I worked on the Companies Act 2006. We included supply chains. Can the noble Lord explain why neither the Companies Act nor the Modern Slavery Act have proved sufficient here? Clearly, reputation is vital. I noted how quickly companies acted after the Rana Plaza disaster when they realised that their reputations were at stake. What about public procurement? Can we be sure that the PPE that we so anxiously sought during the pandemic did not come from Xinjiang? There were reports of some of it originating in North Korea. Who will monitor and act on the proposed new measures? Which Minister in which department? Will legislation be brought forward as indicated—and, if so, when—to close the loopholes that the Government clearly identify exist in the Companies Act and the Modern Slavery Act?

The European Union, as the noble Lord, Lord Collins, noted, intends to introduce legislation on due diligence, which will be mandatory. Are we working with it so that our standards are at least equivalent? Will this issue be considered at the G7 or D10, or however it is defined, in June? I look forward to hearing the noble Lord's response and also to the questions and answers from noble Lords who have so much experience in this area.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, I thank the noble Lord, Lord Collins, and the noble Baroness, Lady Northover, for their welcome of the provisions that have been announced. I also reassure them that, as they will have seen, earlier today I was engaging with one of the key NGOs that I speak to on a regular basis on issues of human rights, with a specific focus on Xinjiang.

It is worth just taking a step back. I pay tribute to many in your Lordships' House and in the other place, as well as other advocates around the world, in seeing where we have got to on this important issue, even over the last three years. There was a time where the issue of Xinjiang and the situation of the Uighurs was not often debated. However, because of the advocacy from across your Lordships' House and in the other place, there is a real strength and a real momentum behind the actions we have seen in international action, with the United Kingdom working with key partners. We have also had rich debates on various Bills, as well as more generally as we are doing today on specific matters relating to the situation in Xinjiang. I pay tribute to all noble Lords and Members in the other place for their continued not just interest but strong advocacy, for that is what is required.

Picking up on some of the specific questions, first, on the issues raised by the noble Lord, Lord Collins, on guidance and working with businesses, from my

[Lord Ahmad of Wimbledon]
own experience of the private sector over 20 years I think that the approach of successive Governments, because of the nature of the environment we work in, has always been to work with business and to offer guidance and structure so businesses can act. This new robust and detailed guidance to UK business sets out quite specific risks faced by companies with links to Xinjiang, underlining the challenges of effective due diligence—a point made by the noble Baroness, Lady Northover, as well. There will be a Minister-led campaign of business engagement—which was a point the noble Lord, Lord Collins, again raised—led by my right honourable friend the Home Secretary with an organised forum called the Business Against Slavery Forum made up of businesses, which I understand my right honourable friend the Foreign Secretary will also attend.

The noble Lord, Lord Collins, also raised sanctions and further designations, as did the noble Baroness, Lady Northover. I have to be consistent with what I said before: we keep the situation under review, across the world, because it is important in the new regime introduced by this Government that we continue to monitor abuses of human rights. I assure noble Lords that we will continue to act.

Answering a point that the noble Baroness raised about acting with key partners, we have carefully noted the action taken by the United States. We worked closely with the European Union during the transition period and, as we have come to the end of that, we will build a new engagement and relationship. As my right honourable friend the Prime Minister said, we want to be the closest ally and friend to the European Union, and we will work together on our shared values agenda.

As I have said—and I stand by this, as it is important for sanctions policy—there is sometimes no necessity for institutional frameworks, as we have seen and demonstrated in our relationships with Australia, Canada and the US. But it is important for relationships to be strengthened further. We will continue to work with all our allies, including the European Union, as we bring forward sanctions, across the world, to ensure that those who abuse human rights are held to account and suffer as a consequence.

The noble Lord, Lord Collins, talked of new legislation and confirmation through the affirmative procedure for some of the changes proposed to the Modern Slavery Act. My right honourable friend the Home Secretary will shortly bring forward details of those changes; these will be discussed through the usual channels. They will include further intent to impose financial penalties on businesses that do not comply with their transparency obligations in this respect.

The noble Baroness, Lady Northover, and the noble Lord, Lord Collins, both raised this issue. I go back to 2015, when my right honourable friend the Member for Maidenhead, Theresa May, was Home Secretary. I remember working directly with her on this ground-breaking Act, when we were spurred on by what was happening in the UK. This was well supported across all parts of your Lordships' House. It set the premise and basis for actions that we can take today. Other countries, such as Australia, have followed the United Kingdom's lead. Yes, more work needs to be done and more actions need to be brought, but the steps we are taking on Xinjiang underline our commitment to further strengthening the Modern Slavery Act. It was set up to ensure that we stop supply chains that abuse people's human rights. We will make full use of and, where necessary, strengthen the provisions of that Act.

I also assure the noble Baroness, Lady Northover, that the Government will provide guidance and extend provisions to support all UK public bodies to use public procurement rules to exclude suppliers where there is sufficient evidence of human rights violations in supply chains. Compliance will be mandatory for central government, non-departmental bodies and executive agencies. We expect this to increase public sector bodies' ability and willingness to exclude specific suppliers, and we expect increased scrutiny to drive up standards and due diligence. Again, the noble Baroness raised this point on companies supplying the Government.

Both the noble Lord and the noble Baroness raised international co-operation and continued advocacy. The noble Lord, Lord Collins, rightly raised action within the context of UN institutions, particularly the Human Rights Council. I look forward to engaging with him and the noble Baroness on this, as we look forward to the next Human Rights Council. The United Kingdom returns as a member, but it is also notable to see China returning. I assure your Lordships that we will focus on our agenda as we did at the previous Human Rights Council; our item 4 statement was specifically just on the issue in Xinjiang and Hong Kong. We will continue to retain focus and build momentum. We have seen success, as all noble Lords know, in the UN third committee, where 39 members, building on the 28 in June, supported our statement on the situation in both Xinjiang and Hong Kong.

On the G7 agenda, which was raised by both the noble Lord, Lord Collins, and the noble Baroness, Lady Northover, obviously we are working through the importance of the agenda. The Prime Minister recently announced that he himself will be hosting the G7 leaders in Cornwall, and of course the Foreign Secretary will be convening a meeting of G7 Foreign Ministers. As my right honourable friend the Foreign Secretary has said, the importance of the values agenda and of defending human rights will very much be factored into our thinking. As we are able to share some of the specifics of that agenda, I will of course do so.

The Deputy Speaker (Lord Lexden) (Con): My Lords, we now come to the 20 minutes allocated to Back-Bench questions. Questions and answers should be brief so that the maximum number of speakers can be called.

4.40 pm

Lord Forsyth of Drumlean (Con) [V]: My Lords, my noble friend said a few moments ago that he had to be consistent with what he said before. I would like to raise with him the issue, which is being discussed now in the other place, of the determination of the crime of genocide. He has always said that that is a matter for the courts, yet Ministers and the Government are now arguing that it would be quite wrong for the High Court in this country, which the noble and learned Lord, Lord Hope, has made clear is perfectly competent, to do that. So how can it be right to say that it is a

matter for a court, which my noble friend has already indicated would be subject to a veto, but not right for the High Court here to determine behaviour such as we are seeing in Xinjiang as being genocide?

Lord Ahmad of Wimbledon (Con): My Lords, my noble friend is indeed correct. We have consistently talked about the importance of competent legal authorities—the courts—ruling on these issues. When it comes to international matters, the institutions that exist, as the noble Baroness, Lady Northover, said, have been frustrated because of the lack of co-operation. The challenge that we have with the amendment being discussed in the other place—that is a live debate so I am mindful of what I may be saying to ensure consistency not just across two Houses but across two departments with two different Ministers speaking at the same time—comes to the issue of the separation of powers. I think our concern comes from the High Court having the power to frustrate trade agreements and the operation of the Government's foreign policy. I assure my noble friend that it is not about whether or not genocide has occurred in Xinjiang; it is about the crucial issue of the separation of powers, which is the key concern of the Government.

Lord Field of Birkenhead (CB): I thank the Minister for presenting the Statement. Might he tell the House a little more about the instructions that the Government have given to those who purchase a considerable range of goods on their behalf, including goods made in China, including cotton goods made there under slave labour conditions? If he could give the House more details about how he thinks the Government's Budget is going to be used in this respect, we would all be grateful to him.

Lord Ahmad of Wimbledon (Con): My Lords, the noble Lord is right to raise this issue. One of the specific announcements that we made was that, while there were obligations on the private sector within the context of existing legislation, there was a notable omission in the guidance issued to UK public bodies. We have used the proposal to further detail what we expect. That guidance for all the agencies that I have already listed will be shared with all departmental bodies and executive agencies, and it will increase public bodies' ability and willingness to exclude specific suppliers. I think the sharing of evidence of where those specific suppliers are will also be helpful, particularly when you are talking about various departmental bodies. We also believe it will increase scrutiny to drive up standards and the due diligence that public sector bodies themselves apply when supplying to the Government. When we have the full details of that, I will be happy to share them with the noble Lord and put a copy in the Library.

The Deputy Speaker (Lord Lexden) (Con): Unfortunately the noble Baroness, Lady Kennedy, could not be reached. I call the noble Baroness, Lady Smith of Newnham.

Baroness Smith of Newnham (LD) [V]: My Lords, in his previous response, the Minister pointed out that the advice given to the public sector was not the same as that given to the private sector. Can he reassure the House that public sector procurement has not included PPE or other imports from slave labour? The House and the rest of the United Kingdom really needs that reassurance.

Lord Ahmad of Wimbledon (Con): My Lords, I cannot—and I am sure the noble Baroness would not expect me to—give 100% affirmation that every single public sector body and contract has complied fully with the issues that she raised. I assure her and all noble Lords, as I have the noble Lord, Lord Field, just now, about the new government guidance. We will work with public bodies to ensure that the rules are fully understood and that there is a sufficient focus on, and sufficient evidence of, human rights violations that occur in supply chains. We will make public bodies fully cognisant of these so that they can act appropriately. With that reassurance, I hope and am certain that we will strengthen our work within the public procurement sector.

Lord Garnier (Con) [V]: My Lords, the Government's Statement, for which I thank my noble friend the Minister, is clear and well motivated, but, if I may say so, it is only so far, so good. Does he agree that China will do absolutely nothing until we name the senior Chinese government officials responsible for this inhumane activity, ban them and their families from travelling abroad, freeze their bank accounts and impose the widest possible Magnitsky sanctions on them?

Lord Ahmad of Wimbledon (Con): My noble and learned friend may know the answer I am about to give before I give it. He makes very powerful points about the importance of the end result of the human rights sanctions regime that we apply. It sends a very strong signal to those who abuse human rights that there will be consequences to their actions. I also assure him of what I alluded to earlier: there has been a real move in international action on this important issue. As we look forward to strengthening our work with partners, I note, on China not co-operating, that we are pressing for access to Xinjiang for the human rights commissioner, whose visit is the next key stage. We will continue to work with our partners to ensure greater transparency on the Chinese side. The Chinese take note not just of debates here and in the other place but of the action taken internationally. They are concerned about the situation currently being raised internationally in relation to their position on the global stage.

Lord Alton of Liverpool (CB): My Lords, in the House of Commons last week, the Foreign Secretary said that what is happening in Xinjiang is "on an industrial scale". Perhaps the most shocking example of this has been the reported export of 81 tonnes of human hair, shaved off the heads of Uighur slave labourers. Dominic Raab's predecessor, Jeremy Hunt, said that no responsible country would engage in free trade agreements with a state committing genocide. Can the Minister give a firm commitment now, on the Floor of the House, that the United Kingdom will not negotiate a free trade agreement with China until the United Nations is permitted to investigate Xinjiang and these violations on an industrial scale? Also, will

[Lord Alton of Liverpool]
he ask the Foreign Secretary to urgently respond to the request of the movers of Amendment 3 to the Trade Bill, both here and in the House of Commons, to meet Mr Raab to discuss the next steps in dealing specifically with the crime of genocide?

Lord Ahmad of Wimbledon (Con): My Lords, on the noble Lord's second point, I know that my right honourable friend the Foreign Secretary and his team will look at all requests that we receive from colleagues across both Houses. I will certainly follow up what the noble Lord has raised. On his earlier point, the important thing is that, in any trade agreement that we look to negotiate and are involved with, human rights will be reflected in our discussions; I speak as a Human Rights Minister. As I have said before, China is an important strategic partner to the United Kingdom, and it has an important role to play in the world but, in doing so, it needs to recognise that the situation in Xinjiang is not going unnoticed. China is now being pressed and held to account for what is going on.

Baroness Blackstone (Ind Lab): My Lords, I welcome the fact that the Statement recognises the appalling nature of the human rights abuses by Chinese authorities against the Uighur people, some of which have just been described by the noble Lord, Lord Alton. Given the denial of access to the region and refusal to admit that these abuses are taking place by the Chinese authorities, I wonder why we are being so slow in applying Magnitsky sanctions to the violators. I want to support what the noble and learned Lord, Lord Garnier, has already said. The Minister has said we are keeping this under review. I hope that he will not mind me saying that this seems rather feeble in the circumstances that we are now in. Surely, it is time for action and not just keeping something under review.

Lord Ahmad of Wimbledon (Con): My Lords, I hear what the noble Baroness says. The new sanctions regime was only launched last summer. I am sure she would agree with me that many, if not all, the designations that have been made have been valid and done because of the strength of the abuses that have occurred. I say this very clearly: the situation in Xinjiang and the action we have taken is demonstrable of not just our concern but, as the Foreign Secretary has said in the other place, the dire situation faced by the Uighur Muslims and, let us also not forget, other minorities within Xinjiang. We have acted. Of course, I take note of the issue around sanctions, but the actions we have taken—in Hong Kong, in engaging and showing international support, on the issues and limitations on extradition treaties with Hong Kong, arms exports and the recent provisions we have announced on forced labour—show that the Government are not sitting back. We are taking action, and there is a wide range of steps we can take. Of course, as ever, I note very carefully what the noble Baroness has put forward.

Lord Campbell of Pittenweem (LD) [V]: My Lords, I welcome and support these proposals but, bearing in mind the response of the Chinese government when the Australian government supported an independent inquiry into the outbreak of the virus in Wuhan, are the Government ready to hold the line and not back down if there is a similar response in this case?

Lord Ahmad of Wimbledon (Con): My Lords, I can assure the noble Lord that the government of China has not been, in any way, pleased with the leadership that the United Kingdom has shown on this important issue, both bilaterally in raising the issues directly with Chinese authorities, but also importantly in building international alliances—and we will continue to do so. We have an important relationship with China, but that does not hold us back from calling out challenges and abuses of human rights as we see them and when we see them.

Lord Sheikh (Con) [V]: My Lords, I feel that what is happening in China is reminiscent of the Holocaust, which has also been said by the Board of Deputies. The unfortunate victims this time are Muslims. We must now all decide to put a stop to what is going on. While I support the measures set out in the Statement, we need to take more robust actions and proceed to declare the persecution as genocide, invoke Magnitsky sanctions and consider legislation similar to the Uyghur Forced Labor Prevention Act in the United States. Furthermore, if the amendment on the Trade Bill is not accepted in the other place, we need to think about introducing similar measures in future. I would also like to add that if China does not allow outsiders, including a UN Commissioner, to have access to Xinjiang, we must stop Chinese officials from coming to the United Kingdom.

Lord Ahmad of Wimbledon: My Lords, there were a series of questions there. Some I believe have already answered, and I am sure my noble friend would acknowledge that. Of course, I share with him—as do the Government—the view that it is important to act and act now. As I have already illustrated, over the last few years we have seen real action being taken through multilateral fora, as well as directly, as the Statement from the Foreign Secretary has demonstrated. Of course, this does not stop here. If China fails to co-operate, we will continue to look to see what further provisions and actions can be taken. We take note of what our international partners are doing as well. As I have said consistently before, the application of sanctions works most effectively when we do so in partnership. On the point of stopping access to the UK for officials, one thing I will share with my noble friend, particularly through my engagement on multilateral fora, even with your worst foe you should never stop talking because by talking you are able to deliver your point of argument. China remains an important partner, so I do believe we will continue to work constructively where we agree with China and raise issues of human rights concerns where we do not.

Baroness Falkner of Margravine (CB) [V]: My Lords, I too welcome the Statement, but I am conscious that it talks about co-operation with international partners. The Minister will recognise that sanctions in whatever form work best when there is across the board co-operation among countries. I note that the EU has just completed

an investment accord with China. What actions will the Government take if EU firms manage to export items made with forced labour to the UK, while UK firms are disadvantaged? What conversations are being had with France and Germany to ensure that this does not happen?

Lord Ahmad of Wimbledon (Con): I agree with the noble Baroness. I can assure her that we are working closely with our European allies and friends on the important issue of global human rights sanctions. Indeed, they followed our sanctions regime. The practical issue that she raises is a matter for the EU and I am sure it will act swiftly in this respect.

Baroness Goudie (Lab) [V]: My Lords, last week I asked the Minister for Trade to what extent human rights issues were part of our trade negotiations and the signing of contracts. He was not able to say whether this would be the first item when we discuss trade with China and other countries. Can the Minister undertake that we will not enter further negotiations with China or anyone else without having human rights as one of the first items on the agenda?

Lord Ahmad of Wimbledon (Con): My Lords, I can assure the noble Baroness that human rights are a key consideration in our discussions on bilateral trade agreements.

