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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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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 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 8 June 2021

The House met in a hybrid proceeding.

Noon

Prayers—read by the Lord Bishop of Carlisle.

12.06 pm

The Lord Speaker (Lord McFall of Alcluith): 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 and wear face coverings while in the Chamber except when speaking. If the capacity of the Chamber is exceeded, I will immediately adjourn the House.

Message from the Queen

12.07 pm

The Lord Chamberlain (Lord Parker of Minsmere): My Lords, I have the honour to present to your Lordships a message from Her Majesty the Queen, signed by her own hand. The message is as follows:

"I have received with great satisfaction the dutiful and loyal expression of your thanks for the speech with which I opened the present Session of Parliament."

The Lord Speaker: My Lords, Oral Questions will now commence. Please can those asking supplementary questions keep them no longer than 30 seconds and confined to two points? I ask that Ministers' answers are also brief.

Disability Benefit Claimants

Question

12.07 pm

Asked by ***Baroness Thomas of Winchester***

To ask Her Majesty's Government what steps they are taking to ensure that guidance to frontline staff on how to treat vulnerable disability benefit claimants is followed.

Baroness Scott of Bybrook (Con): The DWP has a range of methods in place to ensure that front-line colleagues follow the guidance correctly when supporting vulnerable customers. These include quality checking of calls with claimants, examining notes and other actions, as well as checking the technical aspects of a case. DWP staff also have clear escalation routes in place to help colleagues support vulnerable customers. These include referral to vulnerable customer champions and advanced customer support senior leaders, who can help where additional support needs are identified.

Baroness Thomas of Winchester (LD) [V]: My Lords, I welcome that reply as far as it goes, but what we need to know now is what measures the Government have in place to identify vulnerable disability claimants who have died, some by suicide and some by serious harm in which the DWP or its contractors may be implicated.

Baroness Scott of Bybrook (Con): We feel very sad about anyone who takes our DWP welfare and is made sick or, sadly, dies; our hearts go out to them. However, we have made a range of improvements, increasing staff awareness of the vulnerability of claimants and how to respond to that. Training now includes mental health awareness, unconscious bias training and how to manage specific vulnerabilities such as homelessness and domestic abuse.

Baroness Bryan of Partick (Lab) [V]: Does the Minister agree that the problems relating to welfare benefits are less to do with staff guidance and more to do with the low levels of benefits, along with the inflexibility of the system? Does she accept that however well trained front-line staff are, they cannot compensate for a system that Disability Rights UK has described as unfit for purpose?

Baroness Scott of Bybrook (Con): I am sorry, but I do not agree with the noble Baroness. Over the past 18 months we have invested heavily in welfare. The most important thing we do is to look after our vulnerable customers and make sure that they get the welfare they are entitled to.

Baroness Eaton (Con) [V]: My Lords, front-line staff will deal not only with people with disabilities but those suffering with mental health conditions. Many of these conditions may not be obvious to staff. What training do front-line staff receive on mental health conditions?

Baroness Scott of Bybrook (Con): My noble friend is correct that this is also about mental health conditions. Since 2018, the DWP has provided training on supporting vulnerable customers. That training goes out to all new staff in service delivery. We have also been rolling out further training on mental health behaviour and relationships. This is supported by comprehensive guidance covering a range of different complex needs. For disability benefits assessments, health professionals will have undergone comprehensive recent training on functional disability and mental health conditions. Mental health function champions provide additional expertise to those teams within the assessment centres.

Lord Addington (LD): My Lords, there is a history here of the first interview not going well and not establishing the underlying problem. What training—training is not the right word—what freedom is given to the initial interviewer to say, "I do not understand everything that is going on here", and to be able to call for help? Will this be taken as a benefit and not something that is simply slowing down the system?

Baroness Scott of Bybrook (Con): I know that the noble Lord understands these systems very well. All health professionals receive comprehensive training in disability analysis, which includes an evaluation of how medical conditions affect claimants in their day-to-day activities, as well as awareness training in specific conditions. He probably knows that with regard to autistic spectrum disorder, staff are working with the Autism Alliance to develop further training specifically to help people who find those first interactions with

[Baroness Scott of Bybrook]
the system very difficult. We are also putting clear markings on assessments when they are first made in order to identify those people with vulnerabilities.

Baroness Fookes (Con): My Lords, I am interested in the work of the Serious Case Panel. Is my noble friend able to give me an update on the work of this panel and its progress?

Baroness Scott of Bybrook (Con): My Lords, the Serious Case Panel was established only last year—2020. It has now met five times and it is going to meet very soon—later this month. The panel does not investigate individual cases; it considers themes arising from a range of sources, including internal process reviews and front-line feedback, which is important. It also agrees recommendations for organisational learning, where needed, and will assign a director-general for committee accountability for delivering these recommendations within the department. It may be useful for noble Lords to know that the panel's terms of reference and minutes from all its meetings can be seen on GOV.UK.

Lord Wigley (PC) [V]: My Lords, I declare my registered links with Mencap. Does the department have any staff members specifically trained to communicate with people suffering from learning disabilities? If so, does the department take proactive steps to make known to such people, and to their carers, that this facility does in fact exist?

Baroness Scott of Bybrook (Con): My Lords, yes, we do. We have mental health function champions. The assessment of mental, cognitive and intellectual function is an integral part of all disability benefit assessments. Health professionals have undergone comprehensive training in the functional assessment of disabilities and that includes mental health conditions.

Baroness Sherlock (Lab) [V]: My Lords, we have a systemic problem. The NAO found that at least 69 suicides could be linked to problems with benefit claims and that the DWP had failed to investigate many of those cases properly or learn from them. The Minister mentioned the Serious Case Panel. I have looked at those minutes and I am sorry to say that they are so brief and redacted as to be pretty much entirely unrevealing. How can the House be assured that every recommendation from an internal process review will in future be implemented?

Baroness Scott of Bybrook (Con): There are three different panels here. We have the internal review panel, which looks, as the noble Baroness said, into specific cases. Then there is an internal process review group of senior officers and leaders in the DWP who will look at the IRP actions and feed into the wider organisation. That is important. Then we have the Serious Case Panel, which considers systemic themes and issues coming from IPRs and learns from them and acts on them.

Lord Flight (Con): My Lords, what training and support have Her Majesty's Government put in place for staff who may be dealing with people with suicidal thoughts or plans?

Baroness Scott of Bybrook (Con): My noble friend raises an important issue. Comprehensive guidance is available to all work coaches and case managers on how to deal with threats of self-harm. This guidance applies to all methods of communication, including the online journal. When a threat of self-harm is identified, agents follow a six-point plan and I am happy to let my noble friend have that. The plan helps them take the right action, at the right time, to ensure that the customer receives the support they need.

Baroness Bennett of Manor Castle (GP): My Lords, the Minister has given us an extensive account of mental health training. I am sure she is aware of the Z2K #*PeopleBeforeProcess* report which looked at PIP payments. One of the respondents to the survey behind that report said that the assessor

"noted in the report that I couldn't have mental health problems as I wasn't rocking back and forward."

How does the Minister account for that statement and many others in that report in the light of the training she outlined?

Baroness Scott of Bybrook (Con): All I can say to the noble Baroness is that that is obviously unacceptable. The DWP will look at that report and take action.

The Lord Speaker (Lord McFall of Alcluith): My Lords, the time allowed for this Question has elapsed and we now come to the second Oral Question.

Clean Energy Transition Guidance

Question

12.19 pm

Asked by ***Baroness Blackstone***

To ask Her Majesty's Government what assessment they have made of the impact their document *Aligning UK international support for the clean energy transition guidance*, published on 31 March, will have on international fossil fuel investment; and what discussions they have had with other Governments about implementing such guidance.

Baroness Bloomfield of Hinton Waldrist (Con): The Government are grateful for the positive response from international partners to this new world-leading UK policy position. We have held productive discussions with like-minded countries on this agenda, including through our G7 presidency and broader initiatives, such as the E3F export finance coalition. It is encouraging to see an increasing number of similar commitments from key partners, such as the United States, in aligning their support towards clean energy.

Baroness Blackstone (Ind Lab): My Lords, I very much welcome the Government's new policy ending support for overseas fossil fuel projects, but the CDC is able to make investments in financial institutions, which, in turn, will continue to make investments in fossil fuels. How are the Government going to stop public money supporting fossil fuels in this way?

Baroness Bloomfield of Hinton Waldrist (Con): The noble Baroness will understand that the CDC has an independent board, but its policy is fully aligned with the Government's by excluding fossil fuel investments, except under certain tightly limited circumstances. As such, the policy excludes future investment in the vast majority of fossil fuel subsectors, including coal, oil and upstream gas exploration and production. It has invested over $1 billion of climate finance in the past three years and set a target for 30% of all new commitments, in 2021, to be on climate finance.

Lord Grantchester (Lab): The Government's guidance states:

"Support for unabated gas fired power generation is conditional on: a country having a credible NDC"—

nationally determined contribution—

"and long-term decarbonisation pathway to net zero by 2050 in line with the Paris Agreement".

There are other conditions. How do the UK Government reach this determination? Is this made known to companies and published before any applications for export finance support are made? Will the Government have a traffic light system for this?

Baroness Bloomfield of Hinton Waldrist (Con): As I said, the guidance document was very tightly worded and there is a set of tightly defined criteria that must be met before any support for unabated gas power is approved. This judgment as to whether the criteria are met will be based on all available evidence sought from the relevant project sponsor, the financing institution, the partner Government and the advice of experts in the relevant department or departments. Based on this evidence, and in borderline cases with the approval of relevant Ministers, proposals will be judged either to meet the tightly defined criteria and approved or not. I am afraid I have no knowledge of the intention to introduce a traffic light system.

Lord Oates (LD): Will the Government use the opportunity of the G7 meeting later this week and COP 26 at the end of the year to seek international support for reform of the capital requirement and Solvency II regulations, so that risk weightings relating to the funding of fossil fuel exploration and exploitation adequately reflect the macroprudential risk that such activities pose to the international financial system and the global economy as a whole, not to mention the future of the planet?

Baroness Bloomfield of Hinton Waldrist (Con): I thank the noble Lord for his question and might write to him on some of the detail. I can say that the UK is a leader in ambitious climate action, both domestically, with the most ambitious emissions-reduction target in the group, and internationally, doubling our international climate finance to £11.6 billion from 2021 to 2025. This policy decision and its swift implementation demonstrate our commitment and, over the coming months, we will work closely with like-minded partners to see similar principles adopted elsewhere. When the Prime Minister launched the UK's presidency of COP 26 in February last year, he pledged our ambition for COP 26 to be the point where the world comes together,

"with the courage and the technological ambition to solve man-made climate change".

We want to see our policy act as a catalyst for others, while still providing finance for the right projects in countries that desperately need power.