Lord Balfe (Con): My Lords, as I have said in this Chamber before, we have to look at the broader picture when it comes to China. The Belt and Road initiative is about a very different China's place in the world. We need to pull ourselves together with the United States and Europe and take a common position. How are we going to get people on the ground to see what is going on? The Chinese are not allowing anyone in. Unless they do, we will not find out. We could not even find out what was going on in Leicester, which is in our own country. We must find a way of putting people on the ground in the province.

Lord Ahmad of Wimbledon (Con): My Lords, I agree with my noble friend. China is part of the international community. We continue to state the point he has articulated so strongly through all our multilateral fora engagements.

The Deputy Speaker (Lord Lexden) (Con): Lord Singh of Wimbledon? There is no response from the noble Lord, so I call the noble Baroness, Lady Stuart of Edgbaston.

Baroness Stuart of Edgbaston (Non-Afl) [V]: My Lords, when it comes to Xinjiang, no one can say that we did not know. I welcome the Statement and, in particular, the transparency requirements for companies. In a liberal democracy, however, it is important to show that it is not just the Government who object to this but also the people of the British Isles. Will the Minister make it obvious when companies are not complying with the transparency requirements and encourage retailers, such as Marks & Spencer, which have made it clear that they will stop trading in cotton and garments that result from slave labour? We, as consumers, should be clear that we should not purchase any of these products.

Lord Ahmad of Wimbledon (Con): The noble Baroness makes a powerful point. We will look carefully at strengthening communications in this area.

Lord Hunt of Kings Heath (Lab) [V]: My Lords, I welcome the Statement. I have been particularly concerned about the horrific practice of enforced organ harvesting from prisoners of conscience in Xinjiang and other parts of China. The China Tribunal concluded that, with regard to the Uighurs, there was evidence of medical testing on a scale that could allow them to become an organ bank. Will the Government take action to hold British companies to account for their human rights obligations by preventing them exporting to China equipment that could be used for this horrific practice?

Lord Ahmad of Wimbledon (Con): I assure the noble Lord, with whom I have engaged previously on this issue, that we take this very seriously. He makes some very pertinent points that I shall reflect upon. Seeing how we can move to a practical application is very high up my agenda, and I am seeing Sir Geoffrey Nice later this week to discuss it further.

Lord Austin of Dudley (Non-Afl) [V]: My Lords, this is a brutal and corrupt dictatorship, and the idea advanced by some that the closer the relationship with the West the quicker it will move to freedom and democracy has been proved completely wrong. While trade has increased massively over the last 30 years, China today is more illiberal and guilty of worse atrocities: a million Muslims in concentration camps, slave labour, people being killed, forced sterilisations, children removed from their parents, and anyone who opposes the regime locked up. The Minister and the Government should listen to noble Lords who have spoken this afternoon and we should impose Magnitsky sanctions on the dictatorship's leadership and those who use this regime's brutality to enrich themselves.

Lord Ahmad of Wimbledon (Con): I assure the noble Lord, and indeed all within your Lordships' House, that we are not just listening very carefully in a number of areas; we are acting quite decisively, and we will continue to do so. I have had this portfolio as Human Rights Minister for three years. About three years ago—the noble Lords, Lord Collins of Highbury and Lord Alton, among others, may have insights in this respect—the debates on this in your Lordships' House were few and infrequent. Today, we may have different perspectives on the speed at which the Government are moving, but I listen very carefully to the wise counsel of your Lordships, as do my right honourable friend the Foreign Secretary and other Ministers. I assure noble Lords that we will continue to engage both within and outside the Chamber on the important issue of human rights, not just in China but across the world.

House adjourned at 5.02 pm.

Grand Committee

Tuesday 19 January 2021

The Grand Committee met in a hybrid proceeding.

Arrangement of Business

Announcement

2.30 pm

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): 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 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. The time limit for the following debate is one hour.

Corporate Insolvency and Governance Act 2020 (Coronavirus) (Extension of the Relevant Period) (No. 2) Regulations 2020

Considered in Grand Committee

2.31 pm

Moved by ***Lord Callanan***

That the Grand Committee do consider the Corporate Insolvency and Governance Act 2020 (Coronavirus) (Extension of the Relevant Period) (No. 2) Regulations 2020.

Relevant document: 40th Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, since the emergence of Covid-19, the Government have been swift to act and provide businesses with help and support to give them every chance to survive and get through this difficult period of uncertainty. Since March last year, businesses have benefited from an unprecedented package of government support targeted at saving jobs and livelihoods, such as the furlough and job retention schemes, as well as billions of pounds in loans, rates relief, tax deferrals and grants.

Today, all areas of Great Britain are again subject to restrictions put in place to limit the spread of the virus and to help save lives. These restrictions are crucial to prevent our NHS from being overwhelmed and we wait for everyone to be vaccinated. But until life returns to normal, we have to recognise that the impact on business is severe and continuing. The adverse effects that these essential restrictions continue to have on many businesses, particularly those in the retail and hospitality sectors, have been well documented and well debated in our House. Once again, the Government have acted quickly following the introduction of the latest national restrictions, with a new £4.6 billion package of lockdown grants to support businesses and to help protect jobs.

These regulations, which were laid before the House on 9 December 2020, will continue to help companies by extending the temporary suspension on using statutory demands to wind up companies and other restrictions on company winding-up petitions to 31 March 2021. First introduced by the Corporate Insolvency and Governance Act 2020, these measures were extended from the end of September 2020 by order to 31 December and this instrument seeks to extend them further. The measures, like others in that Act, are aimed at supporting directors in guiding their companies through the period in which business is being affected by the current pandemic. Since their introduction in March last year, these temporary measures have helped to protect many viable companies from aggressive creditor enforcement during unprecedented trading conditions.

The temporary restrictions on company winding-up petitions that the regulations seek to extend mean that a petitioner must satisfy a court that any debts are not Covid-19 related. In this way, companies that would be viable but for the effects of the virus will not face action from creditors seeking to wind them up because they have been unable to pay their debts due to the trading restrictions that have been necessary to protect our citizens and the National Health Service. This extension will further help to support companies while national restrictions continue to affect the trading capability of many of our businesses.

While these measures are intended to help companies that may be subject to aggressive creditor enforcement, the Government have been clear that they are not to be seen as a payment holiday. Where companies can pay their debts, they should, of course, do so. It is important to note that these measures aim to encourage forbearance and do not extinguish any existing creditor rights or interests.

In addition to the protection that this measure gives, it is also intended to give those companies with unavoidable accrued arrears caused by the pandemic time to take advice from restructuring professionals and to negotiate and reach agreements with their creditors wherever that is possible. I know that many companies have done so successfully and I am grateful to them, but I urge others to do so and to plan for the post-Covid future with confidence.

I know that many businesses and their business representatives will welcome the continued support that these regulations will give them during this very uncertain time. But I also recognise that these measures will mean a further period of uncertainty for creditors where their rights to enforce recovery of their debts are temporarily suspended. The Government continue to ask for forbearance in allowing people and businesses to meet their debt obligations during these difficult and unprecedented times. As I said, these measures do not extinguish any existing rights or interests. Instead, they temporarily remove one mechanism for enforcing a debt and therefore provide additional protection to companies in distress as a result of the virus. A variety of other debt enforcement methods will remain. We think

[Lord Callanan]
it is right, therefore, that any consideration of an extension and for how long should be done on an individual basis, rather than in the round, considering all the circumstances and potential impacts.

In conclusion, we do not take this action lightly and we will review carefully before taking any further decisions when this extension period expires at the end of March. Therefore, I commend these regulations to the House and I beg to move.

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): I inform the Committee that the clock is not working currently and remind them that speeches are limited to six minutes. I call the next speaker, the noble Lord, Lord Sikka.

2.36 pm

Lord Sikka (Lab) [V]: My Lords, I thank the noble Lord, Lord Callanan, for his speech. I am certain that there is widespread support for extending the duration of temporary measures to protect businesses from insolvency proceedings during this Covid emergency. However, these measures cannot be extended indefinitely and businesses face the prospect of a cliff edge, leading to a flood of insolvencies, job losses and damage to the supply chain. When the temporary prohibition on issuing statutory demands and winding-up petitions ends, many businesses will face pressure to pay creditors. Failure to pay will lead inevitably to further insolvencies.

The Government need to bring forward plans for long-term financial support to help businesses to navigate the post-Covid era. Many small businesses are particularly affected; the Federation of Small Businesses estimates that 250,000 SMEs are at risk. They cannot easily get trade credit insurance and will also be hard hit by the bankruptcy of their major corporate customers.

As part of the support for businesses, the Government also need to reform insolvency laws. These enable secured creditors, usually financial institutions, to walk away with most of the proceeds from the sale of a bankrupt business's assets and leave very little for unsecured creditors. Such arrangements ensure that the risks of insolvency are not equitably shared between secured and unsecured creditors. There is no economic or moral justification for this. Banks and financial institutions hold diversified portfolios and therefore have a greater capacity to manage risks. In contrast, SMEs rely on comparatively fewer customers and have a much lower capacity to absorb risks arising from the bankruptcy of their major customers. A risk management perspective would recommend changes in insolvency laws.

Before Covid, unsecured creditors were taking a hit of around £4 billion a year and that is now bound to increase. This can be mitigated by reforming the risk-sharing arrangements. I would suggest that 30% to 40% of the proceeds from the sale of a bankrupt business's assets should be ring-fenced for distribution to unsecured creditors, thus ensuring that they make a substantial recovery which would enable them to survive.

We also need to look at the current regulatory arrangements for the world of insolvency. Too many insolvencies last far too long and enable insolvency practitioners to milk the liquidations. Higher fees for insolvency practitioners would reduce the amounts that are available to unsecured creditors.

On 27 October, in response to a Written Question, I was told that there are 14,328 liquidations of businesses that began 15 years ago but are still not completed. None of the insolvency regulators show any concern for such a state of affairs. Meanwhile, insolvency practitioners continue to collect mega fees. Here are some examples. For Comet's liquidation, Deloitte was charging out its partners at a rate of £1,160 an hour, and the cheapest grade of labour was charged out at £370 an hour. PricewaterhouseCoopers is a special manager assisting the official receiver in the liquidation of Carillion. It expects to make £100 million from fees, and the partners are being charged out at a rate of £1,156 an hour. At the House of Fraser administration, Ernst & Young is charging out its partners at a rate of £1,650 an hour, and the trainees are being charged out at £250 an hour. KPMG has recently been appointed administrator to Intu Properties, and its partners are being charged out at £920 an hour. Such charges harm the interests of unsecured creditors. The Government must really take steps to end this abuse.

To sum up, can the Government provide long-term plans to support businesses in the period after the end of the current temporary measures? I hope the Minister agrees that the unsecured creditors deserve a better deal. This can be done by ring-fencing some of the proceeds from the sale of the bankrupt businesses and by ending the excessive fees charged by insolvency practitioners.

2.42 pm

Lord Bourne of Aberystwyth (Con) [V]: My Lords, it is a pleasure to follow the noble Lord, Lord Sikka, who raised some very interesting points about insolvency law in general which I think are worthy of examination. I thank my noble friend the Minister for introducing these regulations, which are of course relatively familiar to us by now. I also thank my noble friend for what the Government have been doing in many areas to help alleviate the economic pressures that have been caused by the pandemic—I think particularly of the business rates holiday for retail, and I urge the Minister to consider with colleagues its continuation after the end of this financial year.

These regulations form part of a series that we have looked at under the Corporate Insolvency and Governance Act 2020, which was, of course, passed in June of last year—so some time ago now. I note in passing that we are renewing various aspects of the Act but on different timescales. I ask my noble friend why that is. As it seems extremely likely that we will be asked to renew these again, could we not do so on the same timescale and not have to see these things separately, given that they hang together? The provisions here on wrongful trading, which are due to end in April, will, I presume, then be subject to renewal. Can we look at these things in the round together?

Like many others, I welcome these regulations. The Explanatory Memorandum talks of a "breathing space" for business—it actually talks, I think erroneously, of a "briefing" space for business; unless that refers to

communications policy, I think it means breathing space. The regulations are widely welcomed for that reason, and they do indeed provide that breathing space.

However, I am concerned about how temporary these provisions are, a point made by the noble Lord, Lord Sikka. We are coming up now to nine months of these provisions. If, as I suspect, we are asked to renew them again, that will be a year. This is not just a concern about us being asked repeatedly to renew them, because I can see the sense of that, but there is a balance of convenience here. These regulations help some businesses by preventing aggressive creditor action, but there are creditors with quite legitimate debts who are feeling the pressures of the pandemic too, and they are not able to use the normal tools of enforcing those debts while these regulations are in place.

The Explanatory Memorandum says that the Government have assessed the impact of these regulations and whether it is appropriate, because of that balance of convenience, to continue with them. Can my noble friend explain how that impact assessment has been made, so that we can examine it? There is, as I say, a concern for some businesses, which will find life difficult because they are unable to use these tools because of the suspension of some of the rights to enforce those debts.

The regulations refer repeatedly to the point that these are indeed temporary measures, and therefore no full impact assessment needs to be made. I am beginning to question that. If these regulations are going to be repeatedly renewed, then they are not really temporary at all. At what stage does my noble friend think we should regard these as more permanent?

I have one other point to make, relating to the preferential status of HMRC. This was restored in December of last year, giving HMRC, as it were, the right to leap-frog as a creditor. I appreciate that HMRC will be in the same position as other creditors, but R3, the insolvency and restructuring trade body—which I thank for its briefing—notes that HMRC has a key role to play as a creditor in most insolvencies and that it could take proactive measures to help provide assistance. That would be a very sensible move in relation to what is obviously a challenging economic position that is likely to continue for some time. Subject to those considerations, I certainly lend these regulations my support.

2.47 pm

Baroness Jones of Moulsecoomb (GP) [V]: My Lords, I am well aware that the Government have helped a lot of small and medium-sized businesses, which I care very much about, and this is a good idea; these regulations need extending. However, it seems obvious, as the noble Lord, Lord Sikka, said, that there is going to be a cliff edge at some point. I am curious about how the Government think they are going to deal with that when it happens. Are these regulations going to be tweaked again, or is there really a long-term plan? I realise that it is difficult and that many businesses will continue to struggle and fail.

I want to ask about a point that the noble Lord, Lord Bourne, made about HMRC and its new status as a preferential creditor. If it is going to play an active and supportive role in insolvency proceedings, does that mean that there are going to be more staff? Will it be able to support viable restructuring proposals so that businesses and jobs could be saved? It would be good to explore the opportunities that HMRC might have.

Unfortunately, I have more questions than I have answers or recommendations on this issue. I would appreciate answers, if at all possible—in a letter would be absolutely fine. On HMRC, how will bottlenecks be addressed? Of course, when insolvency measures are not having a break any more, there will be a bunch of businesses that will go out of business. How will the Government address those bottlenecks?

Are the Government aware that they should be adding climate and ecological considerations to their long-term insolvency planning? Environmentally sustainable businesses should be supported wherever possible: if the Government are to achieve their net-zero carbon target by 2050, they will need companies which understand how to achieve this and how to cut their carbon emissions. On the contrary, environmentally damaging businesses should not be helped in the same way but should be dissolved or restructured with advice to remove the damaging elements of the business. I wonder whether this is taken into consideration by the Government. Obviously, I really would like to help, and that is an area where I could probably make some positive suggestions.

2.50 pm

Baroness McIntosh of Pickering (Con) [V]: My Lords, I am delighted to follow the noble Baroness, Lady Jones, and contribute to this short debate on the regulations. I thank my noble friend the Minister for bringing forward the extension, as set out in the regulations, and for presenting it in such a clear and concise way. There is much in the regulations to commend.

I pay tribute to the Government for their generous support, as set out by my noble friend. He referred in particular to the retail and hospitality sectors. I became more familiar with the contribution of the night-time economy to both the London economy and that of the wider UK, in other major cities across the four nations, through the ad hoc committee report in your Lordships' House on the Licensing Act 2003. At its height in 2019, the night-time economy contributed billions to the UK economy. As my noble friend set out, together with retail and hospitality, the wider night-time economy includes those who advise, PR people and all sorts of managers and so on—it is a much wider industry than it might appear at first, and they are very much in sight when we come to consider the regulations.

Like others, I will focus my questions on the Government's exit strategy. I entirely support the regulations and the extension to 31 March, which will protect companies and ensure their longer-term viability, and that the focus will be on the petitioner to establish in court that any debt incurred is not Covid related. I accept that this is a payment holiday and, as my noble friend said, that the debt must be repaid at once, in so far as it can be.

I want to highlight the new role played by HMRC, as other noble Lords have referred to. To what extent will BEIS and my noble friend work with the Treasury

[Baroness McIntosh of Pickering]
and HMRC to ensure that they adopt a more supportive approach to businesses? That will help to ease the restructuring of those businesses facing potential insolvency and also, as HMRC is a key creditor, it is in its interests to keep such companies solvent. An even more beneficial effect could come from reducing the fees currently earned, as set out by the noble Lord, Lord Sikka.

We are assuming, as my noble friend Lord Bourne set out, that we will extend this protection beyond 31 March, but that it will at some point come to end. To what extent is my noble friend mindful of that? What protections or balance do the Government intend to put in place at that time?

These regulations are extremely important at this time and could protect many businesses, many of which are major employers, enabling them to remain in business and allowing them to restructure within the three-month period.

2.54 pm

Baroness Ritchie of Downpatrick (Non-Afl) [V:] My Lords, it is always a pleasure to follow the noble Baroness, Lady McIntosh of Pickering. I thank the Minister for his explanation of these regulations, which simply prolong the period in which the temporary provisions that restrict the issuing of winding-up petitions under the Corporate Insolvency and Governance Act are to have effect to 31 March 2021.

While the regulations are welcome, like the noble Baroness, Lady McIntosh of Pickering, I wonder about the Government's exit strategy and the need to support companies that have had to endure—along with their management and employees—severe restrictions as a result of the Covid pandemic. This was raised during the passage of the Bill, and the debate on subsequent regulations, because of the nature of the pandemic, the need to bear down on infection rates, and the problems faced by many businesses in such a difficult trading environment. Therefore, why not extend for a longer period, as lockdown could last for a significant time, given the concerns around the level of transmission of the new variant of Covid.? I fully appreciate that there is a balance to be struck between having an exit strategy and protecting companies from insolvency.

Unfortunately, we are discussing this statutory instrument in retrospect, because of the nature of the pandemic—it came into force on the 31 December. However, is there not a better, more effective system, whereby we can debate and affirm such statutory instruments before they come into effect, to ensure greater accountability?

The noble Lord, Lord Bourne of Aberystwyth, referred to the briefing we received from R3. It suggests that a key way for the Government to help manage the process is the invocation of HMRC to take an engaged and supportive approach in its role as a creditor in most insolvencies. With its new preferential status, HMRC's support as a creditor will be required to ensure that viable restructuring proposals can be agreed—proposals that could potentially save thousands of jobs and businesses as the UK adjusts to a post-Covid environment next year.

As the noble Baroness, Lady McIntosh of Pickering, said, there are other issues. There needs to be a multi-departmental approach across BEIS, the Treasury and HMRC to address the regeneration of our high streets, where many of these businesses are located. What discussions have taken place about a root and branch review of the business rates system, the continued freezing of commercial rates, an underpinning and pump-priming of our high streets, the extension of the Towns Fund beyond 101 locations and the expansion of business improvement districts? All these measures would help pump-prime and underpin not only retail but our wider business environment, which has had to endure the impact of Covid and the consequential financial restrictions, and a loss of income. In many instances, independent retailers and small businesses have had to compete with those much larger businesses that are currently operating, such as the large supermarkets—but they cannot compete because, in most instances, they are not allowed to.

So I hope the Minister can provide some answers today; if not, I hope he can provide some answers to me in writing.

2.58 pm

Lord Razzall (LD) [V]: My Lords, like other speakers, I support these regulations, but I will touch on three points, two of which have been touched on by earlier speakers.

I note that no impact or economic assessment has been made of the effect of the regulations since they were brought in in the summer. Do the Government have any idea of how many liquidations have been postponed under these regulations and their predecessors? Presumably someone could look at how many liquidations took place in an equivalent period before Covid and at how many have not occurred since. I have no idea of the magnitude of the issue we will face once these regulations come to an end—which actually brings me to my second point.

A number of noble Lords indicated their concern that we must not get to the position, when these regulations end, where companies simply fall off a cliff into liquidation. Clearly, the Government must have given some thought to what is likely to happen, and it will be very helpful if the Minister, although not wanting to be pinned down on that, can give us some indication of the Government's thinking. As other noble Lords have said, the lobbying organisation has suggested that HMRC should be invoked to help a soft landing, but I should welcome the Minister's comments on whether further thought has been given to how we have a soft landing.

My third point is technical. As the noble Lord, Lord Bourne, said, it is not just the threat of being wound up that keeps company directors awake at night; it is also the question of protection from charges of wrongful trading. This was recognised by the Government in providing protection against both liquidation and unlawful trading until 30 September, but, unfortunately, although the winding-up suspension was extended to 31 December—and now further by these regulations—the wrongful trading protection was not extended at the same time, and made effective only from 26 November last year. I cannot believe this

was deliberate, but was presumably an oversight, but it means that, theoretically, directors could be liable for wrongful trading from 30 September to 26 November last year. Can the Minister please confirm that directors will have protection for their actions during that period?

3.01 pm

Lord Stevenson of Balmacara (Lab) [V]: My Lords, I start by thanking the Minister for introducing the SI this afternoon in his usual calm and unflustered way and for getting across the main points, for which we are always very grateful.

This has been a good debate and has raised much wider issues than perhaps might have been expected, because these are continuations of a continuation, and because of the concern expressed by a number of speakers that, as time moves on, we are moving into a situation where the temporary becomes permanent, and the implications of that.

We all recognise the points made by my noble friend Lord Sikka on the need to look more widely at insolvency issues as a result of some of our experiences in the Covid pandemic, but these issues were there beforehand. I should be grateful if, when he comes to respond, the Minister could give us more of a timetable for when and if we will look again at insolvency issues, because there are some substantial ones to be addressed—not least the question of the priority of secured creditors, but also of HMRC as a preferential creditor, which I shall come back to.

The noble Lord, Lord Bourne, made some interesting points about whether we should be expecting an impact statement at some point, but what we are looking for is a little broader. It is whether these proposals, which have been coming through in dribs and drabs, arising from the founding legislation, are having the effect we want: if they are, how much, and, if not, what are the implications? There is no criticism here of the Government's approach to what we are dealing with; they have done all they can in the time available to do it, and we should always acknowledge that. However, as the noble Lord said, as time goes on, we begin to wonder whether we are heading in the right direction and, if so, how and in what form we could review that without in any sense jeopardising where we are.

Other speakers have drawn attention to a wider range of things, including the impact all these proposals are having on the high street and the future of retail. These are issues that probably would not have become as exposed as they are without this pandemic, but we will have to address them.

We should also be very careful about the point made by the noble Baroness, Lady Jones, who I think put her finger on it. If HMRC is to have an engaged and supportive approach to insolvency in its capacity as a preferential creditor, is it actually structured in a way which will allow that to happen for the benefit of UK plc? At a very crude level, HMRC is there to make sure that we, the taxpayer, pay our taxes and pay them promptly. We have had a change, in some senses, with the new breathing space proposals coming forward for personal creditors—those suffering unmanageable debt—and that is to be welcomed, but I wonder whether the Minister will speculate a little about any changes that might be necessary to HMRC's founding principles if it is to take up this role as our green saviour, and our saviour of particular jobs and industries that we want preferred and supported as we come into the recovery phase. What exactly are the expectations here on HMRC? I do not quite recognise where we might be heading, given how HMRC is currently established and operates.

I have only one other point, to which I do not think there is an easy answer but which I should be grateful if the Minister would reflect on and perhaps write to me about, if necessary. The issue that comes forward out of all this is whether we can reasonably expect a petitioner to be able to satisfy a court—which is obviously a very high standard of requirement—that the company's inability to pay is, as the Explanatory Memorandum says,

"not due to coronavirus".

I am here grappling with the difficulty of proving a negative. How and in what form can a petitioner prove that, in a situation where a creditor could be the Inland Revenue but is more likely to be the banks, and they are putting forward a case for recovery of money outstanding to them? Exactly what will the nature of the evidence be, given the ongoing nature of the coronavirus, that will be crucial for the court to determine that such an inability to pay is indeed "due"—which is a very strict term—to the coronavirus? I do not think there is an easy answer to that, and I am not expecting one from the Minister, but perhaps, when he has had time to reflect on it, he could write to me about that.

This has been a good debate and I look forward to hearing the Minister's response. We do not object to the extension of the SI.

3.07 pm

Lord Callanan (Con): Let me first thank all noble Lords who contributed to this debate. I thought it was an excellent discussion and the points raised have highlighted the importance of the measures being extended by these regulations and the necessity we feel for extending them so that businesses can continue to benefit from them.

Since the emergence of Covid-19, businesses have continued to face an exceptionally challenging time, with many unable to trade, or their ability to trade at full capacity restricted due to social distancing measures. As I said in my opening speech, since March last year, the Government have provided businesses and their employees with a comprehensive package of support targeted at saving jobs and livelihoods, including the furlough and job retention schemes and billions of pounds in loans, rates relief, tax deferrals and grants.

Let me attempt to address some of the issues raised in the debate. The noble Lord, Lord Sikka, made a number of important points and asked in particular what the Government are doing to make long-term plans when these temporary measures end. I can assure him that we continue to keep these matters under review, and will of course always keep in mind all the various provisions in what we think is our world-class insolvency regime, to ensure that it remains fit for purpose.

My noble friend Lord Bourne asked about the different timescales for all these measures. He makes a good point. Following the expiry of the wrongful trading

[Lord Callanan]
measure at the end of September last year, the country entered a new phase of national restrictions, necessitating the urgent reintroduction of the wrongful trading temporary measures in the Corporate Insolvency and Governance Act, which of course could not be made retrospective, whereas this measure was already in force and was not due to expire until 31 December 2020.

My noble friend also asked how temporary these measures are and whether there was any impact assessment. We of course keep under consideration the ongoing impact of Covid-19 in the context of the new period of national lockdown, the ongoing effect of social distancing and the potential impact that these measures will have when we determine what measures should be extended and the period of that extension. Because of the temporary nature of the measures, as I am sure my noble friend will understand, a full impact assessment has not been carried out and, indeed, is not required by the better regulation framework. However, the Government have considered, and will continue to assess and monitor, the possible and likely impacts of the measures, their scope and their potential risks.

The noble Baroness, Lady Jones, and a number of other noble Lords, raised the issue of HMRC's preferential status and the impact on HMRC. That of course does not concern these particular regulations. We work closely with the regulators, the courts and the insolvency profession to ensure that they will be able to scale up and cope with the expected increase in insolvencies. The noble Baroness did not let us down and managed to include references to climate change and environmental factors. As I am sure she will understand, they are not connected with these measures, but I acknowledge her long-term point, which I think is right, about the need for environmental sustainability in businesses. I refer her to the recent announcement by the Chancellor that the UK will implement the requirements of the task force on climate-related financial disclosures, which will require companies to make disclosures of their climate impacts, so there will be an ability to compare across companies and shareholders will be able to take this into account when making investment decisions. The UK is one of the world's leading regimes in making companies go over to these measures. The noble Baroness will also be awaiting with interest the further measures that will address some of these factors, which will be forthcoming in the review of the audit procedures.

My noble friend Lady McIntosh, the noble Lord, Lord Razzall, and the noble Baroness, Lady Ritchie, asked what plans are being made for the end of these measures. As I said, businesses have already received billions in loans, tax relief, rate relief and grants to support them, and of course we always keep all these measures under consideration. The Government recognise the cliff-edge scenario, which would involve the cumulation of unpaid debts becoming due when restrictions and government fiscal support expire, and I can tell noble Lords that work is ongoing to develop measures to address what we are aware is a potential issue.

My noble friend Lord Bourne also asked about an impact assessment. As I said, we are not required to carry out an impact assessment under the better regulation framework, but of course we take careful note of the issues and what effect they are having.

The noble Baroness, Lady Ritchie, asked why the measures were not made for longer. The temporary measures under the original legislation can be extended only for six months at a time. Of course we realise that they are a serious curtailment, as a number of noble Lords pointed out, of the rights of creditors, so we keep them under constant review to ensure that we get the balance right and that they are not kept in place for longer than is absolutely necessary. When the measures expire, the insolvency regime will return to its normal working practices, including the right of creditors to act to wind up companies that have not paid their debts.

The noble Lord, Lord Razzall, also raised the issue of the impact assessment and asked how many liquidations have been postponed under these regulations and their predecessors since the summer. I do not have those figures for him, but if there is any further information that I can provide him with, of course I will do so in writing.

Finally, the noble Lord, Lord Stevenson, asked how it would be possible for a petitioner to satisfy a court on, as he put it, the negative that the debt was not due to coronavirus tests. That is a good point, but ultimately it is for the courts to consider how to apply that test and whether the failure to pay is not related to Covid-19 in individual cases. The test of whether Covid-19 has caused a company's difficulties is intended to present a high bar, as I think the noble Lord recognised, temporarily to enforce the forbearance of creditors that the Government have called for.

Extending this measure now to 31 March will provide the necessary certainty that companies are looking for, to provide them with relief in the short term. However, the Government recognise the difficulties faced by many small businesses and sole traders and have introduced a range of support measures, including local restrictions support grants, bounce-back loans, deferred VAT and PAYE payments and, of course, the newly announced job support measure that is due to commence in May.

In conclusion, these regulations will provide much-needed continued support for businesses, allowing them to concentrate their best efforts on continuing to trade and build on the foundations for economic recovery in the UK. Careful consideration has been given to the extension of these temporary measures. As I said, we will continue to monitor this situation closely before making any decisions about further extensions and, of course, at the time we will consult fully with businesses and their representatives. With that, I commend these regulations to the Committee.

Motion agreed.

3.16 pm

Sitting suspended.

Arrangement of Business

Announcement

3.46 pm

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): My Lords, the hybrid Grand Committee will now resume. Some Members are here in person, respecting social distancing, and 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. The time limit for the following debate is one hour.

Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) (No. 2) Regulations 2020

Considered in Grand Committee

3.47 pm

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

That the Grand Committee do consider the Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) (No. 2) Regulations 2020.

Relevant document: 41st Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con) [V]: My Lords, I hope it will be helpful to your Lordships if I speak to both instruments, given that both deliver legislation addressing requirements for the movements of UK sanitary and phytosanitary goods.

The first instrument completes the suite of EU exit amendments set out in the Official Controls (Animals, Feed and Food, Plant Health etc) (Amendment) (EU Exit) Regulations 2020, which were debated on 2 December and came into force on 31 December. As with the earlier official controls instrument, this further instrument amends EU retained regulations governing official controls on imports to Great Britain of animals, animal products, plants and plant products, including food and other imports relevant to the agri-food chain.

The EU regulatory structure being retained and made operable by these amendments is complex and extensive. Due to the intricacy of the amendments required and a requirement set by the European Commission—that we should make and publish the first official controls instrument before mid-December, as a condition of it considering listing the United Kingdom as a third country for export to the EU—we took the decision to divide the necessary legislation into two instruments.

The earlier official controls instrument focused on operability amendments to the main body of EU official controls regulations. The instrument before your Lordships today makes similar operability amendments to more than 30 separate tertiary regulations, covering procedural aspects of the official controls regime. For example, Part 3 of the instrument amends the EU tertiary regulation governing the information management system for official controls, known as IMSOC. This amendment removes references to complying with EU-wide standards, which are mandated to enable member states to integrate their IT systems across the EU as a whole. The amendments do not change the policy requirement for the UK to maintain computerised information management systems to the standard necessary to deliver official controls information and processes.

This legislation ensures that we can continue to deliver robust, effective controls and checks on all food, animal and plant imports. As previously announced, we have now started to phase in border controls on imports from the European Economic Area. Our purpose is to ensure that, without compromising our biosecurity, we maintain the flow of import activity at the border and give business and industry longer to prepare for the full controls regime. Phasing is a temporary, pragmatic step to support international trade and mitigate border disruption, made necessary by the unprecedented impact of Covid-19.

From April, pre-notification and health documentation will be introduced for imports of EU products of animal origin and for all regulated plants and plant products. From July 2021, we will have controls in place for all imports of European Union SPS goods.

I turn to the second instrument, the Plant Health (Amendment) (EU Exit) Regulations 2020. Delivering unfettered market access for Northern Irish businesses moving goods into Great Britain is one of the key commitments in the Northern Ireland protocol and the United Kingdom Internal Market Act. The measures in this instrument reflect those commitments. They specify the mechanism to allow regulated plants and plant materials to move from Northern Ireland into Great Britain. This instrument does not introduce any policy changes.

The purpose of this instrument is to protect biosecurity and to support trade by ensuring that effective phytosanitary controls continue to operate between Northern Ireland and Great Britain, and within Great Britain, in relation to Northern Ireland qualifying goods. The instrument makes amendments to retained EU law to allow movements of qualifying goods into Great Britain under an EU plant passport. This means that for Northern Irish businesses trading with Great Britain nothing will change compared with the situation before 1 January.

Once in Great Britain, an EU plant passport can continue to accompany the qualifying goods, but an authorised operator will also have the option, as for other regulated plants being moved in Great Britain, to replace the plant passport with a UK plant passport where appropriate. An EU plant passport on qualifying goods may be replaced by an authorised operator if they choose to replace the plant passport for business reasons—for example, to include their own business details—or split a consignment where each trade unit, be it a pot, box, trolley or similar, is not already covered by an individual plant passport. In these circumstances, the provisions allow GB operators to replace the original EU plant passport with a UK plant passport if the characteristics of the qualifying goods have not changed, but they also ensure that the traceability requirements in relation to the goods are maintained. Provision is also made for the goods to be assessed against GB plant health standards where these are different from those of the EU, and for the authorised operator to

[Lord Gardiner of Kimble]
have the option to issue a UK plant passport where the goods are assessed as meeting GB plant health requirements.

Under the terms of the Northern Ireland protocol, Northern Ireland will maintain alignment with the EU plant health regime rather than that of Great Britain. This instrument makes amendments to allow identification of qualifying goods on the GB market to ensure traceability in the event of any biosecurity issues arising which need to be addressed.

The format of UK plant passports is amended to include a country code of GB(NI) for all qualifying goods where replacement UK plant passports are issued once within GB. This will allow the goods concerned to continue to be identified as qualifying goods and will facilitate effective enforcement.

Devolved Administrations in Scotland and Wales have formally consented to both instruments and the Northern Ireland devolved Administration have also consented to the plant health instrument.