Lord Lilley (Con) [V]: My Lords, if, as we are told, power from renewables is cheaper than power from fossil fuels, would this measure not be unnecessary, since no developing country would want to build fossil fuel power stations? If, however, that assertion about the cheapness of renewables is a fib, and our policy is to reduce the supply of cheap fossil fuel power and to force countries to rely on more expensive renewables, how will this help poor countries to develop?

Baroness Bloomfield of Hinton Waldrist (Con): Solar and wind are indeed now cheaper than existing coal and gas power plants in most of the world. Investments in fossil fuels will become increasingly risky, including for developing countries. Shifting away from fossil fuels is compelling, from both a climate and an economic perspective. The priority for the UK is to support renewable energy as the default choice, enabling us to continue to support developing countries to meet their growing energy needs and increase access to electricity, in line with both the sustainable development goals and the Paris Agreement. The UK has launched the Energy Transition Council to bring together political, financial and technical leaders, but one still has to remember that 600 million of the population of Africa have no access to any electricity.

Baroness McIntosh of Pickering (Con): My Lords, I am delighted to support this policy and welcome its emphasis on renewables. Will my noble friend take this opportunity to confirm that there will be a moratorium on fracking activities, either in this country or abroad, which the Government might be tempted to support? While I support helping countries urgently in need of power, it seems odd that UK Export Finance provided £47.6 million of support to build two of the largest solar plants in Spain. Will my noble friend confirm that there were no worthy projects in this country that were perhaps deprived of support from UKEF, as a result?

Baroness Bloomfield of Hinton Waldrist (Con): I can confirm to my noble friend that there is already a moratorium on fracking in the UK. I have been told that the UK also does not support international fracking. The moratorium came in following events during fracking operations at the end of 2019, and the Government confirm that we will take a presumption against issuing any further hydraulic fracking consents. This sends a clear message to the sector and to local communities that, on current evidence, fracking will not be taken forward in England. I am not sure of the exact details of the solar project in Spain, but I can confirm that export finance is given to projects where there is a significant benefit to the UK supply chain. If I have got that wrong, I will write and correct.

Baroness Sheehan (LD): My Lords, in announcing the ending of support for fossil fuel projects abroad, there was mention of exceptions for some projects. I wonder whether the Minister could give a list of these or, if more appropriate, just mention a few now and write to me with a complete list.

Baroness Bloomfield of Hinton Waldrist (Con): There are a number of exemptions from this, one of which is providing support and promoting exports that improve the efficiency, health and safety, and environmental standards of existing assets. We will also support projects that assist with the decommissioning of existing fossil fuel assets and support gas power where it is part of a credible emissions-reduction plan, in line with the Paris Agreement. This goes back to the question from the noble Lord, Lord Grantchester, on how we will evaluate these projects. The investment must not delay or diminish the transition of that country to renewables and there must be no risk of it becoming a stranded asset due to climate change factors.

Baroness Jones of Moulsecoomb (GP): Is it not slightly hypocritical of our Government to pontificate on this issue when they are funding, through the British taxpayer, a fossil fuel plant project in Mozambique?

Baroness Bloomfield of Hinton Waldrist (Con): The Mozambique project is one of huge controversy. It was supported by UK Export Finance in July 2020 under previous policies and would not be approved today. It has now contractually committed to that support. UKEF will continue to monitor that situation closely. All support provided by UKEF has been in line with the scope of the new policy since March, which ends new direct financial or promotional support for the fossil fuel energy sector, other than in the limited circumstances I have outlined. It aligns support with clean energy.

Baroness Scott of Needham Market (LD) [V]: My Lords, one of the many exemptions to the policy is for countries that do not have a reliable or complete electricity grid—for example, Nigeria, where the UK recently invested in a gas and diesel power company. Do the Government intend to put an end date on this exemption or will we continue to support fossil fuel-generated power indefinitely?

Baroness Bloomfield of Hinton Waldrist (Con): I know that there are agreements in the policy to review it at certain intervals and I suspect that we will allow these exemptions until the next policy review. But, as I said, there are 600 million people in Africa with no access to electricity, and we cannot hold back development where we can assist by providing some form of grid or power system in the interim.

The Lord Speaker (Lord McFall of Alcluith): My Lords, all supplementary questions have been asked and we now move to the next Question.

Destination Management Organisations

Question

12.29 pm

Asked by ***Lord Ravensdale***

To ask Her Majesty's Government what assessment they have made of the role destination management organisations can have in support the recovery of the (1) national, and (2) international, visitor economy from the impact of the COVID-19 pandemic; and what support they are providing to such organisations.

Lord Ravensdale (CB) [V]: I beg leave to ask the Question standing in my name on the Order Paper and, in so doing, note that I am co-chair of the Midlands Engine APPG.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Baroness Barran) (Con): My Lords, in March the Government commissioned an independent review of the destination management organisations in England to look at these issues. The review is ongoing and will report later in the summer. It will make recommendations on how DMOs might best be structured and funded to support the post-Covid recovery of the tourism sector. Last year, the Government provided £2.3 million in financial support to England's DMOs so that they could continue to carry out vital business support roles during the pandemic.

Lord Ravensdale (CB) [V]: I thank the Minister for that response. Local connections and knowledge of place are key for DMOs. Does the Minister agree on the importance of community-based action for DMOs and that freedom from hierarchical structures is key in helping them undertake their role effectively—for example, freedom from the constraints inherent in local government structures and strengthening connections with LEPs, town funds and future levelling-up opportunities?

Baroness Barran (Con): The noble Lord will be aware that there are several different models of DMO, but the Government recognise the point that he makes about the important role that DMOs currently play in supporting local communities, sharing their expertise and building connections across destinations. The review will consider the points he raises, taking into account current examples of best practice, and will make recommendations based on that.

Baroness Rawlings (Con) [V]: My Lords, what support for the recovery of these organisations are the Government giving regarding the resulting instability of endless changing of the red, amber and green countries?

Baroness Barran (Con): The Government recognise and regret the disruption to travellers, particularly those who had been planning trips to Portugal recently. We have provided £2.3 million in the last year specifically to support the destination management organisations in recognition of their crucial role.

Baroness Wheatcroft (CB): My Lords, in this country we are very lucky to have so many museums and art galleries that are free to the public. And yet, on occasion, DMOs have included in the list of things they can do for visitors "entry into the British Museum", et cetera. Will the Government undertake not to support any organisations that market themselves in this way?

Baroness Barran (Con): I am very happy to take the points raised by the noble Baroness back to colleagues in the department.

Baroness Merron (Lab): My Lords, local authorities deserve praise for their work during the pandemic to promote staycations: getting people to fall back in love with the great British holiday either by exploring new places in our rich and varied country or revisiting childhood destinations. Are the Government considering giving these hard-pressed councils and destination management organisations additional financial and other support, at a time when the UK desperately needs to grow domestic tourism and the hospitality industry is suffering?

Baroness Barran (Con): The noble Baroness will be aware that the Government have given huge support—over £25 billion—to the tourism, hospitality and leisure sectors. We made an additional grant of £425 million specifically to local authorities, making clear that tourism and events were eligible for that funding, at the discretion of local authorities.

Baroness Doocey (LD): My Lords, a recent survey of tourism businesses by the Tourism Alliance highlighted some severe staffing problems: only 18% of businesses in the tourism and hospitality sector say that they have enough staff, and almost one-third have had to reduce their capacity, services or hours because they simply cannot get the staff. What action are the Government taking with DMOs to rectify this situation, which is wrecking the recovery not just of the tourism industry but of local economies?

Baroness Barran (Con): The noble Baroness makes a good point, but the picture is slightly more complicated than the one that she paints. She is right that there are areas of shortage, but in significant portions of the industry staff are still on furlough. There are great geographic variations on that, and we are working closely with the sector to assess how we can respond to the challenges it faces.

Lord Smith of Hindhead (Con): My Lords, can the Minister tell the House how the stronger towns funding, the future high streets fund, the levelling-up fund, the UK shared prosperity fund, the welcome back fund and the coastal community fund are being co-ordinated to provide a coherent strategy for tourism and, specifically, for seaside towns?

Baroness Barran (Con): I thank my noble friend for highlighting the varied and sustained support that the Government have been offering in the range of funds that he cited, some of which have been available since 2019 and others which are yet to be launched. We are working across Whitehall and with local and regional stakeholders, including DMOs, to make sure that ongoing investment in places reflects their local priorities and needs.

The Earl of Clancarty (CB): My Lords, following on from the question of the noble Baroness, Lady Merron, there is a question about how much the Government appreciate the important role local authorities should be playing in the visitor economy. The news of further job losses for visitor and museum staff, such as the 50% losses currently threatened in Harrogate Borough Council, is hugely worrying. Local authorities need to be given the resources to do the job intended for them.

Baroness Barran (Con): The Government absolutely recognise the role that local authorities play, and, as the noble Earl is aware, they are important funders of DMOs. The review will look at the right funding structure for these organisations going forward.

Lord Moylan (Con): My Lords, does my noble friend accept that regional transport authorities have an important role to play in welcoming and facilitating both national and international tourism? I am thinking, for example, of the sorts of visitor welcome centres that Transport for London has habitually maintained at major London rail termini. Will she take steps to ensure that funding is directed at keeping these in operation?

Baroness Barran (Con): The Government recognise the role that regional transport authorities can play in providing information and assistance to visitors, as my noble friend has outlined, particularly when they co-ordinate that work with the DMOs. I have already mentioned the £25 billion provided to support the sector, which has been one of the worst hit; we have supported over 87% of businesses in this area.

Lord Vaizey of Didcot (Con): The Government's support in that respect is very welcome. One of the themes of these questions is greater co-ordination between DMOs and greater co-ordination of funds. Are the Government planning a big domestic marketing campaign, given that Matt Hancock has turned us into a captive audience for domestic tourism?

Baroness Barran (Con): We are currently working with VisitBritain, VisitEngland and local partners, including DMOs, to champion the diverse tourism offer we have in this country through the Enjoy Summer Safely campaign. We spent £19 million on domestic marketing activity last year, and much more is planned for this year.

Lord Berkeley of Knighton (CB) [V]: My Lords, given that many visitors wish to see international artists, how much does the noble Baroness think this question is bound up with post-Brexit rules on touring, and the difficulty of getting artists to this country and getting our artists to other countries?

Baroness Barran (Con): The two issues obviously have a link. Particularly for international tourism into this country, the range of events we have traditionally offered has been very important. We are obviously trying to balance that with the safety of citizens.

Baroness Gardner of Parkes (Con) [V]: My Lords, in its recent submission to the Independent Review of Destination Management Organisations, the Local Government Association proposed that local councils should be given the power to reinvest the money generated by tourism into their local areas. Can the Minister comment on whether this recommendation will be supported by the Government, since local councils need to pay for the facilities to support such tourism?

Baroness Barran (Con): I really would not want to prejudge the review's findings. When we get those later this summer, we will respond on a way forward.

The Lord Speaker (Lord McFall of Alcluith): My Lords, all supplementary questions have been asked. We now come to the fourth Oral Question.

NHS Digital: Primary Care Medical Records

Question

12.41 pm

Asked by ***Baroness Cumberlege***

To ask Her Majesty's Government what assessment they have made of the plans by NHS Digital to collect primary care medical records; and in particular, the arrangements for (1) patient consent, and (2) the sharing of patient data with third party organisations.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, data saves lives. We have seen that in the pandemic, and it is one of the lessons of the vaccine rollout. The GP data programme will strengthen this system and save lives. That is why we are taking some time to make sure it is as effective as possible, so the implementation date will now be 1 September. We will use this time to talk to patients, doctors and others to strengthen the plan, to build a trusted research environment and to ensure that the data is accessed securely.

Baroness Cumberlege (Con) [V]: My Lords, I am very grateful for the Minister's reply, especially hearing that this is all to be put back until 1 September. That is a very good decision, because we have heard that patients have not been able to get their GP to accept the information on the form for them to opt out of the proposed system. The system is not working at the moment, and we are very concerned. There was a thought that the system would be anonymised, but that is not what is proposed. It is pseudo-anonymisation, with NHS Digital having the capacity to identify individuals. There is no capacity for people to unanonymise. It needs a really thorough rethink. I very much congratulate—

Lord Ashton of Hyde (Con): Could I ask the noble Baroness to ask her question?

Lord Bethell (Con): I am enormously grateful for the noble Baroness's endorsement of our decision to delay the rollout. As the absolute epitome of the patient safety cause, she knows more than anyone the importance of data to that cause. I completely endorse the points she made.

The Lord Bishop of Carlisle: My Lords, informed consent is at the heart of good patient care. Can the Minister tell us what plans Her Majesty's Government have to inform patients that they have the right to opt out of having their personal medical information collected in this way? How will this be advertised?

Lord Bethell (Con): My Lords, engagement with the Royal Colleges, the BMA and GPs on a one-to-one basis has brought about a system that has a national data opt-out and a tier 1 opt-out with GPs. This is fully explained in all our materials and there has been a campaign to raise awareness among patients. We are taking a brief pause to ensure that patients have almost as much time as they could possibly have to make the decisions they would like to make. That is a wise decision in the circumstances.

Lord Young of Norwood Green (Lab) [V]: My Lords, by coincidence, I received a text from my GP surgery yesterday inviting me to click on a link if I wished to opt out of having my data shared. I do not. Does the Minister agree that data sharing plays a vital role in advancing diagnosis and cures for a range of diseases and illnesses? Of course we need to ensure that there is public trust on anonymity. Can he give us more information on that and on cybersecurity?

Lord Bethell (Con): I am grateful for the noble Lord's anecdote. It is no coincidence that he got the text yesterday. We have energetically promoted this opportunity to patients and we are grateful to those who have engaged. He is entirely right. Patient data played a critical role in the development of the shielding list during Covid, in the recovery clinical trials programme and in the vaccine priority list. Clinical data is essential for patient safety. That is why we are modernising the system by which we access it.

Baroness Hollins (CB) [V]: My Lords, the choice on the opt-out preference form is either:

"I do not allow my identifiable patient data to be shared outside of the GP practice for purposes except my own care",

or:

"I do allow my identifiable patient data to be shared outside of the GP practice for purposes beyond my own care."

The big question is: what is identifiable? For some people with disability, mental health and/or trauma histories, data might be easily identifiable. I knew nothing of this until last week. I await with interest the noble Lord's reply.

Lord Bethell (Con): The nature of the data is very explicitly described in the documents that the noble Baroness will have referred to. If she likes, I would be very happy to send her a full set of details. Of course, many patients have engaged with the process and, like the noble Lord, Lord Young, have made the wise decision to remain enrolled in the system.

Baroness Thornton (Lab): My Lords, my honourable friend Jon Ashworth called for this delay yesterday in the Commons. It is not often that we can say thank you to the Minister at such short notice, but it is very welcome that the Government have agreed to this delay. The eighth Caldicott principle—I assume that the Minister is aware of the principles—makes it clear that it is important that there are no surprises for the public around how confidential information about them is used. If GP data can be used by a third party, be they public or private, how will that principle be fulfilled?

Lord Bethell (Con): My Lords, I am grateful to the noble Baroness for her kind remarks. As she knows, there is an incredibly rigorous system for ensuring the safe curation of this data, and I pay tribute to the Caldicott Guardians, the ICO and the IGARD board, which has put in place a very tough and rigorous surveillance system to ensure that all the data sharing that goes on within the NHS complies with the legal requirements and the guidelines laid down by law and by the NHS. These are tough conditions and they are applied very rigorously.

Baroness Brinton (LD) [V]: My Lords, it is a relief to hear that there will be a delay, but I am astonished that the Government have left it this late. When will the data protection impact assessment for this be published, and will the Minister place a copy of the DPIA in the House Library, so that Members can read NHS Digital's own statements about the privacy risks and the impact of the programme? It might help the ICO in its deliberations about whether the system proposed is safe.

Lord Bethell (Con): I am grateful for the question. I will look into that date and share whatever materials are available.

Lord Hunt of Kings Heath (Lab): My Lords, I am fully behind the sharing of information, for the reasons that the Minister explained. But does he agree that to ensure public confidence, the Government have to do something about the current clunky opt-out approach that they have taken and make it easier, and publish the names of the companies to whom this information will be given and what they are paying for it? The Government must not hide behind commercial confidentiality. We as patients have an absolute right to know this.

Lord Bethell (Con): My Lords, I agree with the noble Lord that the opt-out system deserves to be looked at. We are undertaking a review of the opt-out system to streamline it along the lines that he described. However, he peddles a slightly false impression. There are extremely detailed considerations in the IGARD minutes, available online—39 pages from the last meeting—which go into great detail on the arrangements for the sharing of each piece of data. On payment for the data, I remind him that—as I am sure he already knows—these are payments for costs and not payments for any kind of charge. All data is shared for very strict reasons to do with research and planning. There are no other reasons for sharing the data.

Lord Stirrup (CB): My Lords, we urgently need better flows of clinical data between different parts of the NHS, but the public are understandably anxious, given the well-publicised data leaks and thefts of recent years, and particularly given that the proposed scheme is not limited to the NHS but includes external third-party commercial enterprises. Why have the Government done so poorly at explaining to the public the need for such information flows and the health benefits that they bring? Why have they not, at least in the first instance, constrained the sharing of data more narrowly, in order to build up the necessary degree of public confidence?

Lord Bethell (Con): My Lords, I contest the premise of that question. I have not had a single complaint from anyone who has had the vaccine or been on any prioritisation list for the vaccine. Tens of millions of people have had it and they embrace the fact that their clinical data was used to roll out the vaccine. I accept the noble and gallant Lord's point on explaining. We can do more to explain to the public. We want to engage the professions and the public in a story about how they can use their clinical data more emphatically. On the way in which the data is shared, it is already extremely tightly controlled. I would be glad to go through that with the noble and gallant Lord if that would be helpful.

The Lord Speaker (Lord McFall of Alcluith): My Lords, the time allowed for this Question has elapsed.

12.52 pm

Sitting suspended.

G7 Global Tax Agreement

Private Notice Question

1.01 pm

Asked by ***The Lord Bishop of St Albans***

To ask Her Majesty's Government, further to the announcement of the G7 global tax agreement on 5 June, whether tech companies will pay more tax in the United Kingdom after the proposed removal of unilateral digital services taxes.

Baroness Penn (Con): My Lords, the reforms agreed by the G7 countries include a global minimum tax of at least 15% and changes to profit allocation rules that mean large digital companies will pay more tax in countries where their customers are located, including the UK. The detailed design of the new rules is still under consideration, so it would be premature to provide revenue estimates. When the rules are implemented, the revenue impact will be formally assessed and certified by the OBR.

The Lord Bishop of St Albans [V]: I congratulate the Chancellor and the Government on reaching this landmark agreement. It is a positive step towards a global level playing field and an end to the unjust practice of offshoring. While this is a welcome starting point, does the Minister agree with the Chancellor's assessment that this is a fair deal, given that the proposal now outlined clearly favours high-income countries at the expense of lower-income ones? Would it not be fairer for the Government to pursue a path on which additional tax revenues are distributed without preference being given to the countries in which multinationals are headquartered?

Baroness Penn (Con): I thank the right reverend Prelate for his words of welcome. This is indeed a significant agreement. I disagree with his assessment of what has been agreed so far. It will benefit all countries, including lower-income countries. As he will know, this is not the end of the process. A key part of this process so far and going forward is the OECD

[Baroness Penn]
inclusive framework, which means that less economically developed countries have an equal voice in the final agreement to those that are more economically developed.

Lord McKenzie of Luton (Lab) [V]: My Lords, the global tax agreement is to be welcomed, despite inevitably leaving some unanswered questions. As we know, the agreement was struck among the G7—generally the most sophisticated and prosperous of Governments, with more developed tax systems. The tax avoidance industry has yet to be put loose on the detailed proposals to see how resilient they are. Concerns have already been expressed about a loophole being identified, with minimum tax applying only to profits exceeding a margin, and different business models—

Viscount Younger of Leckie (Con): Can the noble Lord please put his question?

Lord McKenzie of Luton (Lab) [V]: I am sorry. The question is: so far as further implementation is concerned, what support will be given by the sophisticated economies to the less sophisticated, which might struggle with some of this?

Baroness Penn (Con): My Lords, as I just said to the right reverend Prelate, the UK robustly supports the BEPS initiative being taken forward by the OECD's inclusive framework group, which includes more than 100 jurisdictions and ensures that less economically developed countries have an equal say in developing international solutions. I assure the noble Lord that the UK Government also put resources into developing countries to help them to build the tax resources they need, so that they can ensure the effective enforcement of rules and collection of taxation.

Baroness Noakes (Con): My Lords, a lot of the attention has been on the minimum tax rate announced as part of the agreement—I hope the Government will not be tempted to go above the 15%—but more important than the rate is what will be taxed. Does the Minister agree that the UK must not allow global rules to override our freedoms to incentivise investment through things such as freeports and super-deductions?

Baroness Penn (Con): I reassure my noble friend that the UK Government's freeports will not be affected by this announcement. Freeports are not about corporation tax directly but are designed to support a wide range of businesses with a wide range of tax offers focused on local regeneration, such as full relief from SDLT, enhanced capital and building allowances, business rates relief and NICs relief.

Baroness Kramer (LD): My Lords, does the Minister agree that the US has used its might and played a blinder? Countries such as the UK will of course see increases in tax revenues under the new global corporate tax schemes, but the overwhelming winner is the US Treasury. Could a better system to benefit the UK—and indeed many other countries, including developing countries—have been devised?