The basis of these instruments—and my concern—is to protect biosecurity, which is of supreme importance to the Government and to all, as well as to deliver on our commitment to provide unfettered market access for Northern Ireland. I beg to move.

3.55 pm

Lord Rooker (Lab) [V]: My Lords, that was a commendable introduction from a commendable Minister. I have read Defra's detailed answers to the memo submitted by Friends of the Earth which appears in the annexe to the recent 41st report from the Secondary Legislation Scrutiny Committee. I have no problem with the use of these powers. They may need to be used very quickly, and I see more than one reference to their being used on the strength of appropriate scientific and technical advice. As such, I ask the Minister to say a bit more about the use of reference laboratories and animal feed. Neither of these areas is politically sexy, yet they are vital for public health and animal health. Will the arrangements be dependent on new IT systems? How will we share information with the EU and the EEA? Finally on this one, can the Minister say something about the supply and training of veterinarians?

On the second statutory instrument, relating to plant health, can the Minister say a little more about the work of the UK plant health risk group? I would like confirmation that the new, so-called bonfire of regulations will not be used to keep the public from knowing about the work of the risk group. I know from my own experience at the Food Standards Agency about the balance of competences exercise conducted by the coalition Government. Most regulations are for public protection, which of course is why that exercise was buried after the 36 reports were published. That completes my list of questions for the Minister.

3.57 pm

The Earl of Caithness (Con) [V]: My Lords, I am grateful to my noble friend the Minister for his introduction of these statutory instruments. As he rightly said—I hope I quote him correctly—they are complex and intricate.

Given that quite a lot of diseases have come in from Europe over the past years, can my noble friend confirm that there will not be an increased risk of diseases coming in from Ireland as more trade is done directly between Ireland and the rest of the EU, cutting out Holyhead and the land journey across Europe? Is there not a greater chance of plant diseases coming from Ireland into Northern Ireland and thus into the UK that way? Can my noble friend confirm that he has got his eyes on this potential back-door entry for diseases?

Can my noble friend also confirm, in words of one syllable, that there will be no reduction in standards of biosecurity and no weakening of the regulations? Do the Government have plans indeed to tighten up the regulations? Now that we are a third-party state, surely there is an opportunity for us to make it even more difficult for diseases to come into this country.

Lastly, how will people be notified when the Government take action? Will it be a simple matter for firms to operate? Will my noble friend make certain that the information is transparent and on all government websites? I am afraid that some websites are not kept as up to date as they should be. Perhaps he could ensure that they are in future.

3.59 pm

Lord Bilimoria (CB) [V]: My Lords, outside the trade agreement, the EU granted the UK national listed status on 24 December, which allows the trade of live animals and products of animal origin and plants to continue after the transition period. Sanitary and phytosanitary—SPS—border checks will be required for trade in live animals and products of animal origin, meaning that agri-food traders will meet with extra costs and burden. Does the Minister agree with that?

SPS border controls will include extensive checks and specialised paperwork, and frequent physical inspections will be required. Does the Minister agree that it is incumbent on both sides to minimise disruption and keep goods moving, as businesses continue to get to grips with the changes since 1 January? Does he also agree that authorities could help by relying on pragmatism rather than penalties, and that honest mistakes should be coached and not penalised in the coming weeks and months?

The issues that arise must be resolved quickly. As president of the CBI, I can say that the CBI is on hand to help the Government by getting information and guidance to businesses as quickly as possible. As firms adjust to new processes and procedures, they will be keen to see quick progress on issues outside the deal to support businesses, and greater regulatory co-operation outside the area we are discussing. For example, financial services and the mutual recognition of professional qualifications are other areas that need to be dealt with. Over the coming weeks and months, it is vital that government and business work together closely to shape the new relationship with the EU and ensure that the UK remains a competitive, dynamic and innovative economy.

We have heard that some hauliers have been reluctant to carry multiple firms' loads together in one shipment, particularly for food, given the added challenges posed by collating paperwork and clearing customs. A handful

of major logistics firms have also stopped deliveries to and from the UK, given a high number of consignments reportedly not meeting new requirements. Of course, the pandemic has not helped the situation, but does the Minister agree that there is a shortage of customs agents? It is estimated that about 50,000 would be required, but that there are possibly only 11,000 to 12,000 now. When does he see this situation being resolved?

Finally, we have heard that, in Dublin, the volumes are down 50% on normal levels—this was reported yesterday. That might of course be due to stockpiling before Christmas and Covid. However, can the Minister comment on the veterinary health certificates required under the EU's SPS rules, which are also causing considerable problems for UK food companies?

4.02 pm

Lord Clark of Windermere (Lab) [V]: My Lords, I have always felt that one of the great contributions we made to the European Union was by insisting upon the environmental and animal welfare standards. Having read these memorandums—the documents on official controls—I found there was so much in them, so I think the Government are committed to us maintaining at least those standards that we had when leaving.

I want to follow a point raised by my noble friend Lord Rooker, who related human health to animal welfare and animal health. I want to ask about a specific aspect of that. We all know that, on the human side, antibiotics are a major contributor when we look at fighting illness and keeping fit. We also know—the noble Lord, Lord Gardiner, will know this in particular, in his profession as a farmer—about farmers making great use of antibiotics and that, as a society, we benefit enormously from that contribution to farming. But although most farmers go to great lengths to minimise the amount of antibiotics they use in farming, there is some passing-over to human health. Of course, the more antibiotics we have in our fight against illness, from whichever source, the greater the resistance we will have in getting the benefit from antibiotics.

I was interested to discover that there is a move to develop a particular type of antibiotics in agriculture, which would be unique to agriculture and would not transfer across to impact human health. Am I right in assuming, when I read these documents, that this sort of activity in Britain is using our science—just as we used it in developing the vaccine to fight Covid—to try to develop that in the fight to improve human health?

The Deputy Chairman of Committees (Lord Alderdice) (LD): The noble Lord, Lord Lilley, has withdrawn so I call the next speaker, the noble Baroness, Lady Fookes.

4.05 pm

Baroness Fookes (Con) [V]: My Lords, I have to confess that I find reading statutory instruments very hard going—certainly not bedside reading. I sometimes have difficulty with the Explanatory Notes, so I hope that what I am going to say accurately reflects the situation, and that where it does not, I can be put right.

My understanding is that, since 1 January, we have been operating our own passports for plant health, whereas Northern Ireland remains part of the EU for this purpose. People there will therefore continue to operate using the EU passports for health, in which I am greatly interested. When proper goods come over from Northern Ireland to the rest of the UK, if I may put it that way, I gather that we are going to accept the EU conditions. What worries me is this: supposing they differ over the course of time? I recall that, before we left the EU, there were sometimes mutterings that it was not being strict enough about plant health regulations. So supposing our regulations get stiffer and its remain the same or are different, what then would be the position for the import of these plant products?

I also understand that it is possible to convert EU passports into UK passports, if I understood the Minister correctly. Again, I am not sure whether I understand what the procedures or the conditions are. If my noble friend could tell me briefly, either at the end of the debate or subsequently, I should be very grateful.

On the other hand, when the plants go from the UK—or Great Britain, as I should call it, to be absolutely accurate—to Northern Ireland, I gather that it will not accept our UK passports. We shall therefore have to comply with whatever regulations the EU sets forth, as a third country, so to speak. What is the position right now? Am I to understand that there is a period of grace between now and 1 April, where it would be much easier to send them in, and what happens after 1 April? Will it be very tricky or expensive and administratively time-consuming to do all this? Again, I should be grateful for some answer on this from my noble friend.

4.08 pm

Baroness Bennett of Manor Castle (GP) [V]: My Lords, it is a great pleasure to follow the noble Baroness, Lady Fookes, who has reflected some of our shared interests as a fellow member of the APPG on horticulture. I thank the Minister for his detailed introduction to these statutory instruments. He made clear the complexity of what we are dealing with. It is clear that we are far from the frictionless trade that we were sometimes implausibly promised by the Government. The noble Lord, Lord Bilimoria, referred to some of the difficulties being encountered now on the border.

I would like to begin with this question to the Minister. The Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) (No. 2) Regulations were made on 21 December and laid on 22 December. Can he make it clear how well they have been communicated to small businesses and to academics—the people who have a real interest in this area? What steps are the Government taking to ensure that people understand what is actually going on, if they do not have time to spend their entire day focusing on the fine details of statutory instruments?

I pay tribute Friends of the Earth, which prepared two excellent briefings on these statutory instruments that I relied on quite heavily. I have a question about the use of the negative statutory instrument process. Regulation 2 of the official controls regulations allows regulations to be made on special import conditions

[Baroness Bennett of Manor Castle]
on animal and related products, and Regulation 13 gives the Secretary of State and Welsh Ministers special powers to make regulations concerning meat and bivalve production by negative statutory instrument. It appears that similar procedures in the European Commission operate in a much more democratic way, so could the Minister comment on how this squares with the taking back control agenda if Parliament has less oversight than we see in Europe?

The noble Lord, Lord Rooker, referred to the European Union Reference Laboratory for Animal Proteins in Feedingstuffs. I would like some reassurance from the Minister that there will be continual ongoing skills and knowledge sharing, and that we have a real sense that we are still right up at and contributing to the cutting edge, co-operation obviously being much more useful than competition.

Finally, I come to the plant health amendment regulations 2020. Again, my question relates to transparency and openness. The noble Lord, Lord Rooker, and the noble Earl, Lord Caithness, both referred to the question of openness in the reporting of the UK plant health risk group's proceedings—both minutes and agendas, one would hope. The comparable EU body, the Standing Committee on Plants, Animals, Food and Feed, does this with commendable regularity and openness. Given that all these meetings are, I am sure, now conducted by teleconferencing, as most of us in your Lordships' House now operate, I see no reason why they should not be broadcast for anyone with an interest. There is, of course, a great deal of interest in issues around plant diseases, invasive species, diseases like Xylella, and, as the noble Lord, Lord Clark of Windermere, referred to, antibiotic resistance, and the risk of importing it and antibiotic-tainted meat. Has the Minister considered whether the plant health risk group's meetings could be fully conducted in public by means of Zoom or similar so that they are available to everyone?

4.12 pm

Baroness McIntosh of Pickering (Con) [V]: My Lords, I am delighted to follow the two noble Baronesses and I thank my noble friend for his typically clear explanation of what are very complicated regulations. My starting point is that importers and exporters are simply not used to form filling and customs declarations, which have not been a requirement since we joined the single market in 1992. So, while I welcome the phasing in of the first regulation on animal feeds, food and plant health, as he outlined, could my noble friend be clear what the requirements will be in the new model certificates, and the timescale within which they will be available? Could this be done as soon as possible? Could he also update us on the development of the

"appropriate computerised information management system"

referred to in the first instrument before us?

On plant health, could my noble friend confirm that we will still have access to the EU risk assessment, such as TRACES? In the case of ash dieback, we exported ash seeds and reimported them as saplings. We happened to import ash dieback, which of course was not intentional. When my noble friend refers to checks being proportionate, depending on the specific factor, commodity and continuity of exports, will he ensure that sufficient training will be given under both regulations to ensure that importers and exporters are familiarised at the earliest possible stage with the requirements they will be asked to meet?

On the concerns raised by Friends of the Earth to the Secondary Legislation Scrutiny Committee regarding imports into GB, I am sure my noble friend will confirm that this will be available at the earliest opportunity on the government website. Will he again ensure that sufficient time is available to exporters and importers to prepare? I understand that the forms were only prepared in November. I hope that their coming live dates of 1 April and 1 July will give sufficient time for this purpose.

Like my noble friend Lady Fookes, I find it very confusing that there will be two systems in operation, one for those exporting from Northern Ireland to GB and another for those exporting from GB to Northern Ireland—but I am sure my noble friend will confirm that under the protocol there is no alternative. I welcome the opportunity to put these questions and to give the regulations some scrutiny this afternoon.

4.15 pm

Baroness Bakewell of Hardington Mandeville (LD) [V]: My Lords, I am grateful to the Minister for his introduction. I will begin with the official controls regulations on animals, feed and food, and plant health. As has been said, we debated regulations with the same title on 2 December, and here we are again going over the same ground. The first SI had to be passed by December to comply with our third-country status. The noble Lord, Lord Bilimoria, referred to safety in our sanitary and phytosanitary systems—SPS—and possible costs to businesses. I know that everyone was working flat out before Christmas and that some legislation had to be left until after 1 January, but I hope we will not come back yet again to debate the same issues but with minor amendments throughout 2021.

On this occasion, we are concerned with border control posts. As we have seen on regular news reports, the number of forms required to be completed to comply with EU official controls is very burdensome. SPS checks will, apparently, vary proportionately, depending on risk factors. This includes the import of live animals, products of animal origin or plant materials, depending on whether they are exported from a country with any current known incidence of relevant animal or plant diseases. If animal and plant products are imported from a country that has a known disease, this is a considerable risk to our farming and horticulture sectors. Can the Minister reassure us that he is confident that such imports will be disease free? The noble Earl, Lord Caithness, also referred to this.

I am pleased that the devolved Administrations have been consulted, with the Scottish and Welsh DAs having given consent. I understand that the SI does not apply to Northern Ireland. Like many others, I am extremely concerned about what I am seeing happening in Northern Ireland, with food shortages and some empty supermarket shelves. I am being somewhat opportunistic in mentioning the crisis in Northern Ireland; although it is not part of this SI, a situation

has developed that needs urgent attention. Public confidence in the Government's legislation post Brexit will be severely dented by what people see happening in Northern Ireland due to border controls.

Annexe 2 lists 30 operable amendments made by this instrument to EU exit legislation. I can see many old friends in that list. Many relate to products for human consumption. In the past, lax regulation of animal feedstuffs has led to some catastrophic disease outbreaks—I refer, of course, to BSE. We have learned many lessons along the way, but it is easy to relax rules, thinking we are safe, only to find that some unknown variant has crept back in through the back door. I ask the Minister: are there similar restrictions on the import of foodstuffs destined for animal consumption to those that there are for food destined for human consumption?

I turn to the plant health amendment regulations, which also deal with import controls from third countries. New plant health passports needed for qualifying Northern Ireland goods sent to the UK will apply only one way. Can the Minister say why plant passports are not needed for goods going in the opposite direction? The noble Baronesses, Lady Fookes and Lady McIntosh, touched on this.

Now that we are in a different regulatory and legislative regime, there is much that concerns us about how rules we have been used to relying on are being somewhat arbitrarily changed. The lifting of the ban on neonicotinoids to assist the sugar beet growers is one such example.

I know the Minister has long been an advocate of bees, and he will have his own personal views. It must therefore be difficult for him to feel any great enthusiasm for the change that the Secretary of State has made, and I would be interested to hear how he has managed to reconcile this dichotomy.

Friends of the Earth, which was referred to earlier in the debate, is concerned about the lack of transparency and access to information. The UK Plant Health Information Portal does not offer transparent or up-to-date information on the activities of the UK plant health risk group, as mentioned by the noble Baroness, Lady Bennett, and the noble Lord, Lord Rooker. This is a serious issue for those who wish to have access to this information. Can the Minister say why this is and whether the Government have any plans to rectify this omission?

I look forward to the Minister's response to all the queries raised this afternoon. These SIs, although apparently minor, are important. On that basis, I am happy to see them approved.

4.21 pm

Baroness Hayman of Ullock (Lab) [V]: I start by thanking the Minister for introducing the SIs so clearly today and for his very helpful briefing beforehand. First, I will address the animals, feed and food and plant health regulations.

Paragraph 2.2 of the Explanatory Memorandum explains that sanitary and phytosanitary checks are to be carried out at "designated border control points". The Government committed to building more infrastructure at ports and elsewhere to support the increased number of checks. However, we know that not all of these were ready on 1 January. Will the Minister take this opportunity to update colleagues on the status of these facilities, particularly given the fact that Her Majesty's Government have acknowledged that there have been problems at the borders?

Part 2 refers to the special import conditions that may be imposed in respect of imports from third countries of products of animal origin intended for human consumption. Can the Minister clarify how special import conditions will be communicated, how long they will apply and the processes proposed to review their cumulative impact?

A number of noble Lords have mentioned the issues that were raised by Friends of the Earth. For example, Regulation 4 amends the previous animal feed regulations to omit Regulation 90. This had previously replaced references to the European Union Reference Laboratory for Animal Proteins in Feedingstuffs with the words "reference laboratory". This was mentioned by both the noble Lord, Lord Rooker, and the noble Baroness, Lady Bennett, and we would be interested to know why these references have been reinstated. Does this represent a specific, time-limited transitional arrangement or an agreement on continued UK engagement, or is it that no reference laboratory yet exists within the UK to take on this work?

The noble Baroness, Lady McIntosh, referred to Regulation 17 and model official certificates, so can the Minister clarify the requirements for these certificates and the timescales within which they will be available? The noble Baroness also mentioned that there is an update required on the development of

"the appropriate computerised information management system"

that is referred to in paragraph (6)(b).

We were concerned as to why the regulations in this SI were not included in the previous SI, debated at the beginning of December; this was mentioned by the noble Baroness, Lady Bakewell. The Explanatory Memorandum appears to blame the European Commission, and I am aware that the Minister explained in his introduction why the regulations were not dealt with previously. But we agree with the comments of the noble Baroness, Lady Bakewell, and her frustrations in having to, once again, go over ground we have already covered.

I turn to the draft plant health amendment regulations. As we have heard from the Minister, this instrument aims to protect biosecurity and support trade between Great Britain and Northern Ireland by ensuring that plant health controls for qualifying goods moving from Northern Ireland to Great Britain can function after the end of the transition period.