Baroness Penn (Con): My Lords, I am afraid I again disagree. The agreement we have reached, although only at a G7 level, is hugely significant and represents progress on work that started five years ago on this initiative but a lot longer ago under other initiatives. A key part of that work for the UK has been the inclusion of both pillars of this agreement. That is something the US had not always signed up to and is a key shift in its position from previous negotiations.

Lord Harries of Pentregarth (CB) [V]: The initiative of President Biden, supported by the G7, is very warmly to be welcomed, but a number of potential loopholes have already been exposed—for example, that this tax would not apply to profits below 10%, when it is perfectly possible for companies to manipulate their figures so that in particular countries their profits are below 10%. Are the Government committed to closing off all those loopholes, so that these big corporations really do pay their fair share of the tax?

Baroness Penn (Con): My Lords, I emphasise again that the G7 agreement was a really important milestone in progressing this international work on tax. It is only the first step towards that agreement, and there is much more detail to be worked on. The next step will take place at the G20 next month, when more details will be discussed with a wider range of countries.

Lord Leigh of Hurley (Con): I will pick up on the point made by the noble and right reverend Lord, Lord Harries. While we all welcome the progress made, does my noble friend not agree that companies, such as Amazon in particular, will generate less than a 10% margin, mainly due to their monopolistic position, therefore avoiding the tax? Would it therefore not be sensible to retain the digital services tax and beef it up so that the tax cannot be passed on to suppliers, as is currently the case, and more importantly so that profits made on goods sold outside the marketplace are also fairly taxed?

Baroness Penn (Con): My Lords, I cannot comment on individual companies. As part of the further work we are doing, we are considering how pillar 1 will apply to groups that have different activities and business lines, some of which may meet the scoping criteria and some of which may not. Pillar 1 is designed to respond to concerns around international tax rules not adequately dealing with digital businesses generating profits in countries where they do not have physical presences. Online sales businesses are not necessarily within that. We recognise the concerns about tax treatment of online retailers; that is why we are doing other work across the tax system, such as the fundamental review of business rates. In the call for evidence we asked about the scope and potential impacts of an online sales tax, for example.

Lord Tunnicliffe (Lab): My Lords, I recognise that the Minister does not feel she is able to offer an estimate of the amount of additional tax, but could she at least give us an indication of when the additional tax might arise?

Baroness Penn (Con): My Lords, that is also subject to ongoing negotiations, including at the G20 next month. I assure the noble Lord that the digital services

tax is intended to stay in place until we have implemented the new international agreement, not just agreed it in principle, so those revenues will continue to flow.

Lord Forsyth of Drumlean (Con): My Lords, could my noble friend answer the question that was put previously: is it not the case that the US is the main beneficiary in tax revenues from this? Could she deal with the point about Amazon? She says she cannot deal with particular individual taxpayers, but the whole point of this measure is to deal with Amazon, which is destroying retail businesses across the country because they have to pay rates. On the digital service tax, could she confirm that Amazon reacted to it by simply passing on the 2% to its third-party retailers, and that there was no disadvantage to it at all? As my noble friend Lord Leigh has pointed out, Amazon would not be covered by this measure. How can you enter into a deal without knowing the detail in advance?

Baroness Penn (Con): My Lords, as I have said, a lot of the detail is still being worked out. However, I reassure my noble friend on a number of fronts. As part of the work on the detail of the agreement, we are considering how pillar 1 will apply to groups that might have different business lines, some of which may fall within the criteria and others outside them. I would say to both my noble friends, as indeed I did, that the agreement is designed to address specific concerns about digital companies, or companies that do not have physical presences in the countries where they have activities. We are doing other work to address concerns around online retailers; for example, I mentioned the fundamental review of business rates that the Government are currently undertaking.

Lord Tomlinson (Lab): My Lords, as the Minister has said, these are very early days. From the information that she has given us today in reply to very specific questions, we are not sure whether we have a framework that is good, bad or indifferent. It is a bit like the curate's egg: it is good in parts. Could she give us some idea of when the discussions will be sufficiently refined so that Chancellors of the Exchequer in national countries can begin to consider the income stream that they have to assist with their own domestic problems of fixing a budget?

Baroness Penn (Con): My Lords, perhaps I can clear up some ambiguity. The Government view the agreement that we have reached this week as completely good and in the interests not just of developed countries but of developing countries. It is a significant agreement. It is the first time that there has been G7 alignment on the core parameters of a two-pillar solution to this issue. It sets out the scope and effect of pillar 1, a minimum rate of corporation tax across the world and the application of that minimum rate on a country-by-country basis. So there is a level of detail but there is more work to do. As I have said, the next stage of that work is in July at the meeting of the G20.

Baroness Morgan of Cotes (Con) [V]: My noble friend has rightly said that the next stage is that G20 meeting. What assessment have Ministers made, and what assessment was made at the discussions last weekend, of the likelihood of countries outside the G7 agreeing to these plans without some changes having to be made?

Baroness Penn (Con): My Lords, we recognise that this represents the basis of a potential agreement and compromise between different countries, but obviously it is important that those countries have their say and their voice in the process. The fact that this is the first time the G7 have been aligned behind a set of parameters provides important momentum but there is more work to do.

Lord Sikka (Lab): My Lords, I assume the Government did some economic modelling before entering into this agreement and making a written promise to abandon the digital sales tax upon the implementation of pillar 1. If so, when will the Government publish the details of their modelling so far so that we can examine their policy in detail?

Baroness Penn (Con): My Lords, the digital sales tax was always intended to be a transitional approach. The UK Government's preferred solution has always been an international agreement. We are only part of the way through negotiating that but the agreement reached at the weekend represents important progress.

Lord Hannan of Kingsclere (Con): My Lords, if tobacco taxes discourage smoking and carbon taxes discourage pollution, what do business taxes do?

Baroness Penn (Con): My Lords, a global minimum rate of 15% will protect against multinational tax avoidance while leaving appropriate room for countries to use corporation tax as a lever to support their economic, fiscal and environmental objectives.

Lord Suri (Con) [V]: My Lords, given that there is more work to do to agree the details of this tax agreement, it is only right to remove the digital services tax once the new agreement is finalised and in place.

Baroness Penn (Con): My Lords, I can reassure a number of noble Lords that the noble Lord is correct that we will be removing the digital services tax only once we have full agreement and a plan for the implementation of a new international system. That is the position of the UK and it is supported by several other countries in the negotiations, such as France and Canada.

The Senior Deputy Speaker (Lord Gardiner of Kimble) (Non-Afl): My Lords, all supplementary questions have been asked.

Refugees (Family Reunion) Bill [HL]

First Reading

1.16 pm

A Bill to make provision for leave to enter or remain in the United Kingdom to be granted to the family members of refugees and of people granted humanitarian protection; and to provide for legal aid to be made available in such cases.

The Bill was introduced by Baroness Ludford, read a first time and ordered to be printed.

Onshore Wind Bill [HL]

First Reading

1.17 pm

A Bill to make provision about planning applications for onshore wind installations.

The Bill was introduced by Baroness Hayman, read a first time and ordered to be printed.

Agricultural Exports from Australia: Tariffs

Commons Urgent Question

The following Answer to an Urgent Question was given in the House of Commons on Thursday 27 May.

"Our trade agreement with Australia is very likely to be the first from-scratch deal that we have struck outside the European Union. It is a major milestone for global Britain and a major prize secured for our newly independent trade policy. It is on course to slash tariffs on iconic UK exports, saving business potentially about £115 million a year.

The deal will be the most advanced that Australia has struck with any nation bar New Zealand, and will, we expect, be particularly forward-leaning in areas such as services, procurement and digital trade. It will be a great deal for the UK, and our farmers will continue to thrive. The agreement is a gateway into the massive CPTPP—Comprehensive and Progressive Agreement for Trans-Pacific Partnership—free trade area in the Asia-Pacific, and opens doors for our farmers into some of the biggest economies of now and the future.

Our food is among the best in the world and incredibly competitive. We should be positive about, not fearful of, the opportunities that exist for our agriculture and our farmers. We give the EU preferential trading terms, which I do not recall those on the Opposition Benches objecting to. We should be unafraid of giving our Australian cousins something similar, taking the chance to deepen trading ties with one of our closest friends and allies.

Australian meat is of high quality and produced to high standards, and it arrives here in low volume. Meanwhile, Australia has some of the highest animal welfare standards in the world. The UK accounts for just 0.15% of Australian beef exports, and our analysis suggests that any increase in imports is more likely to displace food arriving from the EU. Any deal we strike will contain protections for our farmers, any liberalisation will be staged over time, and any agreement is likely to include safeguards to defend against import surges. Negotiators are now working to agree the outstanding elements with the aim of reaching agreement in principle in June.

This is not the end of the process. Later this year, Parliament will be given ample opportunity to scrutinise the agreement—we welcome scrutiny of the agreement—as well as any legislative changes that may be required before the agreement enters into force. Parliamentarians will also receive an independently scrutinised impact assessment. Mr Speaker, you will know that our scrutiny arrangements are among the most robust, and in line with other parliamentary democracies. Indeed, in some areas we go further still.

This will be a great deal for our United Kingdom. It will deliver big benefits for both countries and will help us build back better from the Covid pandemic. I commend it to the House."

1.18 pm

Lord Grantchester (Lab): In the UQ Answer, the Government were adamant that:

"Any deal we strike will contain protections"

and said that

"any liberalisation will be staged over time, and any agreement is likely to include safeguards".—[*Official Report*, Commons, 27/5/21; col. 549.]

Can the Minister now provide any details? Has any information been provided? We need to know the elements of any agreement now.

Is there any independent governance of trade deals and tariffs? Your Lordships have received any number of letters co-signed by the Minister and his counterpart in Defra; there was one dated 1 November on trade and standards. Does any parliamentarian have access to independent and expert advice when reviewing the impact of each trade deal on agriculture? Is there any impact assessment? Is there any trade and agriculture commission to provide any report? Why is there any disagreement in Cabinet? Why do the Secretary of State for Defra and the previous Secretary of State disagree? Does the Minister have any answers?

The Minister of State, Department for Business, Energy and Industrial Strategy and Department for International Trade (Lord Grimstone of Boscobel) (Con): The noble Lord has made a number of points, but I will deal with the most significant. On the TAC, both the Agriculture Act and the Trade Act require the trade and agriculture commission to be in operation before the FTA is implemented. It is currently being established and expressions of interest to assemble the commission are out, so it will be able to report on the Australia free trade deal if it comes into effect. That report will be made available to the House. On safeguards, of course we recognise the need to reassure farmers and rural stakeholders that our market access proposals will not threaten sensitive sectors. The deal will include safeguards to defend the industry against import surges and the precise details of these are still being negotiated.

Lord Purvis of Tweed (LD): ONS data from two weeks ago showed that the UK lost £1 billion in goods exports in just one month in January to our nearest trading partner, Ireland. This is more than the entire £900 million gain the Government are forecasting over 15 years for their agreement with Australia. The Government's own scoping document stated:

"A trade agreement with Australia could increase UK GDP in the long run by around 0.01% or 0.02%".

The EU scoping exercise for its own agreement with Australia in 2018 suggested 0.01% to 0.02%. Can the Minister explain why the Government are failing to secure any increase on their agreement with Australia

than the UK would have had before Brexit? Why has there been such a collapse in trade with our nearest neighbour and trading partner, Ireland?

Lord Grimstone of Boscobel (Con): With due respect, I do not think January can be taken as a representative month. I do not think any trends are yet fully established. As noble Lords know, there was some stopping beforehand and there was particular disruption as people got used to the new system. With regard to the Australia free trade agreement, we intend to secure reductions in tariffs on UK exports to Australia, which will save UK businesses millions of pounds. The deal will support over 15,300 business which already export goods to Australia, and I am sure the noble Lord would like to welcome this.

Lord Forsyth of Drumlean (Con): My Lords, will my noble friend accept congratulations on the fantastic work he has done on negotiating this trade deal together with Liz Truss, the Secretary of State, who seems indefatigable in her energy? Could he perhaps remind the noble Lord, Lord Purvis of Tweed, of the enormous benefits this deal will bring to the Scotch whisky industry—not least in having tariff-free access to Australia, but also in opening the door to the Trans-Pacific Partnership, which will offer huge opportunities to Scotland's biggest export industry?

Lord Grimstone of Boscobel (Con): I thank the noble Lord for his kind words, which I will certainly pass on to my colleague the Secretary of State. The noble Lord is completely right: the Trans-Pacific Partnership, which this is a gateway to, will be of huge benefit to UK businesses big and small. This is something we should all welcome.

Viscount Waverley (CB): My Lords, following on somewhat from the question of the noble Lord, Lord Purvis, how will the Government include Northern Ireland in the Australian agreement if it is unlikely that the EU will accept Australian meat and phytosanitary standards?

Lord Grimstone of Boscobel (Con): As noble Lords know, the Northern Ireland protocol is still subject to discussion and refinement between the parties. Clearly, Northern Ireland stands to gain in many ways from a trade agreement with Australia; for example, machinery and manufactured goods account for around 90% of all goods exported from Northern Ireland to Australia and are used extensively in Australia's mining, quarrying and recycling sectors. These exports will certainly benefit from reduced tariffs in this deal.

Lord Browne of Ladyton (Lab) [V]: My Lords, as MP for Kilmarnock, the home of Johnnie Walker, I lobbied for the lifting of all tariffs on Scotch whisky, so I welcome an FTA with Australia that removes that 5% tariff—but not at the price of unfettered access on beef and lamb, which NFU Scotland says will devastate family farms and is wholly unacceptable to farmers and crofters. Bearing in mind what Brexit has done to the Scottish seafood industry, despite repeated government assurances, is Ministers' rejection of what they say are farmers' invalid fears based on an objective impact assessment, or is it just an alternative opinion?

Lord Grimstone of Boscobel (Con): My Lords, as a fellow whisky drinker, I share the noble Lord's sentiments. Fears about a flood of cheap imports affecting our agricultural sector are, with due respect, overstated. Australia, of course, is a much smaller market than the EU so we expect low volumes with high standards. For example, we currently import 250,000 tonnes of beef each year, with 91% coming from the EU and 190,000 tonnes from Ireland alone. Less than 1% of Australian beef exports come to the UK market. Even if that figure was to increase, as we expect it will, it will still not dent these much larger figures from the European Union.

Lord Wigley (PC) [V]: My Lords, I draw attention to my registered farming links. Is the Minister aware that the president of the Farmers' Union of Wales, Glyn Roberts, has written to the Prime Minister stating that if Welsh farmers were to employ the land and management practices commonplace in Australia they would face prosecution or even imprisonment? Michael Gove has previously stated that importing meat in such circumstances represented a red line that would not be crossed. Why have the Government betrayed that pledge?

Lord Grimstone of Boscobel (Con): My Lords, I am not familiar with the letter the noble Lord refers to, but I will make sure to study it after this Question. As I said earlier, we do not believe that this deal will mean a flood of cheap imports. We will use a range of tools to defend British farming. I want to emphasise the opportunities that this deal will give to British farmers in terms of their exports, whether they are large or small and whichever part of the United Kingdom they come from.

Lord Hannan of Kingsclere (Con): My Lords, we do not reduce tariffs on imported food as a favour to Australia, we do so as a favour to ourselves—which may incidentally happen to benefit some Australian exporters. Will my noble friend the Minister confirm that reducing the cost of food makes everybody better off, especially people on low incomes for whom the food bill is the highest proportion of the monthly budget? In doing so, this gives us more money to spend on other things and thereby stimulates the whole economy.

Lord Grimstone of Boscobel (Con): My Lords, as ever my noble friend encapsulates precisely the advantages of free trade agreements and I thank him for that.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, this trade agreement contains an ISDS mechanism, which provides private corporations with the right to bypass the laws and courts of both parties. During the passage of the Trade Bill, the Minister confirmed government support for reforms to the ISDS through the UN Commission on International Trade Law's proposals for a multilateral investment court. Can he update us on progress?

Lord Grimstone of Boscobel (Con): My Lords, the precise details of the UK-Australia free trade agreement are a matter for ongoing negotiations. In respect of ISDS, the UK Government consider the inclusion of

[Lord Grimstone of Boscobel]
ISDS provisions in FTAs on a case-by-case basis and in light of the unique UK-Australia investment relationship. We are huge investors in each other's markets and appropriate ISDS will benefit investors on both sides.

Lord Moylan (Con): My Lords, is my noble friend aware that many noble Lords are absolutely thrilled at the announcement that this deal is about to be agreed? If we are to grant the European Union unfettered tariff- and quota-free access to the United Kingdom market, what possible objection could there be to allowing the same to Australia—an advanced, civilised country with high standards? There can be no objection at all. Does my noble friend agree that if the National Farmers' Union continues to resist every change consequent on Brexit in such a curmudgeonly fashion, it will be losing and forfeiting opportunities for its own farmers and members to export throughout the world and, in this case, to Australia?

Lord Grimstone of Boscobel (Con): My Lords, my noble friend is completely right. We should all recognise that British beef and lamb are among the best in the world and the Australia-UK FTA will bring new export opportunities to British farmers. We should be proud that the UK produces high-quality premium produce that is globally sought after. A deal with Australia is a gateway to joining the Trans-Pacific Partnership and there will be a growing demand for UK meat in these markets.

The Senior Deputy Speaker (Lord Gardiner of Kimble) (Non-Afl): My Lords, the time allowed for this Question has elapsed.

Covid-19: Government Handling and Preparedness

Commons Urgent Question

The following Answer to an Urgent Question was given in the House of Commons on Thursday 27 May.

"What we have done to handle this coronavirus pandemic has been unprecedented in modern times. Throughout, we have been straight with people and this House about the challenges that we as a nation face together. The nation, in my view, has risen to these challenges. Of course, there were unprecedented difficulties that come with preparation for an unprecedented event.

This pandemic is not over yet. Our vaccination programme has reached 73% of the adult population, but that means that more than a quarter still have not been jabbed; 43% of adults have had both jabs, but that means that more than half are yet to get the fullest possible protection that two jabs give.

Yesterday, we saw 3,180 new cases of coronavirus—the highest since 12 April—but thanks to the power of vaccination, in which I have always believed, the link from cases to hospitalisations and deaths is being severed. About 90% of those in hospital in hotspot areas have not yet had both jabs, so the continued delivery of the vaccination effort and the ongoing work to control the virus through testing, tracing and isolation are vital.

Yesterday, we saw the opening of vaccinations to all those aged 30 and above. I am delighted to tell the House that the vaccination programme is on track to meet its goal of offering a jab to all adults by the end of July. It has met every goal that we have set. Setting and meeting ambitious targets is how you get stuff done in government.

As a nation, we have many challenges still to come. I know, and one of the things I have learned, is that the best way through is to work together with a can-do spirit of positive collaboration. The team who have worked so hard together to get us this far deserve our highest praise. I am proud of everyone in my department, all those working in healthcare and public health, the Armed Forces who fought on the home front, the volunteers who stood in cold car parks with a smile, colleagues across the House who have done their bit and, most of all, the British people. Whether it is the science, the NHS or the people queuing for vaccines in their droves, Britain is rising to this challenge. We have come together as one nation, and we will overcome."

1.30 pm

Baroness Merron (Lab): My Lords, research released for Carers Week makes sobering reading. During the pandemic, 72% of carers have had no break whatever and, of those few who have had a break, many used the time for housework or their own medical appointments. With the risk of a third wave still a cause for anxiety, what plans are in place, or indeed in development, to ensure that unpaid carers can have restorative breaks and that their needs are at the heart of the Government's plan for social care reform?

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, I absolutely join the noble Baroness in paying tribute to all carers, particularly unpaid carers, who have shouldered a huge burden in the past 18 months. The role that they have played has been a real example of the sense of service and commitment that characterises the social care community in this country. We have put in place a large amount of resources through local authorities and payments to local authorities to support carers. That has helped in infection control and to reduce the itinerant nature of some social care in order to prevent the spread of the disease. But it is undoubtedly true that the burden on unpaid carers remains immense, and we continue to support, both through local authorities and through charities, the work that they do.

Baroness Brinton (LD) [V]: My Lords, in the national Carers Week, it is worth remembering that the 2017 report on Exercise Cygnus said:

"Local responders also realised concerns about the expectation that the social care system would be able to provide the level of support needed if the NHS implemented its proposed reverse triage plans."

It also recommended that local support should be developed and planned for social care and health. Was that recommendation put into practice? Were the concerns expressed by local responders borne out last year? Will the Government now publish their internal review of pandemic preparedness to ensure that the lessons have been truly learned?

Lord Bethell (Con): My Lords, the noble Baroness is entirely right. It was known at the very beginning and it was clearly understood that those in social care—and those who support those in social care—were in the gravest possible danger in such a pandemic, and we were focused from the beginning on giving them the right amount of support. The Cygnus report correctly identified that, and that was why we put provisions for social care into our action plan from the very beginning. It is unfortunately a truism that those who are most vulnerable are, I am afraid, at greatest risk from such a pandemic, and those who support the vulnerable will shoulder a huge burden. That is why we have put in a large amount of resources to support those people and why, when the inquiry comes, we will undoubtedly focus on how we can improve those processes.