The Secondary Legislation Scrutiny Committee raised the question of documentation for products heading in the opposite direction—Great Britain to Northern Ireland—and although I am aware that this is not technically within the scope of this SI, I hope that, given the problems currently being experienced by supermarkets, the Minister will not object to us asking for clarification on whether or how supermarkets have to notify Her Majesty's Government that the procedures have actually been updated, and for an update on the situation regarding the flow of goods.

[Baroness Hayman of Ullock]

Regulation 3 allows the Government to move products that pose a pest risk. This has also been discussed by other Members, including the noble Earl, Lord Caithness, so I will not go into any further detail on that. But it would be helpful for the Minister to clarify who determines what constitutes an "acceptable level" of risk, and which body would determine whether the decision of measures to adopt was suitable to reduce risk to an acceptable level.

Paragraph 7.4 of the Explanatory Memorandum notes that, in some circumstances, British operators can replace an existing EU plant passport with a UK equivalent; the noble Baroness, Lady Fookes, referenced this. Can we find out exactly what this process entails in practice? Will there be any time delays? What kinds of costs could there be? How has this been communicated to industry in advance? The noble Lord, Lord Bilimoria, raised questions about support for business, and I do not feel that the Explanatory Memorandum is clear on these points, other than saying that it did not believe that consultation was necessary.

The Explanatory Memorandum also repeatedly states that the instrument

"facilitates the government's policy of unfettered market access".

While it may do that on paper, there have been initial teething problems which have amounted to anything but unfettered access. I ask the Minister to encourage the Government to apologise to businesses which have been affected by the lack of lead-in time for these new procedures. I await his response with interest.

4.27 pm

Lord Gardiner of Kimble (Con) [V]: My Lords, this has been a very interesting debate, and I thank all noble Lords. Inevitably, with the time factor, there is much that I would like to say. I am going to send a substantial letter, and I will include the Government's response to the points made by Friends of the Earth, because then one can see some of that in context. But I will run through some of the points made by noble Lords.

The noble Lord, Lord Rooker, asked about reference laboratories. Defra's global animal health team has worked closely with the UK CVO, the devolved Administrations, the Pirbright Institute, Cefas, the APHA and the Agri-Food and Biosciences Institute—AFBI—in Northern Ireland to ensure that the UK's animal health national reference laboratories are prepared for withdrawal from the EURL. The noble Lord also asked about vet training. Defra is working with port health authorities, the APHA and the Food Standards Agency to ensure that recruitment and training of the additional staff required is completed for each stage of the new import regime.

My noble friend Lord Caithness asked about communications on the work of the plant health risk group. This group publishes all pest risk assessments on the UK Plant Health Information Portal. The noble Baroness, Lady Hayman, asked about, on plants, the definition of "acceptable level", and I should say, because these are matters of great importance, that the UK intends to ensure that its SPS regime remains appropriate to address the risk it faces. Defra has a dedicated team of specialists, plant health risk analysts and managers working with the devolved Administrations.

I should also say to the noble Baronesses, Lady Bakewell and Lady Bennett, and to the noble Lord, Lord Rooker, that the UK plant health risk group identifies, assesses and manages plant health threats. As part of the process of withdrawing from the EU, we have bolstered this group. The plant health risk group includes key experts from Defra and the devolved Administrations, and its outputs are published for scrutiny and comment and to help information making. I shall take back some of the points that have been made about how best to communicate that.

I agree with the noble Lord, Lord Rooker—affirmative and negative—and we now and again have discussions about this in the House and with legislation. We believe that many of these issues are technical and many of the needs we have to face are where speed is of the essence, but that is why we said to Friends of the Earth, and I will say now, that we thought it was appropriate to have that measure. But I will send all the details of Friends of the Earth's comments to noble Lords.

I should also say to my noble friend Lord Caithness that, on the issue of the Northern Ireland back door, everything from the rest of the world coming through either Northern Ireland or the Republic of Ireland must complete border checks in the first place they enter—either the EU or Northern Ireland. We therefore believe that there is no increased risk compared with the position before the end of the transition period.

On diseases, whether they are in Ireland or here—or, indeed, in separate parts of Great Britain, where we have pests and diseases—we have our own systems, which ensure that we bear down so that we do not allow the spread of pests and diseases. I place great importance on that.

Another point was made about communications. Again, there were issues here. I understand why, in a period of change, it is essential for all businesses that communication is speedy and any necessary updates are made speedily. We have maintained regular engagement with industry on post-transition planning, both with individual operators and through key stakeholder groups. We have undertaken a series of feasibility sessions with more than 300 participants, and equivalent export sessions. Communications, especially regarding Northern Ireland-GB trade, have been shared with the Plant Health Advisory Forum as well as with key stakeholders such as the Horticultural Trades Association, the National Farmers' Union and the Fresh Produce Consortium.

That work must continue. I am absolutely aware that there will be issues that continue and need to be resolved for people. I agree with the noble Lord, Lord Bilimoria, that we need to resolve these matters pragmatically and quickly. Speed is of the essence at both ministerial and official level. I know from talking to the Secretary of State and the farming and fisheries Minister only yesterday that all these matters are being addressed daily. Whether it is discussions with the French, the Dutch or the Irish—as noble Lords may have heard about during the exchange on fish—we need dialogue to raise all these points.

On antibiotics, I am grateful to the noble Lord, Lord Clark of Windermere. Resistance to antibiotics is of huge imperative for human and animal health, which is why I am proud that we have seen in this country significant reductions in the use of antibiotics

in the animal world. That particularly goes for farmed animals; we must continue that through improved husbandry, vaccines and research. On that point—I picked this up only in the paper, so I caveat it—I noticed that, only today, the University of Oxford has made a significant investment in antibiotics. This is where that science hub, of which we should be proud and where we need to invest, will be an important part of our global approach.

I understand what my noble friend Lady Fookes said about the technicalities of changes to passports. I will write to her so that, in some detail, my noble friend and I can work together on why these changes are happening and why we need, again, to work pragmatically on these matters.

I say to the noble Baroness, Lady Bakewell: yes, by definition, these regulations apply to both food for humans and feed for animals. Again, that is really important. There is specific reference to animal feed in these regulations.

I say to the noble Baroness, Lady Hayman, on the infrastructure of border control posts, that as of 13 January, Defra has approved expressions of interest for 29 new capacity BCP applications from providers in England and Wales. These have been passed to APHA to progress. We are currently aware of expressions of interest from 14 Scottish BCPs.

The noble Lord, Lord Rooker, mentioned recruitment, which is also very important. We are working with port health authorities, the APHA and the Food Standards Agency to ensure that the recruitment and training of the additional staff required is completed for each stage of the new import regime.

On computers, I should tell my noble friend Lady McIntosh that I am not very good with IT. As a general rule, we never use traces for parts. We will therefore continue to use the existing national IT systems of eDomero and PEACH. Indeed, new systems—IPAFFS and ECHO—will replace eDomero later in the year. Again, I agree that it will be imperative that the changes we bring forward are communicated early and that businesses are comfortable with them because—again, I agree with the noble Lord, Lord Bilimoria, here—we want to minimise burdens in the changes that will take place.

There were expressions of concern about Northern Ireland. I agree that we always want to take any concerns about that part of the United Kingdom very seriously. My understanding as of today is that the flow of goods between GB and Northern Ireland has been smooth—and remains so—and supermarkets are reporting healthy supplies into their Northern Ireland stores. Supermarkets and other authorised traders are exempt from certification requirements for three months. The Movement Assistance Scheme provides detailed online guidance for traders, a helpline for practical advice and reimbursements to cover the costs of certification. We will work with businesses because they need to be aware and need to do a lot themselves, and we want to be a helping hand rather than a heavy hand in all these matters.

The noble Baroness, Lady Hayman, made points about communication and the timescale of performance. I will send a note about all that because those things are very important.

On the derogation of neonicotinoids, it was an emerging authorisation with very considerable requirements for not using other crops thereafter, so it was a very distinct emergency derogation.

I much regret that my time is up, unfortunately, when there is so much more to say. I will therefore write fully to noble Lords.

Motion agreed.

Plant Health (Amendment) (EU Exit) Regulations 2020

Considered in Grand Committee

4.37 pm

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

That the Grand Committee do consider the Plant Health (Amendment) (EU Exit) Regulations 2020.

Relevant document: 40th Report from the Secondary Legislation Scrutiny Committee

Motion agreed.

The Deputy Chairman of Committees (Lord Alderdice) (LD): The Grand Committee stands adjourned until 5 pm. I remind Members who are here to sanitise their desks and chairs before leaving the Room.

4.38 pm

Sitting suspended.

Arrangement of Business

Announcement

5 pm

Lord Alderdice (LD): My Lords, the hybrid Grand Committee will now resume. Some Members are here in person, respecting social distancing, and 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. In the unlikely event of the capacity of the Committee Room being exceeded or other safety requirements breached, I will immediately adjourn the Committee. If there is a Division in the House, the Committee will adjourn for five minutes.

Customs Miscellaneous Non-fiscal Provisions and Amendments etc. (EU Exit) Regulations 2020

Considered in Grand Committee

5 pm

Moved by ***Lord Agnew of Oulton***

That the Grand Committee do consider the Customs Miscellaneous Non-fiscal Provisions and Amendments etc. (EU Exit) Regulations 2020.

Relevant document: 41st Report from the Secondary Legislation Scrutiny Committee

The Minister of State, Cabinet Office and the Treasury (Lord Agnew of Oulton) (Con): My Lords, we are here to discuss a further statutory instrument that is part of the Government's package of SIs for the end of the transition period: the Customs Miscellaneous Provisions and Amendments etc. (EU Exit) Regulations 2020. This statutory instrument will be debated in the other place on Thursday. It came into force at the end of the transition period and is subject to the urgent "made affirmative" procedure. It has already taken effect, but still needs to be approved by both Houses.

Under the European Union withdrawal agreement and the Northern Ireland protocol, certain provisions of EU law continue to apply in Northern Ireland after the end of the transition period. In Great Britain, those same provisions are modified to reflect the fact that the UK has left the EU. Previous amendments to the relevant legislation applied across the whole of the UK. However, further changes were needed to address the specific arrangements for Northern Ireland. Noble Lords will be aware that the Secondary Legislation Scrutiny Committee reported the regulations as an instrument of interest in its 41st report, published on 14 January 2021.

The instrument amends and modifies three fields of legislation: legislation relating to customs safety and security procedures, including entry summary declarations and the registration of businesses for movements from Northern Ireland to Great Britain; application of the Customs and Excise Management Act 1979 and the Finance Act 1994 to movements between Northern Ireland and Great Britain for non-duty purposes; and it ensures that HMRC can continue to collect and process trade statistics data in the same way it did before the United Kingdom left the EU.

I will now turn to each topic in greater detail, starting with entry summary declarations. These declarations contain safety and security information about the movement of goods. Declarations must be submitted to HMRC, then risk-assessed before the goods arrive at the border. These assessments are used in conjunction with intelligence-led targeting by Border Force, to protect the security of the UK. This instrument removes the requirement for an entry summary declaration for the movement of "qualifying Northern Ireland goods" from Northern Ireland into Great Britain, in line with our wider commitments on unfettered access. It also retains the requirement of an entry summary declaration for the movement of "non-qualifying Northern Ireland goods" from Northern Ireland into Great Britain. Non-qualifying Northern Ireland goods include those that are not in free circulation in Northern Ireland—for example, those subject to customs procedures such as inward processing or that are in an authorised temporary storage facility—before they are moved to Great Britain. It also includes the trade of goods subject to specific obligations binding on the United Kingdom and the EU, such as endangered species or conflict diamonds.

These changes are necessary to allow safety and security declaration requirements to be maintained for non-qualifying Northern Ireland goods moving into Great Britain from Northern Ireland, while simultaneously allowing appropriate Northern Ireland traders to maintain unfettered access to the rest of the United Kingdom market. Anti-avoidance measures are also in place to deter businesses from rerouting goods via Northern Ireland if they do so in order to avoid United Kingdom duty or import formalities.

In addition, this legislation states that for goods arriving by sea from Ireland, the Channel Islands and other nearby ports, where an entry summary declaration is required, it must be submitted two hours before the vessel arrives at a port in Great Britain. Without this amendment, earlier submission would be required, which may be impractical given the duration of crossings. It also aligns the declaration time limits to those already in place for the same sea movements in the opposite direction.

This instrument also requires economic operators to obtain a UK economic operators registration and identification number—otherwise known as a UK EORI number—to move non-qualifying Northern Ireland goods from Northern Ireland to Great Britain. An economic operator is a person who, through the course of their business, is involved in customs activities covered by customs legislation. It is necessary for these operators to have a UK EORI number starting with GB to make declarations or get a customs decision in Great Britain. Registration is quick and simple and an EORI number will usually be issued straightaway. This instrument also ensures that penalties apply to failures to comply with the requirements to submit an entry summary declaration, including the need to be registered for a UK EORI number.

I turn to the second area of legislation covered by this statutory instrument: the regulations relating to the Customs and Excise Management Act 1979, otherwise known as CEMA, and the Finance Act 1994. First, CEMA provisions that relate to movements between the Republic of Ireland and Northern Ireland are revoked by this instrument. This is because EU rules concerning the movement of goods continue to apply to these movements under the Northern Ireland protocol. Secondly, this instrument allows CEMA enforcement powers—for example, the ability to seize and detain goods—to be used for enforcing prohibitions and restrictions on the movement of goods, people and vehicles between Great Britain and Northern Ireland, where there is no connection to customs duty.

This instrument also ensures that the enforcement provisions in Part I, Chapter 3 of the Finance Act 1994 can be used in relation to the export of restricted or prohibited goods, as appropriate. These include HMRC's powers to require the production of documents, to remove documents and to enter premises. This applies in Northern Ireland for the movement of goods from Northern Ireland to Great Britain.

Finally, I turn to trade statistics. This instrument makes minor amendments to the law on statistical data collected on the trade of goods between the United Kingdom and members of the EU, to take account of the Northern Ireland protocol. This is important in order to meet international reporting requirements. This instrument ensures that the legislation works properly in Northern Ireland, where EU statistical rules will continue to apply as a result of the Northern Ireland protocol, and in Great Britain, where they will

not. As a result, HMRC will be able to continue to collect and process trade statistics in the same way that it did before the United Kingdom left the EU.

These technical but important customs regulations are already in place. They will help ensure that goods continue to move smoothly and safely between Northern Ireland and Great Britain and that matters related to their movement can continue as anticipated. I hope noble Lords will join me in supporting these regulations. I beg to move.

5.08 pm

Lord Liddle (Lab) [V]: My Lords, I am a member of the Secondary Legislation Scrutiny Committee which considered this instrument. It caught my attention not because I am in any way an expert on customs rules or the technicalities of these regulations but because it touches on the relationship between Northern Ireland and Great Britain post Brexit, which has been highly political and, I would argue, will be extremely sensitive in future.

It is only just over a year since the general election campaign, in which the Prime Minister declared before a group of Northern Ireland businesspeople that there would be no barriers to trade between Northern Ireland and Great Britain. This position was somewhat revised when Michael Gove presented the Government's proposals for implementing the Northern Ireland protocol, when he said that there would be no checks between Northern Ireland and Great Britain, although there would inevitably be some checks the other way as a result of goods entering what would in effect be the EU single market.

It was then also stated that there was to be no customs border in the Irish Sea and no new infrastructure to enforce that border. As I understand it, £300 million or £400 million has been allocated to putting in place what can only be described as infrastructure, and therefore I really do not understand what the Government think their position is on this. Here we have a statutory instrument that specifically imposes some requirements and constraints on unfettered trade in goods between Northern Ireland and Great Britain—I am sure the Minister will confirm that. There are goods for which there will not be unfettered trade as a result of this instrument. When it is said that there would be no customs border, it sounds to me as though the second part of this instrument is actually putting in place regulations for a customs border. I should like to get some clarity about what is happening: is wool being pulled over someone's eyes or is it not?

The entry summary declarations from Northern Ireland to Great Britain will be required only for non-qualifying goods. I have two questions here: how significant are these non-qualifying goods in terms of total trade, and, secondly, who makes the qualifying decision? Is it a question for the United Kingdom customs authorities or for the joint committee between the EU and the UK that is there to implement the protocol? Was this matter fully discussed at the committee before this regulation was laid?

I have a second point on the customs question. The great merit of the trade and co-operation agreement is that there are no tariffs or quotas on trade between the EU single market, including Northern Ireland, and Great Britain, except in two circumstances: first, where goods do not qualify under the rules of origin, and, secondly, were there judged to be offences against keeping the level playing field in place, as provided for in the agreement. In that situation, one side or the other can impose tariffs. The question then becomes: what happens to these customs regulations were tariffs to be imposed?

The Minister may say that this is an entirely theoretical question, but the truth is it is not, because, within days of the passage of the trade and co-operation agreement, the Government let it be known that they are launching lots of reviews of regulations and workers' rights, and making lots of moves which could be interpreted by the EU as deregulation and could be thought to be offending against the principles of the level playing field. We may end up in a difficult situation quite quickly, unless the Government act with prudence.

My purpose in speaking is to ask the Minister—politely, I hope—what he thinks about my questions, but also for us to start thinking about what the consequences of all this will be for the Northern Ireland-British relationship and the future of the United Kingdom.

The Deputy Chairman of Committees (Lord Alderdice) (LD): The noble Lord, Lord Bilimoria, has withdrawn from the speakers list. I call the next speaker, the noble Lord, Lord Dodds of Duncairn.

5.15 pm

Lord Dodds of Duncairn (DUP): I thank the Minister for his speech explaining this piece of delegated legislation before the Committee this afternoon. If I may, I will follow up on some of the points made by the noble Lord in his speech just now.

I make the general point that this is another statutory instrument which, as a result of the protocol, will change regulations that have already been passed to apply to the whole of the United Kingdom to make special provision for Northern Ireland's trade with the rest of the United Kingdom. I remind Noble Lords—and this is important—that no one in Northern Ireland ever gave their consent to this protocol, despite the promise in the EU-UK joint declaration of December 2017 that regulatory difference could happen only with the consent of the Assembly and the Executive. That was arbitrarily set aside. Since the protocol means that certain provisions of EU law will continue to apply to Northern Ireland, it is certainly not—and the Government would have to admit this—taking back control of our laws, borders and money, as far as Northern Ireland is concerned.

I will turn to some of the detail of this instrument. The Explanatory Memorandum states that

"this instrument comes into force at the end of the transition period. Royal Assent to the Taxation (Post-transition Period) Bill is, however, required before this instrument can be laid. This instrument will therefore be laid as soon as possible after Royal Assent to the Taxation (Post-transition Period) Bill."

We are also told that

"The consequences of delaying this instrument by using non-urgent powers are that the amendments and modifications required to make changes to address the different regimes applying in NI and

[Lord Dodds of Duncairn]

GB, and to deal properly with certain movements of goods between NI and GB would not be in place in time (that is at the end of the transition period)."

Given that the transition period ended on 31 December 2020, will the Minister clarify the precise legal position as of today, and indeed for the last almost three weeks? Have these regulations actually been in force from the end of the transition period? What has been the legal position, and what is the current legal position, prior to the approval of these regulations?

Will the Minister also set out the extent of the consultation there has been in relation to these new regulations? Have the Government had any discussions with the Northern Ireland Executive and relevant Ministers about its details and the implications of its provisions? The Explanatory Notes state:

"There is no, or no significant impact on business, charities or voluntary bodies."

I find the assertion that there is no impact, or no significant impact, on business rather peculiar. I should be very grateful if the Minister would outline what consultation there has been with relevant businesses on the detail of this particular instrument, as opposed to general consultation with businesses on the general issues of the protocol. We know that there has been a lot of engagement with business on the general issue of the protocol, but on this particular statutory instrument and its implications, what has been the consultation process with businesses in Northern Ireland?

An entry summary declaration is required for the movement of goods from Northern Ireland to Great Britain where those goods are subject to customs duty under the Taxation (Cross-border Trade) Act 2018. If the goods are not subject to customs duty, no ENS is required. The Minister has confirmed that this means that customs duty is imposed only on non-qualifying NI goods. Those include things such as fluorinated gas and ozone depleting substances, hazardous chemicals, genetically modified organisms and so on. Can the Minister clarify for the Committee whether any other goods are subject to customs duty under Section 30C of that Act? To repeat a question asked by the noble Lord, Lord Liddle, what proportion of trade movements between Northern Ireland and Great Britain are likely to be caught by the provisions of this instrument?

I welcome the fact that the entry summary declaration can be lodged two hours before a ferry carrying goods from Northern Ireland arrives at the first port of entry in Great Britain. This shorter time limit for submission of the requisite information is of course welcome. Without it, there would be another wholly unnecessary burden for Northern Ireland businesses.

Regulation 4 provides that the registration and identification requirements, which the Minister referred to, that apply to movements into and out of Great Britain apply also to goods moving from Northern Ireland to Great Britain. Where these requirements apply and entry summary declarations are needed, can the Minister outline the form of these requirements and declarations? What will be the process for filling them out and the submission of declarations and other requirements? I presume that at the very least it will entail no extra paperwork and certainly no extra cost for business in Northern Ireland, as that would go against the unfettered trade between Northern Ireland and Great Britain that was guaranteed. It would also go against the declaration that the Prime Minister famously made to businesses in Northern Ireland when he said that, if such paperwork and so on was required, it should be thrown into the bin and the relevant businesses should ring him up. Therefore, I ask for a reassurance from the Minister that those guarantees will be in place for Northern Ireland.

These are technical regulations but they have significant implications, both economic and political, and they bear close examination. I am grateful for the opportunity to speak on them and to seek clarification today. If the Minister is unable to deal with all my questions this afternoon, I shall of course be happy to receive further explanation and elucidation by correspondence in due course.

5.22 pm

Baroness McIntosh of Pickering (Con) [V]: My Lords, I add my thanks to my noble friend for presenting these regulations. My questions are not dissimilar from those that have gone before.

Are ENS declarations already happening? Is this a new form that has been devised, and will it be done digitally? Although I do not for a minute imagine that Hull will be the first port of call for goods coming from Northern Ireland, I was dismayed to learn—perhaps my noble friend will confirm that it is true—that HMRC has closed its offices in Hull. That begs the question: to what extent has HMRC closed its offices in other ports around the United Kingdom? It strikes me that having men and women on the ground at HMRC who can explain matters in good time to traders who will rely on the ENS is absolutely at the forefront of what HMRC should be doing. I do not know whether it is true that the HMRC offices in Hull have closed but it would be a matter of concern to me if they had.

I understand that the ENS will apply only to goods caught under Section 30C of the Taxation (Cross-border Trade) Act, and that goods that are not subject to a duty will not require an ENS. Looking at the list of non-qualifying Northern Ireland goods, which has been rehearsed by other noble Lords, I cannot imagine that many will fall into this category, but presumably my noble friend will be able to give us a forecast of the number of occasions on which the Government expect an ENS to be required. Like my noble friend Lord Dodds, I would be interested to know whether there will be an additional cost, or at least an additional time factor, in delivering these.

While it is welcome that a two-hour limit is imposed on the submission of an ENS applying to goods arriving in Great Britain by sea from the Republic of Ireland, how realistic is that? Given the time available between the statutory instrument being introduced and made effective by the end of the transition period, to what extent has training been given to those to whom this statutory instrument applies?

I may be wrong, but I cannot imagine that there will be rough diamonds, endangered species or persistent organic pollutants coming from Northern Ireland to the rest of the United Kingdom—or indeed GMOs,

because I understand that we are not at this stage seeking to have a flood of GMO products coming in. I hope that does not change too soon. One reason why I think the Government are introducing this instrument is to ensure that Northern Ireland does not become the back door to Great Britain for some of these non-qualifying goods from the rest of the EU. It is probably difficult to say at this stage to what extent ENS will be used, but it would be very helpful to know what forecast and assessment my noble friend and his department, the Treasury, made prior to the statutory instrument taking effect.

Will the ENS be completed digitally? Since, for the most part, we have been in a customs union and a single market with the rest of the EU for the past 30 years—the single market since 1992 and the customs union for a good deal longer—I hope that my noble friend will confirm that some training and explanation have been given to exporters and importers to whom this will apply.

Can my noble friend explain for my greater understanding of the statutory instrument, which, as he said, is very technical, whether there will be two separate regimes: one for goods coming from Great Britain to Northern Ireland and another for goods going from Northern Ireland to Great Britain? That would be very helpful to know. With those few remarks, I would be very interested to hear my noble friend's answers.

5.27 pm

Baroness Ludford (LD) [V]: My Lords, I come to this subject with some degree of trepidation, because although I have focused for many years now on the overall shape of the UK-EU relationship, I am no expert on either trade processes or Northern Ireland. But I do know that there has been a great deception: the pretence that the EU ease-of-trade cake could be had as well as eaten, and the preposterous notion that leaving the single market and customs union meant a slashing of red tape. For here we are, facing reality—or rather, our benighted businesses face the reality of reams of form-filling, cost and delay. This reality is not "teething problems"; it is, as Michel Barnier reminded us, the new normal.

As my friend in the other place, Stephen Farry of the Alliance Party, said:

"Deeper challenges lie with Brexit itself and the nature of the UK-EU trade deal. They are being manifested across the UK. Northern Ireland is not alone in that respect."

By that, of course, he means that Brexit entails friction across the UK; there is no escaping that fundamental truth. He went on to say:

"However, there are issues arising from the specific terms of and operational decisions around the Northern Ireland Protocol",

because the protocol is a much blunter means to address the challenges of intra-UK trade post Brexit than the backstop.

The subject matter of this statutory instrument is paperwork for trade between Northern Ireland and Great Britain. People in Northern Ireland, both businesses and consumers, are suffering from what Ministers like to call "teething problems" but are in fact intrinsic to the arrangements that they have negotiated. Movement of goods across the Irish Sea is subject to red tape—customs safety and security procedures, including, in most circumstances, entry summary declarations, economic operator registration, enforcement powers and penalties for failure to comply—to address the different regimes applying in Northern Ireland and Great Britain. But the Government have behaved badly by not only stalling on a trade deal until 24 December for press management reasons, but denying for so long the reality of the fact that border controls had shifted to the Irish Sea. Because of those two factors, they failed to prepare properly.

Who can forget—the noble Lord, Lord Dodds, reminded us and I will do so again—that, in November 2019, the Prime Minister told businesses in Northern Ireland that they would "absolutely not" have to fill in extra forms, and that if any of them were asked to fill in such paperwork, they should telephone him

"and I will direct them to throw that form in the bin".

I understand that, even today, Northern Ireland Secretary Brandon Lewis has claimed that empty shelves in Northern Ireland are due to coronavirus challenges, not Brexit. The continued tendency to bluster on this subject is deeply unhelpful. As my noble friend Lady Suttie said on 6 January in a debate on the Trade Bill:

"We are now beginning to see the realities of barriers to trade and of what the BBC has described as the 'internal UK border'. We are also witnessing the consequences of doing a deal so much at the last minute that proper preparation for the business community in Northern Ireland was not really an option."—[*Official Report*, 6/1/21; col. 173.]

The least the Government can do now is TO consult properly, actually listen, and be prepared to amend where they can if mistakes have been made—subject, of course, to the constraints of the withdrawal agreement and protocol and the trade and co-operation agreement.

I will say a brief word about timing. As the noble Lord, Lord Dodds, said, we are told in paragraph 3.1 of the Explanatory Memorandum:

"This instrument is being laid using the urgent procedure under the European Union (Withdrawal) Act 2018. The regulations introduced by this instrument will come into force at the end of the transition period."

Obviously, they have been in force now for 19 days, so this debate is—how shall I put it?—not before time. The regulations arise solely out of the withdrawal agreement and its protocol on Northern Ireland, but those were agreed almost 11 months before this draft was tabled on 22 December, so why did it take so long?

I want principally to ask about consultation. Section 10 of the Explanatory Memorandum has quite a lot of blurb on the subject, including this:

"Consultation on the practical implications of the Protocol has taken place with businesses. Throughout the transition period, the NI Stakeholder Engagement Team (NISET) have consulted with a wide range of businesses and representative bodies who would be impacted."

The following paragraphs elaborate. This general assertion may well raise the eyebrows of parliamentarians in both Houses on relevant committees, all of whom have complained vocally about the paucity of consultation over the past year. However, paragraph 10.1 of the Explanatory Memorandum makes the astonishing statement:

"No formal consultation regarding this instrument has taken place."

[Baroness Ludford]

In other words, despite the somewhat diversionary wording of the rest of Section 10, the nub is that, on these nuts and bolts, there appears to have been no consultation. Can the Minister tell us why that is so, and what he defines as "formal" in this context? Are the Government in fact saying that no consultation took place at all on the specifics covered by this statutory instrument?

I am afraid that the Government's attitude is revealed by Section 12 of the Explanatory Memorandum, as also quoted by the noble Lord, Lord Dodds, where it is claimed:

"There is no, or no significant impact on business… The provisions do not introduce any requirement beyond what has already been agreed, or is a necessary consequence of what has been agreed in the Protocol."

Surely, however, when it comes to trade, the devil is in the detail—otherwise why would there have been such uproar in the last 19 days leading, in the case of Scottish fishermen, to lorries in Westminster? If we are not to end up with the Northern Ireland Secretary blaming Northern Irish businesses for not filling in the right forms, as the Prime Minister has done with regard to exporters from Great Britain, careful consultation is essential.

These regulations are about goods moved from Northern Ireland to Great Britain, but I hope the Minister can tell us how the Government intend to consult properly not only with Northern Irish businesses but with those GB businesses with whom they are trading, and to learn from all their experiences ahead of the end of the three-month grace period, which extends only until the end of March. While the subset of challenges arising from the operation of the protocol, rather than from Brexit itself, relates in large part to very tight timescales for implementation and poor information, there is also a problem of lack of engagement from companies based in Great Britain about trade with Northern Ireland. What preparations are the Government taking now to ensure that current issues and problems do not reoccur after 31 March?

Lastly, can Minister explain how businesses will feed into the complicated and not very transparent governance arrangements for both the protocol and the trade and co-operation agreement, for example in the specialised committee for SPS measures?

In conclusion, Northern Ireland has been described by Professor Katy Hayward of Queen's University Belfast as,

"this small but fragile region on the periphery of both",

the UK and the EU. It is incumbent on the Government, for not only economic but political reasons, to take the greatest care not to put any more strain than the act of Brexit already regrettably does on this "small but fragile region". Given the failure to consult specifically on this instrument, I am not persuaded that the Government are acting accordingly.

I hope that the Minister can give an assurance that, when there are structural problems that can be addressed only through flexible solutions being agreed by the UK Government and EU institutions, the Government will not be shy of arguing for those flexibilities. That does not mean invoking Article 16 of the protocol. Those pushing for such a remedy are offering a populist, ineffective and false solution. No major business organisation in Northern Ireland or beyond is calling for Article 16 on safeguards to be invoked. Outside the protocol, much unfinished business is still to be done to maximise potential to the Northern Ireland economy. The list includes access to EU free-trade agreements, which is particularly important to the agri-food sector; transit from Great Britain to Northern Ireland via the Republic of Ireland; data adequacy; the future of the all-Ireland service sector; and many others. We in my party, with our Alliance friends, will continue to raise these issues.

Lord Tunnicliffe (Lab) [V]: My Lords, I am grateful to the Minister for introducing this instrument, and to other noble Lords who have participated in this debate. As has been noted, the instrument was made in December under the urgent procedure. That is rarely desirable but, as the Explanatory Memorandum notes, it could not be laid until after the Taxation (Post-transition Period) Bill had received Royal Assent. We were all somewhat surprised when the Government announced that Bill at short notice, in a manner that suggested that they had only realised its necessity at the last minute. I hope that the Minister can assure us that, with a UK-EU trade deal now provisionally applied, we will return to the normal ways of conducting business.

While not directly relevant to this SI, conversations with colleagues have alerted me to the laying of other made-affirmative EU exit instruments over the Christmas period. In some cases, they appeared despite strong assurances that the relevant departments had concluded all their so-called day-one critical business well in advance of the House rising. Again, we understand the need of recent times. Going forward, however, we can all agree that fast-tracked primary legislation and the use of made-affirmative instruments should be far rarer than we have become accustomed to. I look forward to hearing the Minister's thoughts on that.

Turning to the contents of the instrument, the Minister outlined the various changes introduced. They have, of course, now been in force for a little over two weeks. We would not have opposed this instrument had it been laid before Christmas and, given the legal chaos that would have resulted from this SI lapsing in February, we will certainly not do so today. I hope that the Minister can shed a little light on the operation of Regulation 5, which allows penalties to be applied if a business fails to comply with requirements in Regulations 3 and 4. Can he confirm the approach that the Government will take with such penalties? Given the lack of notice that many businesses have had, and the difficulties that some have experienced with the technological side of things, will there be a degree of leniency when determining whether to issue fines? If so, for how long? If not, will any special guidance be issued to those who consider appeals?

It may seem a minor point, but paragraph 3.2 of the Explanatory Memorandum notes that this instrument amends several small errors in the 2019 SI. On the one hand, we are glad that these errors were spotted and corrected before the end of the transition period. However, it is slightly concerning that such deficiencies still existed as late as 10 days before the end of the transition period. Is the Minister confident that the

department's chapter in the statute book is now as it should be, or can we expect further correcting SIs in the future?

While these provisions are not necessarily directly responsible, it is fair to say that certain aspects of trade between Great Britain and Northern Ireland have not operated as seamlessly as we had hoped. As my noble friend Lady Smith of Basildon noted during the repeat of an Urgent Question last week, the Government were warned well in advance of the potential for many of the difficulties that we have witnessed.

To put technical regulations in place is one thing—the sheer number of SI debates I have taken part in suggests that there is no shortage of technical regulations—but ensuring that IT systems work and that businesses are fully prepared for new ways of working amounts to a very different task. These are areas that we probed for many months, only to be told that we had no reason to worry. Regrettably, that complacency has resulted in difficulties for businesses on both sides of the Irish Sea. I end, therefore, by asking whether the Minister could use some of his speaking time to provide a general update on the situation regarding GB-NI trade.

5.41 pm

Lord Agnew of Oulton (Con): I thank noble Lords for their well-considered and insightful comments during this debate. As I said earlier, these measures are necessary to address specific arrangements pertaining to Northern Ireland now that the transition period has ended. I will try to address the questions put forward by noble Lords.