Baroness Foster of Oxton (Con): My Lords, I will move on to another point. At the end of May, Portugal was deemed safe to host the Champions League final; five days later, it was not, despite 100,000 tests by the authorities with only six positives. This caused tens of thousands of people and businesses horrendous disruption and distress. Will my noble friend, on my behalf, kindly remind the Secretaries of State for health and transport that using emergency powers with no debate and with both Houses not sitting yet again is wholly unacceptable and can no longer be tolerated?

Lord Bethell (Con): My Lords, I completely share my noble friend's frustration at the situation. Of course we all enormously regret the fact that our efforts to open up international travel were unfortunately reversed because of the presence of dangerous variants of concern in the Portuguese community—in this case, particularly the Nepal variant of concern. However, I cannot agree with her that quick decisions based on accurate data are not appropriate in the depths of a pandemic. It is absolutely right that we move quickly to close down a change of transmission and that we protect the vaccine from variants that may present a severe danger to this massive national project.

Baroness Meacher (CB): My Lords, this is rather relevant to the previous question: how many additional Covid cases in the UK were caused by the delay in closing our borders to travel from India after we knew about the new variant? Is the Minister making representations to the Prime Minister and appealing that no such delay should occur again as variants emerge in different countries across the world, to protect the health of the people of the UK?

Lord Bethell (Con): My Lords, I am not sure whether I have the data that the noble Baroness has asked for. I also contest the premise of her question. We have moved extremely quickly when presented with clear data, as my noble friend rightly pointed out, and I hardly need go over the timelines for the decisions around Pakistan, Bangladesh and India, which have been gone over many times indeed. I reassure the noble Baroness that we are absolutely determined, at this delicate phase of the pandemic, to ensure that our borders are extremely tough and that we do whatever we can to keep the variants out. At the same time, we are cognisant that people do have commitments overseas and we are leaning, wherever we possibly can, to opening up the borders.

Lord Hain (Lab) [V]: My Lords, does the Minister recall the independent review by Dame Deirdre Hine, presented to the coalition Government in 2011, which said:

"The planning for a pandemic was well developed, the personnel involved were fully prepared, the scientific advice provided was expert, communication was excellent"?

She reported on the exceptional level of preparedness the UK had attained. Why, by 2020, had all that careful preparation by our Labour Government been so catastrophically eroded, despite the fact that the pandemic remained top of HMG's risk register?

Lord Bethell (Con): My Lords, I am not sure that any Government, even the Labour Government in the noble Lord's time, could claim to have some kind of forecasting ability that could possibly have predicted the precise shape and impact of this pandemic. Even now there are things about this virus that we do not know. At the beginning, in January, February and March, the precise features of this virus were not fully understood, and it was not possible to prepare for this particular pandemic in its precise shape and nature. To pretend otherwise is doing this House a disservice.

Lord Houghton of Richmond (CB): My Lords, I will follow on from that. The Ministry of Defence and the Armed Forces are often accused of being prepared for the last war rather than the next one. In truth it is impossible to be ready for the next war unless, of course, you intend to start it. The best you can achieve within finite resources is to be ready for "a" war, not "the" war. You must then adjust what is inevitably a generic preparedness to meet a specific set of circumstances. Might the department of health's preparedness for a global pandemic be more sympathetically viewed if this important subtlety were better explained and better understood? Might the criticisms that are made therefore be more objectively assessed as those that are fair and those that, frankly, are somewhat vacuous?

Lord Bethell (Con): My Lords, we will need to wait for the inquiry for a thorough post-mortem on what was or was not thoroughly prepared for. It is fair to say that the developed nations of the world had invested a huge amount in modern clinical medicine, yet that did not serve to prepare us for the precise circumstances of a respiratory pandemic. I pay tribute not only to those in the public health profession but to those in the military, who did so much and moved so quickly to deliver the kind of protection that this country has benefited from during the pandemic.

Baroness Wheatcroft (CB): My Lords, when the pandemic hit this country, one of the reasons we were so badly hurt was the shortage of intensive care beds, the number of which had been run down progressively for many years, despite the World Health Organization pointing out the inherent dangers in that. So could the Minister say, without waiting for the inquiry, what our policy on intensive care beds is now?

Lord Bethell (Con): My Lords, as the noble Baroness probably knows, we are investing hugely in new hospital capacity, but I would question whether it was simply the lack of ICU beds that was at the heart of the challenge. The truth is that this was a virus that hit our population massively, and even if we had had double the number of ICU beds, we would have been hard hit and could not have avoided the kind of NPIs that eventually stopped the virus in its tracks. Modern medicine can do many things, but it cannot fight a virus from the wardroom.

Covid-19 Update

Statement

The following Statement was made in the House of Commons on Monday 7 June.

"I would like to update the House on our work to beat this pandemic and to make sure that the world is prepared for the pandemics of the future.

Tomorrow, we mark six months since the world began vaccinating against Covid-19 at Coventry Hospital. In that time, we have vaccinated over 40 million people here in the UK, and 2 billion doses have been delivered across the globe. As of today, 76% of UK adults have been vaccinated at least once, and 52% of adults have had two jabs. The pace of the vaccine rollout has been extraordinary. This Saturday alone, the team delivered over 675,000 jabs, and I am delighted to be able to tell the House that, from this week, we will start offering vaccinations to people under 30, bringing us ever closer to the goal of offering a vaccine to all adults in the UK by the end of next month.

From tomorrow morning, we will open up vaccination to people aged 25 to 29. Over the remainder of this week, the NHS will send texts to people in those age groups, and, of course, GPs will be inviting people on their list to come forward. I am sure we have all been cheered by the images we have seen of so many eligible young people coming forward and lining up to get the jab, showing that the enthusiasm for the jab is not just the preserve of older generations. The people of this country know what it takes to keep themselves and the people around them safe. The latest estimates indicate that the vaccination programme has averted over 39,000 hospitalisations and over 13,000 deaths. So the vaccination brings us hope, and I am sure the whole House will join me in thanking people for their perseverance and patience as they have waited for their turn.

For all that great progress, there is no room for complacency. The delta variant, first identified in India, has made the race between the virus and the vaccination effort tighter. Although the size of the delta variant's growth advantage is unclear, the recent best scientific estimate is of an advantage of at least 40% over the previously dominant alpha variant—the so-called Kent variant. The delta variant now makes up the vast majority of all new infections in this country.

Over the past week, we have seen case rates rise, particularly in the north-west of England, but we know also that our surge testing system can help hold this growth. In Bolton, case rates over the past fortnight have been falling. We have expanded the approach taken in Bolton to other areas, and we will roll it out to other areas as necessary. I encourage everybody in those areas to get the tests on offer, no matter where they live. Regular tests can help to keep us all safe, and we know that the test, trace and isolate system has a vital role to play in keeping this all under control.

Of course, the most important tool we have is that vaccination programme. We know that the vaccine is breaking the link between infections, hospitalisations and deaths—a link that was rock-solid back in the autumn. Despite the rise in cases, hospitalisations have been broadly flat. The majority of people in hospital with Covid appear not to have had a vaccine at all. I want to update the House on some new information that we have on this. As of 3 June, our data show that of the 12,383 cases of the delta variant, 464 people went on to present at emergency care and 126 were admitted to hospital. Of those 126 people, 83 were unvaccinated, 28 had received one dose and just three had received both doses of vaccine. We should all be reassured by that, because it shows that those vaccinated groups, who previously made up the vast majority of hospitalisations, are now in the minority. So the jabs are working, and we have to keep coming forward to get them. That includes, vitally, that second jab, which we know gives better protection against the delta variant.

The confidence in our jabs comes from the fact that they are working and the knowledge that they are the best way out of the pandemic. No one wants our freedoms to be restricted a single day longer than is necessary. I know the impact that these restrictions have on the things we love, on our businesses and on our mental health. It is still too early to make decisions on step 4. The road map has always been guided by the data and, as before, we need four weeks between steps to see the latest data and a further week, to give notice of our decision. So we will assess the data and announce the outcome a week today, on 14 June.

I know that these restrictions have not been easy. With our vaccine programme moving at such pace, I am confident that one day soon freedom will return. To do this, we must stay vigilant, especially at this time when schoolchildren are returning to classrooms after the half-term break and when we are seeing the highest rises in positive cases among secondary school-aged children. With schools returning today, it is vital that every secondary school-aged child takes a test twice a week to protect them, to help keep schools open and to stop transmission. That is crucial to stop the spread and to protect the education of their peers. While the evidence shows that the impact of Covid on children is usually minimal, we also know that there is higher transmissibility among children, so the message to all parents of secondary school-aged children is: please get your child tested twice a week to help keep the pandemic under control and to help on the road to recovery.

The House will also be aware that our independent medicines regulator, the Medicines and Healthcare products Regulatory Agency, has conducted a review of the clinical trial data for the Pfizer/BioNTech jab. Having already concluded that the vaccine is safe and effective for people over the age of 16, it has also now concluded that the jab is safe and effective for children aged between 12 and 15, with the benefits of vaccination

clearly outweighing any risks. I can confirm to the House that I have asked the Joint Committee on Vaccination and Immunisation, the committee that advises us on immunisations, to come forward with clinical advice on vaccinating 12 to 17 year-olds, and we will listen to that clinical advice, just as we have done throughout the pandemic.

People in this country know that vaccines are the way out, but this pandemic will not be over until it is over everywhere. This week, the Prime Minister will host G7 leaders in Cornwall, where he will work to persuade our allies to join the UK in our historic commitment to vaccinate the whole world against Covid-19 by the end of 2022. The Oxford/AstraZeneca vaccine has already proved to be a vital tool in this effort, with more than half a billion doses now released for supply around the world and, crucially, delivered at cost. In my view, this approach—providing vaccines at cost—is the best way to vaccinate the world. Developing a vaccine and allowing countries to manufacture it at cost is the greatest gift that this nation could have given the world during the pandemic.

In Oxford, ahead of this week's G7 leaders' summit, I met G7 Health Ministers and guests from some of the world's largest democracies. Our new clinical trials charter, agreed in Oxford, will help end unnecessary duplication of clinical trials and ensure greater collaboration across borders, resulting in faster access to approve treatments and vaccines. We reached agreement with industry leaders to cut to just 100 days the time that it takes to develop and deploy new diagnostics, therapeutics and vaccines. As a result of what we have agreed in Oxford, there will be people who will live who otherwise might have died, and I can think of no greater outcome than that.

In summary, beating this pandemic is not only an international imperative but a domestic duty that falls on each one of us. We must keep up the basics, such as hands, face, space and fresh air, get regular tests and, of course, when we get the call, get both jabs, because that is the way that we can stop the spread and get out of this and restore the freedoms that we hold dear safely and together. I commend this Statement to the House."

1.41 pm

Baroness Thornton (Lab): My Lords, first, I thank the Minister for this update today and congratulate him on yet another long stint at the Dispatch Box.

We face some uncertainty, as we often have throughout the past 15 months, but we know the delta variant is now the dominant variant in the UK; we know that 73% of delta cases are in unvaccinated people; we know that one dose offers less protection against this variant; and we know that, although hospitalisations are low, an increase in hospitalisations will put significant pressures on the NHS as it tries to deal with the care backlog. We also know, of course, that long Covid is significant and debilitating for so many people. As the Statement makes clear, this is a race between the vaccine and the new variant. I therefore invite the Minister to narrow the timeframe between the first and second dose, given that we know that one dose is not as protective as we would like. We have seen that Wales will be vaccinating everyone who is over 18 from next week. Could the Minister tell us when England will follow?

We all know about the outbreaks among schoolchildren and young people. We know that children can transmit the virus and that children can be at risk of long Covid. In that context, why is mask wearing no longer mandatory in secondary schools? It is good that the JCVI will be looking at vaccination for children. Could we please know the timeframe for when the JCVI will report?

I turn to Nepal. UK Ministers justified the decision to move Portugal from green to amber in the travel list owing to the threat of the new Nepal Covid variant—a mutation of the delta variant—which experts believe may have the potential to make vaccines less effective. Some 23 cases of the Nepal variant have been detected in the UK, up to 3 June. Can the Minister confirm whether these cases are all associated with travel, particularly from Portugal?

In this, Carers Week, from these Benches we join the Minister in paying tribute and are grateful to the 6.5 million people who are carers. Making caring visible and valued is the aim, and this year of all years we need to support them in doing so. Our carers across the country have faced huge challenges during the pandemic; three-quarters of them confess to being exhausted, and a third confess to feeling unable to manage their caring responsibilities.

I am sure the Minister has already read the report produced by the Commons Health and Social Care Committee which addresses the issue of NHS and care staff in England being so burned out that it has become an emergency that risks the future of the health service. This is a highly critical report which said that workers are exhausted and overstretched because of staff shortages. It said that the problems existed before the pandemic, although coronavirus has made the pressures worse. It reports that one of the main problems is that there was no accurate forecast of how many staff the NHS needed for the next five to 10 years—something that we know as "workforce planning." NHS workers, traumatised and exhausted, need to know there is a solution on its way to fix staff shortages. When will there be an NHS and social care workforce plan? How will the Government respond to the urgent situation that this report reveals? How will the NHS stop the haemorrhaging of its staff, which is already happening?

Combined with all this is the fact that we know that the NHS estate is in urgent need of attention and investment, and so Labour is today calling for a new rescue plan. Data also reveals the scale of the pressure on hospitals before the pandemic and how much worse it is now. Freedom of information requests show that the pressure on A&E was already very serious, with waits in ambulances jumping by 44% in the year preceding the pandemic. We know that the underfunding of the NHS, and the unpreparedness of the UK for a pandemic, has been paid for by people's lives and by the exhaustion of our NHS. Surely these things call for a long-term NHS rescue plan, with the staff, equipment and modern hospital facilities that we deserve.

[Baroness Thornton]

I turn briefly to the issue of data again. I record that I welcome the delay in proceeding with this proposal from the Government, but I think the Minister and the Government need to address the transparency that is vital around two things. The first is that somebody should be able to retrieve their data if they want to and pull it back; and the second is that, if their data is being used by a third party, they need to know who that party is, what the data might be used for and who benefits from that. My contention has been, for many years from this side of the House, that NHS data is a gigantic asset that we have that can be used to benefit the world, but we need to make sure that it is the NHS that benefits from the sale of our data—not private sector companies or individuals but our NHS.

Finally, I recently visited the Covid memorial wall myself. I would like to ask the Minister whether he has visited the wall of red hearts that we have opposite Parliament. The Covid memorial wall is immensely moving and a poignant reminder of the scale of loss that we as a country have experienced. Does the Minister believe that the wall should become a permanent memorial? If not, what should be a permanent memorial of the loss that we have sustained?

Baroness Brinton (LD) [V]: My Lords, I declare my interest as a vice-president of the Local Government Association. I also want to thank the Minister for his long stint at the Dispatch Box, yet again.

I want to start with the issue about consultation on NHS Digital patient data, which the noble Baroness, Lady Thornton, just alluded to. In 2013, the Government wrote to every household to explain the care.data project. This new scheme has had no such communication with the public. As people hear about it, they are increasingly concerned about the breadth of data that will be captured. Will the Minister agree to use the delay to ensure that every adult in England is written to as a matter of urgency, including an opt-out form they can use if they so choose?

I also want to pay tribute to our health workers and carers—paid carers and especially the unpaid carers—who have gone not just the extra mile over the last 14 months but a whole marathon. Can the Minister say what steps the Government are taking to help the exhausted staff and carers who know that there are many miles still to go before we are through this? Help is needed right now for them in an emergency plan that does not just focus on getting back to work as normal.

The Minister is right to say in the Statement that there is no room yet for complacency. The delta variant will not be the last variant trying to wriggle between those who are protected and those who are not. We are concerned that there is not a focus on communicating to the public about how we need to find a way to live with Covid circulating, as my noble friend Lord Scriven said yesterday. We have moved into Covid being endemic, and the public will want and need to know what they should do over the next few months.

Communication about the vaccine figures is cheering to hear, but still too many Ministers talk about the one-dose level, not the two. The Minister in the Lords, to his credit, usually make that point, but the Prime Minister and many other Cabinet Ministers do not make it clear that we need 90%-plus of adults to have had two doses before we are anywhere near safe, and that social distancing, mask wearing and hand washing will still need to happen.

I thank the Minister for giving more information yesterday on the isolation support pilots. He said:

> "In Blackburn and Bolton, this will include trialling broadening eligibility during surge testing, so that all those who are required to self-isolate, who cannot work from home and earn under £26,000, receive a £500 payment."—[*Official Report*, 7/6/21; col. GC 202.]

That is still only £50 a day if you are expected to self-isolate. If you are told to isolate on a Monday, and usually work nine to five, this works out at £7.81 per working hour—less than the minimum wage. If the minimum wage is the very minimum that the Government believe an individual can live on, why are they paying less than this to people for doing the great public good of self-isolating? What about people who work in risky occupations and have been told to isolate multiple times over the last year? For them, it is not just one period of 10 days.

From these Benches, we believe that the Government need to pay people's wages. Now that fewer people should be required to self-isolate, as community cases are lower, we should be diverting resources to really get right what the Government have been getting wrong all along. We must stop Covid in its tracks. Examples from other countries show that paying wages has a strong and demonstrable effect.

On international travel, the red terminal at Heathrow is an improvement, but there are still issues with those arriving from amber countries, who are asked to jump on public transport to get home and need to travel in various ways before they are tested, once in this country.

Given the increase in cases of the delta variant among primary-age pupils, would the Minister outline what measures are being taken to prevent transmission in schools? When will the JCVI report on vaccines for 12 to 17 year-olds? Are any plans beginning to consider whether vaccination should happen for the under 12s? We strongly echo the comments of the noble Baroness, Lady Thornton, about mask wearing in schools. Is this really the right time to stop that happening?

Finally, I note that the consultation on vaccine and testing certificates has closed. Will the Minister say when the Government will publish their plans following that consultation? What type of legislation will be brought in on this, and will Parliament be able to see and comment on any regulation prior to it being enacted?

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, I am thankful, as ever, to both noble Baronesses, Lady Thornton and Lady Brinton, for thoughtful and challenging questions. I will try to deal with as many as I can.

The noble Baroness, Lady Thornton, asked about the narrowing of doses. May I remind her that for those classed as vulnerable and those aged over 50, the dose period has been narrowed from 12 weeks to eight weeks. We are giving some latitude in the areas of special enforcement for the narrowing of the doses.

I completely endorse her points on that and reassure her that plans are afoot. As for moving the age group to those aged over 18, our instincts are that the JCVI prioritisation process has worked extremely well. It is clear, it is fair and it has been effective. In conversation with those at the G7, I received a huge amount of admiration from other countries for how well that prioritisation process has gone. Therefore, we are reluctant, at this very late stage, to jump the gun on that, but I take her point that particularly those in areas where the infection rate is ticking up may benefit from early vaccination. Therefore, we constantly look at and review that point.

As for vaccination of children in schools, raised by the noble Baronesses, Lady Brinton and Lady Thornton, as they know, the MHRA has given its approval. The ball is now in the JCVI court. We are going to wait for it to pronounce. The state of our vaccine supplies means that we do not have a supply for children at hand right now, so there is scope for a really thoughtful conversation on that. When the JCVI has pronounced, the Government will engage on its recommendations, but I do hear, loud and clear, the obvious support that it has in this House.

As for the Nepal variant, I cannot say exactly how much of it came from Portugal, but it is true that it was present in the UK before Portugal was green-listed, so I think it is fair to say that not all of it came from there.

Moving on to NHS staff, I completely pay tribute to the contribution of NHS staff and those who work to support the NHS, social care and public health. I recognise completely the picture painted by the noble Baroness: many feel exhausted and burned out. Our focus is therefore on recruitment and the recruitment of more GPs and nurses is going extremely well. I would be happy to share updated statistics on that if it would be helpful. The work plan—the *NHS People Plan*—has within it a clear outline of the kind of workforce planning that we have in place. That is something that the recruitment programme has fully embraced.

I agree that the pressures on A&E, and on acute late-stage interventions from the NHS, have been rising for years—for decades. This is an unsustainable model in the long run, which is why this Government are fully committed to the prevention agenda. We have put in place plans for the Office for Health Promotion. That will be the device for using data to support our prevention agenda, and we will be working particularly with local authorities, and increasingly through the NHS, to ensure that we are putting in place measures that improve the nation's health and that we do not just focus on those who are already extremely ill.

Moving on to data, I thank the noble Baroness for her kind comments. I completely agree that transparency is absolutely right. We want to be as transparent as possible, with both the professions and the public. These are complex issues. I accept that we could do better to improve our communications. We will be using this two-month hiatus as energetically as we can to engage the public and the professions in the changes that we are bringing about. They are changes that are absolutely essential for any modern use of data to promote resource allocation—when it comes to the workforce, as the noble Baroness rightly pointed out—and for research. I really would encourage all noble Lords who are interested in this to look at the minutes of IGARD. Noble Lords will see exactly which data uses are being sanctioned, and will be amazed by the extremely high-level, science-led research programmes that the GP data is contributing to. It will reassure noble Lords that this is an extremely well guarded and thoughtful process, and a massive asset to the nation. I agree with the noble Baroness that our data is a huge national asset; it is there to benefit patients and is mainly used for clinical trials and for planning within the NHS. That is right and I can reassure her that that is the way we intend to continue.