The noble Lord, Lord Liddle, was modest in saying that he did not understand these trade regulations in detail. He displayed enormous knowledge, to my mind, so I will try to answer his questions. The joint committee agreement protects unfettered access, by ensuring that there is no requirement for export checks or declarations for Northern Ireland businesses moving goods in free circulation directly from Northern Ireland to GB. There are some limited exceptions when businesses need to submit an export declaration for the movement of goods from Northern Ireland to GB. The Government have published comprehensive guidance on these exceptions online to ensure that businesses have a thorough understanding of when to submit the export declaration.

As outlined in the Government's Command Paper, there are no plans for any new bespoke customs infrastructure in Northern Ireland. Agri-food movements from GB to NI will be carried out at existing facilities and designations at NI ports. Expanded infrastructure will be needed at some of these sites for agri-food checks and assurance. The Government have collaborated with Northern Irish ports to agree on the utilisation of existing space and capacity, until infrastructure expansion has been completed. A full impact assessment has not been produced for this instrument, as an assessment was made of the impact of the then European Union (Withdrawal Agreement) Bill in 2019 and the Northern Ireland protocol.

The Government recognise that the priority remains to have a regime in place that strongly focuses on the benefits of unfettered access for Northern Irish businesses, and ensures that they have a competitive advantage over traders elsewhere in Ireland. That is what the second phase of unfettered access will provide, in the second half of 2021. Once delivered, it will ensure that benefits are conferred to genuine Northern Irish traders only. Goods coming from the EU or outside the EU to Great Britain via Northern Ireland will be regarded as imports and subject to controls.

The noble Lord, Lord Dodds, asked about timing and what has happened since leaving—post the transition period. On timings, Royal Assent to the Taxation (Post-transition Period) Act 2020 was required before this instrument could be laid. Section 2 of that Act inserted Section 30C into the Taxation (Cross-border Trade) Act 2018. This imposes a customs duty charge on the movement of goods from NI to GB if the goods are not qualifying Northern Ireland goods. It ensures that unfettered access is available only to appropriate NI traders and deters businesses from rerouting goods via Northern Ireland to avoid import formalities. The Taxation (Post-transition Period) Act received Royal Assent on 17 December last year; this instrument was then made on 21 December and laid on 22 December. The instrument came into force at the end of the transition period and has already taken effect, but still needs to be approved by both Houses.

No formal consultation on this specific instrument has taken place. However, the instrument, together with the Taxation (Post-transition Period) Act 2020, makes provisions in relation to the application of certain provisions in the protocol. Consultation on the practical implications of the protocol has taken place with businesses. Throughout the transition period, the NI stakeholder engagement team consulted a wide range of businesses and representative bodies who would be impacted. Consultation with businesses will continue.

Defining qualifying Northern Ireland goods is a matter for the UK, not for the joint committee. To this end, the Government laid a statutory instrument setting out the definition of qualifying Northern Ireland goods—statutory instrument 2020/1454. A qualifying Northern Ireland good is one that is eligible for unfettered access to Great Britain. Goods will be qualifying Northern Ireland goods from 1 January 2021 if they are in free circulation in Northern Ireland—that means not under a customs procedure or in an authorised temporary storage facility before they are moved from Northern Ireland to Great Britain. The Government will focus the benefits of unfettered access on Northern Irish businesses and ensure that we have a competitive advantage over traders elsewhere.

The Government have been unequivocal in our commitment to unfettered access for Northern Ireland goods moving to the rest of the UK market, and there will be only very limited exceptions to this. This instrument simply ensures that the requirement for entry summary declarations for non-qualifying goods moving from Northern Ireland to Great Britain is retained. This is in line with the requirement for goods imported into Great Britain from the EU and outside the EU.

I was asked about paperwork and costs. In practice, safety and security declarations are made into the same system used for other goods arriving into GB that attract a safety and security requirement. The data required for an entry summary declaration includes

[Lord Agnew of Oulton]
fields such as mode of transport, description of the goods and routing information. Traders may use an intermediary to complete safety and security declarations for them. To avoid disruption and facilitate continuity, the Government have introduced a waiver for ENS requirements where such requirements would not have existed before the end of the transition period. This means that there is no requirement for entry summary declarations to be submitted for the movement of non-qualifying EU goods from Northern Ireland to Great Britain until 1 July 2021. This SI does not affect that waiver.

My noble friend Lady McIntosh asked similar questions about ENS: can they be made electronically? These declarations can and are being submitted digitally. They will be made into the safety and security GB system, the same system used for other goods. This instrument retains the requirement of an entry summary declaration for the movement of non-qualifying goods. She asked about training. HMRC and other departments have undertaken a significant programme of ongoing communication and engagement to inform traders of new requirements and to support preparedness. The two-hour time limit requires traders to submit their entry summary declaration a minimum of two hours before arrival to GB, but this two-hour period includes time taken on the journey, so, in practice, will not come about much before traders arrive at ports.

My noble friend is worried that this might provide a backdoor entry into GB for non-qualifying goods. To prevent traders seeking to abuse unfettered access in the first place, it is accompanied by anti-avoidance provisions which deter businesses rerouting goods via Northern Ireland if they do so in order to avoid UK import formalities. HMRC will be able to undertake spot checks when there is evidence that the qualifying goods regime is being abused. HMRC also has the power to prosecute anyone who tries wrongly to claim unfettered access for their goods. This will ensure that only businesses with a legitimate reason to route goods via NI can benefit from unfettered access.

My noble friend Lady McIntosh asked whether there will be two regimes: NI to GB and GB to NI. The Government recognise that the priority remains to have a regime in place that strongly focuses the benefits of unfettered access on Northern Ireland business and ensures that it has a competitive advantage over traders elsewhere in Ireland.

The noble Baroness, Lady Ludford, had similar questions, but I will deal with her particular emphasis on the preparations for the end of the grace period. A dedicated team in government is already working with supermarkets, the food industry and the Northern Ireland Executive to develop ways to streamline the movement of goods in accordance with the protocol, backed by significant UK funding. The Government will provide a major injection of new funding to support preparations for the end of the grace period for supermarkets and suppliers. Further details will be announced in due course.

The noble Baroness asked about the trade and co-operation agreement. The TCA governance requirements were set out clearly in the agreement and will be set up in due course. The agreement builds on multiple avenues of business representation and input and clear independent systems of dispute resolution outside the jurisdiction of the European Court of Justice. The TCA provides a role for domestic advisory groups which will include business and employers organisations. They will be able to submit views and recommendations for consideration by the UK and the EU and may be consulted during consultations as part of the dispute resolution mechanism for the agreement. Businesses may also take part in the civil society forum provided in the TCA. It will meet at least once a year and provide a forum for independent civil society organisations from the UK and the EU to meet and discuss the implementation of the agreement. On the actual governance arrangements, the governance arrangements agreed under the withdrawal agreement will continue through the joint committee supported by the specialised committee on Ireland and Northern Ireland and, in due course, the joint consultative working group. Once established, the joint consultative working group will provide further opportunities for detailed engagement.

I would like to continue for a couple more minutes if the Deputy Chairman will allow it.

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): We have time.

Lord Agnew of Oulton (Con): In addition to the questions asked by other noble Lords, the noble Lord, Lord Tunnicliffe, asked about penalties. They will be used where a person is found contravening a customs rule, such as failing to complete an entry summary declaration or not providing an EORI number. There is a maximum penalty of £1,000. HMRC may take mitigating factors into consideration, which could lead to a lower or nil penalty depending on the circumstances. While HMRC will penalise non-compliance, it will seek to support those who make genuine errors while trying to get it right. HMRC is planning a package of activities to support and educate traders on their obligations during this period. This includes promoting keeping good records, which will be crucial in minimising errors once supplementary declarations are made. Further tweaks of the regulations will be required, but the changes currently envisaged are improvements rather than corrections.

The noble Lord asked about a general update on the situation regarding trade between GB and NI. I think I can report on a good position over the last two and a half weeks. That has been largely supported by the Trader Support Service, which was set up just before the end of the transition. Some 29,500 businesses have now registered with the TSS and over 25,000 of those are marked as ready to trade. The TSS has handled over 75,000 declarations so far, and 99% of those have been processed within 15 minutes. The contact centre has over 700 staff to assist with trader queries. It handled some 7,000 inbound calls between 1 January and 17 January. Some 97% of those calls were answered within 30 seconds, and they have spare capacity which they have been using to do outbound dialling to other traders who have not yet reached ready-to-trade status. As of 18 January, HMRC had received 1,518 UK trader service applications.

The Government are committed to maintaining unfettered access to the rest of the UK market for Northern Ireland businesses, protecting Northern Ireland's place in the UK customs territory and ensuring that Great Britain to Northern Ireland trade flows as smoothly as possible. I sum up by saying that these regulations, which are already in place, will help to ensure that goods can continue to move safely and effectively between Northern Ireland and Great Britain. I commend the regulations to the Committee.

Motion agreed.

5.55 pm

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): My Lords, I remind Members to sanitise their desks and chairs before leaving the Room.

Sitting suspended.

Arrangement of Business

Announcement

6.15 pm

The Deputy Chairman of Committees (Baroness Garden of Frognal) (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 any safety requirements are breached, I will immediately adjourn the Committee.

Airports Slot Allocation (Amendment) (EU Exit) Regulations 2021

Considered in Grand Committee

6.16 pm

Moved by ***Baroness Vere of Norbiton***

That the Grand Committee do consider the Airports Slot Allocation (Amendment) (EU Exit) Regulations 2021.

Relevant document: 38th Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, these draft regulations will be made under the powers conferred by the European Union (Withdrawal) Act 2018. They amend provisions of the EU airports slot regulation—No. 95/93, which I will call "the slots regulation"—to provide airlines with relief from the impacts of Covid-19 on passenger demand.

EU regulation 2020/459 was adopted to amend the slots regulation as a result of the Covid-19 outbreak to provide airlines with relief from the 80:20 rule—otherwise known as the "use it or lose it" rule—which requires airlines to use their airport slots 80% of the time. In normal circumstances, the 80:20 rule mandates that, provided an airline has used its airport slots at least 80% of the time in the preceding scheduling period—either winter or summer—it is entitled to those slots in the upcoming equivalent period. This helps to encourage efficient use of scarce airport capacity, while allowing airlines a degree of flexibility in their operations.

Due to the significant impact of Covid-19 on demand, in March last year amendments to the slots regulation instructed airport co-ordinators, when determining slot allocation for the upcoming season under the 80:20 rule, to consider slots as having been operated, whether or not they were actually used. By providing airlines with legal certainty that they would be able to retain their slots even if not operated, the aim of the amended regulation was to help mitigate the commercial impacts of the Covid-19 outbreak on the industry—because airlines might otherwise opt to incur the financial costs of operating flights at low load factors merely to retain slots—and support sustainability by reducing the likelihood of needless aviation emissions from near-empty aircraft. Those amendments to the slots regulation entered into force on 30 March 2020 and became applicable retrospectively from 1 March until 24 October 2020.

The amendments introduced by EU regulation 2020/459 and subsequent amending instruments also granted delegated powers to the Commission until 2 April 2021 to extend the period during which the slots allocated should be considered as having been operated by the requesting airline. Those delegated powers, which can no longer be exercised in the United Kingdom, could be exercised by the Commission where it found, based on Eurocontrol figures and best-available scientific data, that the reduction in air traffic levels is persisting as a result of the Covid-19 outbreak. This delegated power was used by the Commission before the end of the transition period to extend relief to airlines beyond 24 October 2020 to 27 March 2021.

The draft instrument being considered today applies to England, Scotland and Wales, and will transfer this delegated power to the Secretary of State, exercisable until 2 April 2021. Aerodromes are a devolved matter in Northern Ireland, and as there are currently no slot co-ordinated airports in Northern Ireland and the power is exercisable only until 2 April 2021, the Northern Ireland Executive have agreed that it is not necessary for this instrument to extend to, or apply in relation to, Northern Ireland.

To say a bit more on the contents of the SI, the withdrawal Act retained the slots regulation, as amended, in UK law after the end of the transition period. The draft instrument we are considering makes the changes necessary to ensure that the slots regulation continues to function correctly. This is essential to ensure the continuation of an effective regulatory regime for airport slot allocation.

This instrument is subject to the affirmative procedure because it creates or amends a power to legislate. The most significant amendment being made to the slots regulation provides the Secretary of State with the power to grant further relief to airlines if the reduction in air traffic caused by the Covid-19 pandemic were to continue. This power is intended to deal only with the

[Baroness Vere of Norbiton]

impacts of the pandemic, and so was given to the Commission for a limited duration only. To transfer this power, the term

"Commission shall adopt delegated acts in accordance with Article 12a"

is replaced with

"Secretary of State may by regulations".

This enables the Secretary of State to extend the period during which the UK airport slot co-ordinator, when determining slot allocations for the upcoming season, is to consider slots as having been operated, whether or not they were actually used. A decision to extend the period must be based on relevant data on passenger demand and scientific data on the impacts of Covid-19 on that demand.

Other changes being made to this regulation are mostly minor and technical in nature—for example, replacing the phrase

"which is the network manager for the air traffic network functions of the single European sky"

with the words "or other relevant data". This enables the Secretary of State to take into account data from other sources, such as NATS, as well as from Eurocontrol.

The other amendments being made to the slots regulation are minor but equally important. They clarify that the Secretary of State's power to make regulations to extend the relevant period may not be exercised after 2 April 2021, which is the same limit as on the Commission's power. Therefore, as the exercise of the power must be based on data, any further relief provided under this power from the 80:20 rule would likely be for the summer 2021 season only.

Given the time-limited nature of this delegated power, the Government have tabled amendments to the Air Traffic Management and Unmanned Aircraft Bill, which is currently proceeding to Report stage in your Lordships' House. These amendments would provide the Secretary of State with temporary powers to adopt relief, as appropriate, for seasons from winter 2021 onwards.

This instrument will ensure that airlines can be provided with further relief under the airport slots rules from the impacts of Covid-19 on passenger demand, if appropriate. I beg to move.

6.23 pm

Lord Blunkett (Lab): My Lords, I draw attention to my interest in the register.

It seems odd to be sitting here on a Tuesday evening debating what appears to be a very small and sensible update consequent on our departure from the European Union, and specifically in relation to the devastating impact that Covid-19 has had on the whole of the aviation industry. But it is an opportunity to raise the wider context of the need to maintain capacity in the aviation industry, and the fact that so little support has been available so far in keeping that capacity available to us for the future.

I do not mean capacity just in terms of passenger travel, as important as that will be for business and leisure. There are many who feel that people will not want to fly, and that somehow there will be a major drop in people taking business or holiday trips, but I do not believe that for a minute. I think the moment will come when we can be free again to travel and enjoy sunshine and each other's company, and take a glass on a beach somewhere, and many people who can afford to take advantage of that will do so. But they cannot do so, certainly under anything that is related to British registration, unless the capacity exists.

The most important aspect of this is the fact that so much of our airline industry, including that mainly carrying passengers, is related to freight. At Heathrow—in which I have an interest in terms of skills and employment for recovery—about 90% of its high-value freight goes out in the bellies of passenger aircraft. Of course, it does not at the moment. Maintaining the capacity to do that and maintaining our trading capacity and relationships for the future will be vital to the recovery of our economy and to our place in a very different world.

I make an appeal to the Minister—I gave her notice that I was going to broaden the issue—that the 80:20 rule is a sensible step in terms of ensuring that airlines do not lose that capacity and those air corridors, but it is a tiny gesture to maintain capacity for the future. Substantial help now needs to be given to make sure that we do not fall even further behind our European competitors in terms of airport and airline capacity. To give one example, the relief for business rates that has been made available to very successful and profitable high street stores has resulted in an £8 million contribution to airports in the UK. That is very helpful to the smaller, provincial airports but for an airport such as Heathrow, which has an annual business rate levy of £120 million, £8 million goes a very small way to compensating.

I just make an appeal that we will need our aviation industry, taking into account climate change and pollution—in terms of both fuel and noise. The capacity to be able to travel, to compete and to engage in world trade will be vital and those who pooh-pooh the aviation and air transport industry in a way that they believe is somehow improving the prospect of meeting climate change targets for the future are delusional.

6.27 pm

Lord Bradshaw (LD) [V]: My Lords, I support the changes proposed by the noble Baroness, Lady Vere. The crisis in the airline industry has left us with really no alternative and it is always better to provide an orderly system rather than to leave matters to themselves, as it were.

However, unlike the noble Lord, Lord Blunkett, I do not count myself among those who want to see a return to normal, if normal means that we are going to have the same levels of noise, pollution and disruption which airlines give to many people. Airlines are polluting, and while they bring the mobility benefits to which the noble Lord, Lord Blunkett, referred, we must look forward to quieter and less polluting aircraft. In my view, this sort of thing is not an optional extra. If our concern with climate change is genuine, it is a must. I guess the third runway at Heathrow will itself be a long time coming, if it ever happens, but we have to make a useful contribution very urgently, probably by the time we go to Glasgow for COP 26, because as a nation we have to be able to show that there is a way forward to a genuinely better aircraft industry.

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): My Lords, I apologise for the House of Commons Division Bells. The noble Lord, Lord Bilimoria, has withdrawn so I now call the noble Baroness, Lady McIntosh of Pickering.

6.30 pm

Baroness McIntosh of Pickering (Con) [V]: My Lords, I thank my noble friend for so conscientiously bringing forward and explaining the contents of the regulations before us. I note how hard she works for the airline industry and the aviation sector, which I know they greatly appreciate. Can she explain what the response and reaction has been to these regulations, and the extension from the EU Commission to the waiver? I note that IATA has also been active in this field and that among the low-cost carriers—in which we in the United Kingdom seem to excel in normal times, outside of Covid—unhappiness has been expressed about the potential lack of competition and impact in higher fares. I am thinking particularly of Ryanair and Wizz Air, which have expressed their reservations. I do not know whether she has had the opportunity to put their minds at rest, if that is the case.

Can my noble friend please also explain to us what the situation will be if slots have been freed up, particularly the international transatlantic slots which are obviously not operating at the moment? One hopes that by the summer they will be. If it is true that Norwegian airlines is releasing some of these slots, potentially at Heathrow or other international airports in the UK, that will be of interest to other carriers. What procedure will take place at that time?

If, as I understand it, this is the legal basis—which I welcome—for the Secretary of State to be empowered to extend the waiver from the 80:20 or "Use it or lose it" rule beyond the end of March into the busy summer season, I presume that there will be no further opportunities to discuss that decision. Does my noble friend have any indication when that decision might be made? I realise that this is a stab in the dark because we do not yet know what the position will be and how reluctant the travelling public might be. I include myself in that, as I hope to visit my family in Denmark this summer.

Finally, I ask my noble friend about another position, as the airlines would not forgive me if I did not. I thank the Government for the measures they have announced to help airports, particularly the major international airports in the UK, which will be very welcome. Will she look favourably on bringing forward a review of air passenger duty, particularly to remove the double taxation anomaly? That would be a most welcome boost when we are able to fly reasonably again.

6.33 pm

Lord Empey (UUP) [V]: My Lords, I thank the Minister and her officials for arranging a briefing yesterday, which was most helpful. I agree with a lot of the contribution made by the noble Lord, Lord Blunkett. I also support in broad terms the relief from the 80:20 rule, because the last thing we want, for a whole variety of reasons, is to have the sight of airlines undertaking ghost flights to hold on to routes even if they have no current passengers.

A couple of years ago—in fact, on two occasions—I introduced a Private Member's Bill, which passed the House, to give the Government powers on slot allocation in the UK. Of course, it was governed by European competence at that stage. Slots are not only big business; they have huge implications for connectivity. While this measure does not apply to Northern Ireland airports, because they have capacity, at the end of the day a flight cannot take off unless it has somewhere to land. My anxiety has for years been about the risk from the absence of connectivity between the regions and the principal airports—what are called co-ordinated airports —such as Heathrow and Gatwick. I will return to that, although it is not necessary for this SI, but the principle is clear: if you do not ensure that regions have access to major airports with connectivity, that has economic, social and other implications. I ask my noble friend to bear that in mind.

I also doubt very much that airlines could manage even 20% of the flights on a lot of their slots at present. We had a briefing from one of our colleagues—the noble Lord, Lord Deighton, the chairman of Heathrow —where he pointed out that, in a number of months last year, its passenger flow had dropped by 95%. It is quite obvious that there needs to be as much flexibility as possible. As I understand it—I hope I am right in saying this—these measures will be available to apply in the summer season this year, but further secondary legislation or an approval Motion would have to come through to deal with subsequent seasons if the need arose, and there needs to be data on which to base that judgment. I think I have got that right; perhaps the Minister can correct me if I am wrong.

I broadly support the regulations. We need maximum flexibility at the moment. We need data but, looking forward, we need to bear in mind that it is essential for the key airports to have slot allocations. My anxiety is that when this crisis is over there could be a sudden surge in those airlines—international operators, perhaps —that have resources buying up a lot of the slots from weakened UK airlines and other slot holders. This could have a negative impact on the regions, so I ask my noble friend the Minister to also bear that in mind.

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): The noble Lord, Lord Berkeley, has withdrawn so I call the noble Lord, Lord Naseby. We do not seem to have the noble Lord.

Lord Tunnicliffe (Lab) [V]: He has not unmuted himself.

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): Lord Naseby, are you unmuted? Are you going to speak to us? No? In which case, the noble Lord, Lord Mann, has also withdrawn so we will move on to those winding unless the noble Lord, Lord Naseby, is there.

6.37 pm

Lord Naseby (Con) [V]: Can you hear me? I will make a short speech.

In the past, I have advised Singapore Airlines and SriLankan Airlines. I am a former RAF pilot and I support the third runway at London Heathrow. I thank

[Lord Naseby]
the Minister for her practical and workable solution, delivered on time and with clarity. It is very welcome. However, I wonder whether she can expand on the prediction that it will take until 2025 for normality to return, given the creativity of the travel industry in the UK. I am not entirely clear what happens if a new airline decides that it wants to get going and to have slots. What will the procedure be? I would be grateful for clarification on that point.

I have two other small points to make. First, the Minister talked in her briefing about categories of airport in the UK, such as level 3. I am surprised that Glasgow, with its international connections, is not a level 3 airport. I assume that it is not big enough. Secondly, I re-emphasise what other colleagues have said: these proposals are very welcome but our poor airports are stranded at the moment, almost like whales out of the sea. They are losing millions of pounds. The Government have done something but something more needs to happen. One possible area for this is on air passenger duty.

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): Since the noble Lord, Lord Mann, has withdrawn, I now call the noble Baroness, Lady Randerson.

6.40 pm

Baroness Randerson (LD) [V]: My Lords, I thank the Minister for her explanation. Slot allocation at busier airports is an important method of ensuring free and fair competition in the industry. It is based, as the Minister told us, on the 80:20 rule, otherwise known as the "Use it or lose it" rule. Providing an airline has used 80% of its slots in the preceding season, it is entitled to those slots in the upcoming equivalent season. When the shock of the pandemic hit the industry, and travel restrictions were imposed, it was a very sensible response for the EU to suspend the 80:20 rule. If that had not been done there was a real likelihood that airlines would have flown empty flights, known as ghost flights, just to maintain their right to keep their slots. For environmental reasons, that would clearly have been undesirable.

As the pandemic has lasted much longer than initially expected, it has been necessary to extend the period for slot waiver. That was last done in October, lasting to the end of March. Now that the transition period has ended, this SI gives the Secretary of State the powers to extend the period again. This is a sensible approach, but I have some questions to raise with the Minister.

First, slot allocation is an international approach to competitiveness in the market. It is intended to ensure that new providers can enter the market, and that consumers get a good deal. The Government pride themselves on leaving the EU, because they want to exercise their independence from the rules followed by our neighbours. So what are the Government's intentions on this in the long term? How far are the Government bound to the slot system by international agreements generally? Is there scope to take a different approach?

Secondly, there is increasing concern within the industry that the conditional agreements, voluntarily entered by the airlines, have not been effective—in particular, the agreement that an airline which suspends operations at the airport should immediately return its slots to allow reallocation. There has been publicity about the Gatwick situation. Virgin has said it will no longer fly from Gatwick. It no longer has a base there, but it keeps its slots. JetBlue, meanwhile, has confirmed that it wants some of these slots. Under the current non-statutory rules applying to this situation, it seems that Virgin can effectively prevent a competitor establishing itself. I am keen to hear from the Minister what the Government intend to do to prevent this situation continuing. It is not just bad for JetBlue; it is bad for Gatwick and for customers. Do the Government intend to introduce legally enforceable rules? Slots are very valuable commodities and the distortion of the market will artificially inflate their price, with the cost going directly on to ticket prices.

As airlines have grappled with the impact of the pandemic, they have been forced to reduce the size of their workforce and of their fleets. A major downsizing has occurred. There is now a serious mismatch between many airlines' slot holdings and their capacity to operate those slots. It is therefore important that there is no incentive and no loophole that encourages slot hoarding.

I know that the Government have consulted the industry about the continuation of the slot waiver and I would appreciate it if the Minister could tell us what its views are. When does the Minister think that the Government will be in a position to make a decision on the next season? Finally, do the Government have any plans to change the list of airports for which the slot system applies?

6.45 pm

Lord Tunnicliffe (Lab) [V]: My Lords, I thank the Minister for introducing this statutory instrument. She related it to an amendment to be tabled to the ATMUA Bill that we will consider on Thursday, which made it all make sense. It is a great shame that that relationship was not brought out in the Explanatory Memorandum, as it would have saved me quite a lot of time in trying to understand it. Just to make sure that I am clear, can the Minister confirm that this SI will effectively be used just once, to permit alleviation for summer 2021? Does it have precisely the same rules as the revised Regulation 95/93 had for winter 2021? Is it effectively a bridge to the powers that the Secretary of State will have when the amendment to the ATMUA Bill is agreed? Is another, negative order necessary to complete the bridge?

Looking to make a slightly longer speech, I alighted on paragraph 10.2 of the Explanatory Memorandum, which is about consultation. I noticed that whereas paragraph 10.1 said what the response was, paragraph 10.2 was silent. I was then lobbied. There is a rule of the Medes and Persians that lobbyists always lobby you the day before you have to make a speech. The institution lobbying me was Heathrow. While I thought that this was a perfectly sensible, uncontroversial measure, it emerges that it is not as uncontroversial as it seems.

Heathrow introduced me to the Worldwide Airport Slot Board, or WASB, comprising the Airports Council International, the International Air Transport Association

and the Worldwide Airport Coordinators Group. It raised three questions. It seems that the WASB had put together for summer 2021 an agreement, which was not as simple as the terms of this SI, to better relate the management of slots in the summer 2021. Heathrow claims that this was supported by airlines, airport operators and a number of Governments. So the first question it asks is, if the majority of industry responses to the ongoing consultation do not support a blanket waiver, why are the Government pushing ahead with it? It goes on to point out the value of this general agreement and notes that it has already been accepted by Canada, Cambodia, Malaysia, New Zealand, Taiwan, Vietnam, Japan, Hong Kong, South Africa, Singapore and Mexico. It asks why the Government are looking to be out of step with other nations and not consulting on the industry proposals, as per the number of other countries around the world?

Commenting on the amendment we are to discuss on Thursday—in a sense I give notice of this now—will the Government outline and propose the type and scope of industry consultation, and the timeline to which it should take place, before a policy decision on future waivers is taken?

I hope the Minister can give me some reaction to these points. Some may be fairly straightforward, with respect to this statutory instrument, but I am sure it will be a useful input to our debate on Thursday about the amendment to the Bill.

I hope she will also forgive my making one or two general points about the situation we find ourselves in at the moment. The industry is in dire straits and, at the end of the day, glamorous as it is, it will not survive without increased support from the Government, one way or another. I welcome the Treasury's business rates relief for airports and ground services; however, this barely makes a dent while the whole sector continues to bleed cash. The Government must do more and, as promised last year, announce robust financial support packages for the industry. The Government must now also set out a clear plan on how they expect restrictions to be lifted with the vaccine rollout.

6.51 pm

Baroness Vere of Norbiton (Con): I thank all noble Lords for their contributions this evening to what I think was an hors d'oeuvre for the much longer discussion around slots alleviation which will happen later on this week on Report on the Air Traffic Management and Unmanned Aircraft Bill. But I will be able to cover some of the points raised, particularly by the noble Lord, Lord Tunnicliffe, in my remarks. I hope to answer as many questions as possible and to go for a complete run so that I do not have to write any letters. Let us see how we do.

The consultation on this is incredibly important. My department launched a targeted consultation on 30 December with the aviation industry and, of course, with the airlines, the IATA, the slot co-ordinated airports in the United Kingdom and the independent slot co-ordinator, Airport Coordination Ltd, on the proposed amendments to the regulations. The consultation is due to close tomorrow and a decision will be made as soon as possible thereafter.

I would like to point out that I agree with the noble Lord, Lord Tunnicliffe: I find sometimes that lobbying is done by external organisations literally the day before, or the day of, the discussion, and I find it very unhelpful. He, too, will understand that the consultation is extremely important. Heathrow will have contributed to it, and the timeline from then is that we will consider all the evidence we receive, decide whether we can justify an extension on the basis of the evidence before us, and then use the powers in this regulation that have been given to the Secretary of State. The Secretary of State will then make a negative statutory instrument, which will grant this further alleviation and associated conditions. We expect this to happen fairly quickly because the summer season approaches quite rapidly. Indeed, it begins on 28 March, so we intend to lay the negative SI in February.

It is important to note that some slots will then be freed up, and my noble friend Lady McIntosh asked what would happen to them. In normal circumstances, they would be allocated in the normal way, whereby there is a tension, or an allocation to incumbent airlines and to new entrants. We are well aware that we need to maintain a robust competitive position in the UK market and that will be a consideration, but there are only certain things that we can do quickly.

I recognise the issue that the noble Baroness, Lady Randerson, mentioned about Virgin, for example, at Gatwick. One of the conditions we are considering and consulting on is whether an airline that ceases to operate at a particular airport might be excluded from a future waiver unless it gives up its slots. All these things are out for consultation.

My noble friend Lord Naseby asked why Glasgow, a very important international airport, was not on the list. It is not a question of how international or what size the airports are but whether the demand for slots exceeds the capacity. It does not at Glasgow, and therefore it does not need to be on the list, so I do not believe that there is any need to change the list of airports at this time. I note, for example, that Bristol has summer only in terms of its restrictions or need to be on the list. Obviously it is kept under review, but that is why Glasgow is not there.

Returning to the point made by the noble Lord, Lord Tunnicliffe, about the WASB—the Worldwide Airport Slot Board—and some of its proposals, part of the consultation is to understand what people are doing and what they want domestically but also internationally. It is also true that we currently do not have the powers to change the ratio. All we can do under the withdrawal Act is correct deficiencies in the commission's current powers; the commission will obviously have the same restrictions that we have. However, we need primary legislation to change the waiver. I will come on to that very shortly— right now, in fact.

The noble Lord, Lord Tunnicliffe, asked about the relationship between what noble Lords are discussing today and what will be in the ATMUA Bill. He rightly pointed out that it was not in the Explanatory Memorandum; that is because we did not know. It became clear to us that, to extend changes beyond summer 2021, we would need to lay primary legislation;

[Baroness Vere of Norbiton]
as noble Lords will know, this is not an easy thing. We became aware that the primary legislation could be added in to the ATMUA Bill. As it was going through your Lordships' House, it was still in the first House, and we felt, although it is very unusual, that it could go in before Report. I think noble Lords will see, when it is debated on Thursday, that this is appropriate and the right thing to do.

What noble Lords are discussing today is the SI that solely takes the commission's powers and gives them to the Secretary of State, and is for summer 2021. As I explained, the powers fall away on 2 April 2021, so we will need primary legislation for every period after that. This is because one is not able to make a decision about winter 2021-22—often October—based on the data that we have now. I take the point about consultation prior to taking decisions before each season happens—I will explain that further in due course—because we will end up in a cycle whereby, for every season, there will be the data received, a consultation and then an affirmative SI laid before your Lordships' House. It will then be debated, which will cover the season ahead of us. In that, we will be able to explore questions around competition, the conditions attached and all the things that are happening to the aviation sector at that particular time. That is why it is so important that we have that cycle of consultation, laying the right proposals for the period ahead as, hopefully, we come out of the pandemic, people start to travel again and airlines come back stronger. That is why the ATMUA Bill contains these amendments.

The noble Lord asked why we are saying until 2024-25—that is, do we expect the pandemic to last that long? That is just future-proofing the legislation. Obviously, I expect that we will see a change over that period. It may be that we do not need to change anything in 2024-25, but it is better to be safe than sorry.

Slots and the reform of slots policy have been on the Government's mind for quite a while. They will be considered in the round with any future review of aviation policy, so we may do something before 2024-25 anyway. We may well take a different approach but within established international slots guidance, because of course it is a very international sector. However, we support competition and believe that there may be some changes that we wish to make in slots allocation. That is definitely not for now; we will leave that for another day.

On aviation support, I note that we had two slightly differing views: the noble Lord, Lord Blunkett, was keen on capacity for passengers and freight—I am on his side on this one—while the noble Lord, Lord Bradshaw, seemed a bit more cautious. However, I note that the caution of the noble Lord, Lord Bradshaw, was around climate change and noise. The Government have made some significant interventions on both of those and we continue to do so. We will consult on aviation decarbonisation shortly, and of course we have the transport decarbonisation plan coming through. There is a lot of work to do on aviation decarbonisation. Again, on noise, we established ICCAN and various other interventions such as the airspace modernisation programme, which again will impact on noise. I suspect that in due course, with quieter, cleaner and greener planes, the impact of aviation will be less than the noble Lord fears. I am therefore with the noble Lord, Lord Blunkett, in that we should be able to build back our capacity for both passengers and freight. That is incredibly important, which is why the Government are focusing, first, on the immediate restart of the aviation sector. We have introduced the test to release programme and in due course, as more passengers are able to travel safely, we will look at making sure that we can protect transfers of passengers within travel corridors, for example, or whatever other ways we can think of to protect public health while supporting aviation.

However, in the medium and long term, an important piece of work is being done with regard to a recovery plan. That is looking at things such as connectivity between Northern Ireland and the rest of the UK, protecting consumers, supporting the sector by confirming that we will stand behind the Air Travel Trust Fund, supporting the industry through skills and making sure that they are maintained, and of course working with the CAA on regulatory easements.

I hope that I have answered all questions today. I am grateful for everybody's input. We will return to this subject on Thursday, and I look forward to it. I commend the regulations to the Committee.

Motion agreed.

The Deputy Speaker (Baroness Garden of Frognal) (LD): My Lords, that completes the business before the Grand Committee today. I remind Members to sanitise their desks and chairs before leaving the Room.

Committee adjourned at 7.02 pm.