The noble Baroness, Lady Brinton, asked about mental health support for care workers and NHS staff. I reassure her that we have put in a huge amount of support for NHS staff: 10,300 calls have been made to the helpline, there have been 4,600 conversations on the national line and 200,000 downloads of the app, and 500,000 have engaged through the web page. The provision of mental health support for NHS staff has been extremely helpful for those stressed by the last few months, but we continue to invest in that area.

I remind the noble Baroness, Lady Brinton, that those receiving isolation payments are still eligible for their benefits. They will get support from housing benefit and other benefits if they qualify.

The noble Baroness asked about schools. The use of testing to protect schools has been one of the phenomenal success stories of this pandemic. There have been 65 million tests deployed since January, and a million tests were deployed on Sunday alone. That is both to break any chains of transmission within schools and to protect the opening of schools, which every parent in the country knows is an essential objective of our pandemic response.

On certification, we are making an enormous amount of progress. That is a Cabinet Office lead. When the plans have been crystallised, they will be published, and I am extremely hopeful that we will be able to make progress.

Lastly, the noble Baroness, Lady Thornton, mentioned the memorial wall. I am aware of it and have seen very moving pictures. I have not yet visited the wall, but I will take this prompt to go. While I am not across the future plans for the wall, I am grateful for the suggestion and will take it up.

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

2.01 pm

Lord Balfe (Con): My Lords, could the Government try to get back the initiative so that we are talking about a health service and not constantly talking about Covid? I have some numbers: 114 people are in hospital with the delta variant. Of those, 83 are unvaccinated, 28 have had one dose and just three have had two doses—114 in total. This morning, the cancer support unit released some new figures: referrals are down by 350,000 over the year, there is a backlog of

[Lord Balfe]
40,000 new patients, and the survival rate is back to 2010 levels. We have this completely out of kilter, and it is largely because the Opposition are obsessed with it. I ask the Minister to go back to the department and try to reclaim the huge tragedy of unmet need in the National Health Service that has built up because we have done nothing but prosecute Covid. We have to learn to live with it.

Lord Bethell (Con): My Lords, I completely understand my noble friend's concerns, but I do not accept that we have done nothing. It is quite wrong to suggest that the NHS has done nothing but Covid. In fact, I am incredibly impressed by how well services have been maintained during an extremely difficult period. Were he to join clinicians in the NHS or the department, he would know that there is a laser-like focus on catching up. I remind him that there were 1.86 million urgent referrals and over 470,000 people receiving cancer treatment between March 2020 and January 2021—that is not doing nothing. An extra £1 billion is being used to boost diagnosis and treatment across all areas of elective care. On 25 March, NHS England published its 2021-22 priorities and operational planning guidance, and there is a Minister-led group under Minister Ed Argar, which is absolutely focused on the restart in cancer care in particular. I reassure my noble friend that there is a focus on this, and we are doing everything we can to get through the incredibly important backlog of work that needs to be done.

Lord Mackenzie of Framwellgate (Non-Afl) [V]: My Lords, the Statement confirms that a continued increase in vaccinations is essential to defeat the new delta variant, which has now become dominant. I believe it is the six-month anniversary of the first vaccination, so I congratulate the noble Lord on the progress so far. Has he considered consulting behavioural scientists about what incentives might create a greater vaccine take-up, as has happened to some extent in the United States? Also, there are still many vaccine sceptics out there who are influenced by conspiracy and other ridiculous scare stories propagated deliberately on social media. Can the noble Lord reinforce the Government's message with a campaign to vaccinate for victory on the very same platforms that are carrying the negative messages?

Lord Bethell (Con): My Lords, I am grateful for the noble Lord's comments. Yes, we are engaged with behavioural scientists, but I reassure him that lotteries for vaccines are not on the cards. Taking vaccines into communities has proved an extremely effective measure. I led a call with council leaders in the north-west—from Lancashire and Greater Manchester—and there I heard about the effective use of small mobile units and tents to bring vaccination teams into either religious or community settings to make it easier to get a vaccine. That simple measure appears to be a really winning formula, and one that we are investing in in a very big way.

Lord Moynihan (Con): My Lords, I echo my noble friend Lord Balfe's figures on Covid-19 hospitalisations: of the 114 people in hospital, just three had received both doses of vaccine. Does my noble friend the Minister agree that the best approach the Government can follow is to continue with an urgent and comprehensive vaccination programme—with the further easing of restrictions secondary to the goal of a successful national vaccination campaign—using, not least in local communities, positive influences in communities wherever possible? Will he also accept the thanks of the Olympic and Paralympic athletes for the positive approach the Government and the International Olympic Committee have taken to ensure that athletes and their support staff will be vaccinated before leaving for the Olympic and Paralympic Games in Tokyo?

Lord Bethell (Con): I am extremely grateful for my noble friend's comments on the Olympics, and we wish our Olympic champions all the best luck. We keep our fingers crossed for Tokyo, under very difficult circumstances. On the vaccination programme, he is entirely right: positive influences are key. It has been interesting that the positive influences we think have made the biggest impact are not necessarily only the celebrities—they are community influencers who work in clinical settings and are present at a grass-roots level in communities. That is why a large volume of videos, endorsements, community meetings and answering quite reasonable, but sometimes very sensitive, questions from the public have been the essence of our vaccination communications programme. It seems to be extremely successful: the younger age groups seem to be stepping up for the vaccine in proportions that we could not have believed possible some months ago, and we hope very much that this will continue.

Lord Taylor of Goss Moor (LD) [V]: My Lords, my 13 year-old son is a chorister at Truro Cathedral, where they have composed a song, "Gee Seven", which 25,000 children across this country and others will sing online to G7 leaders tomorrow. He says the thing that they want most is for the parents and grandparents of children in poorer countries that have not had access to vaccines to get the access that parents and grandparents have had in this country, so that those other children can feel safe about their families. Will the Minister and his colleagues think about that before vaccinating teenagers in this country, who are not at great risk? The COVAX programme is currently 192 million doses short of its targets for supporting poorer countries. Incidentally, if that is not enough morally, he might also consider that so long as we are not successfully vaccinating in these poorer countries, the chances of new and more dangerous variants coming to this country and causing deaths again are all the more likely.

Lord Bethell (Con): My Lords, the noble Lord points out a dreadful dilemma that is on our minds all the time. I completely agree with his point that supporting those in the developing world is a priority and responsibility for those of us in the developed world. His son is entirely right that we should be thinking very much of those who are vulnerable or in urgent need as we consider our vaccination programme. But our responsibility as a Government is to the British people. We must look after the British people first, and there is no benefit to anywhere in the world if Britain comes close to shaking off this awful virus but falls

over at the last minute because we have not seen the job through. We intend to support COVAX in the way he describes—in particular, the manufacturing of the vaccine in regional hubs. There, the AstraZeneca and Oxford vaccine has played a critical role. The profit-free availability and generous licensing arrangements being offered by AstraZeneca are having a huge impact on the global rollout of the vaccine. In the meantime, we are absolutely driving through the vaccine programme here in the UK, in the knowledge that, if Britain can emerge safely, that is of benefit not only to British taxpayers and patients but to the whole world.

Lord Lancaster of Kimbolton (Con): I remind your Lordships' House of my interest as Deputy Colonel Commandant Brigade of Gurkhas. I thank my noble friend for his part in ensuring the Government's swift response to the plea for help from Nepal in the delivery of some essential medical supplies. But there is one element missing: vaccines. Given that the Government have committed, via the COVAX consortia, to deliver 2 million vaccines to Nepal, and given that my noble friend has just said that vaccinating the developing world is a priority, I simply ask him why the UK cannot deliver those 2 million doses of vaccine bilaterally now and simply net them off our contribution to COVAX in future.

Lord Bethell (Con): My Lords, I pay tribute to my noble friend for his advocacy on behalf of Nepal; we are all extremely moved by the stories from Nepal and the challenge that it has had from Covid. We are extremely supportive of his initiative for both medical supplies and the vaccine but, as I said, there is a sequencing challenge here. Our priority as a Government is the British people. It is important that we see the job through. As the noble Baroness, Lady Brinton, pointed out, there is a threshold to which we need to get the British public to ensure that the R rate remains below one and that the new India variant, or any other variant, does not run amok and drive up hospitalisation in the UK. Until we have reached that point, we must focus on the job at hand. In the meantime, and in parallel, we are doing absolutely everything we can to grow global manufacture of the vaccine and ensure that countries such as Nepal receive secure and reliable supply. My noble friend should be reassured that we are absolutely firm in that commitment.

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, we have often heard it said that we will not all be safe until the whole world is safe. Today, UNICEF, the children's charity, is lobbying the G7 Ministers, asking for an ongoing distribution of vaccines to poor and developing countries, rather than supplying surplus vaccines at the end of our programme, because they may not be able to use them in the best possible way at that stage. Will the Minister, further to the answers he has already given, go back to his ministerial colleagues and the Prime Minister and urge them to please undertake that global vaccination programme, along with other G7 countries, now? The WHO said yesterday that inequitable vaccination is a threat to all nations.

Lord Bethell (Con): I completely endorse the sentiments of the noble Baroness and can absolutely reassure her that this is top of the agenda for the G7 leaders' meeting later this week. The Prime Minister will absolutely be ramming home the message that she put extremely well. Roughly 1 billion vaccinations have been done around the world so far; that leaves another 7 billion or 8 billion to do. We need manufacturing on a scale that the world simply does not have today to see that job through. That is why the UK has contributed so much through the AstraZeneca vaccine, which is a wonderful, portable, cheap and flexible platform for creating vaccines for the world. We are ensuring that that magic source is available to all those who can contribute vaccine manufacturing capacity anywhere in the world. In the meantime, we will ensure that any capacity that we have after we have done the British public is made available, but we have to see the job through here in the UK. It would be utterly counterproductive if the UK, having got so far, tripped over at the last hurdle.

Lord Caine (Con): My Lords, having spent much of the Whitsun Recess trying to do my best to support the beleaguered hospitality sector in west and north Yorkshire, two messages rang out loud and clear: first, the problems that many establishments are facing with staff shortages, in part due to Covid restrictions, which are affecting levels of service; and, secondly, the absolute calamity for many establishments if the lifting of Covid restrictions is delayed beyond 21 June. Can my noble friend therefore assure the House that, in taking what I accept are finely balanced decisions about lifting restrictions, the plight of our hospitality sector and the livelihoods of those who work in it will be properly considered?

Lord Bethell (Con): I pay tribute to those in the hospitality and related sectors—both those who manage and those who work in it. It has been one of the toughest aspects of this awful pandemic to see these valued and important industries really hammered by the closures that have been necessary to stop the transmission of this awful disease. I hear my noble friend's message absolutely loud and clear. We are on the final slopes of this journey. We want to ensure that, when we open, we stay open and there is no yo-yoing. That is why we are committed to looking at the data in the run-up to 21 June. His point is extremely well made, and we will definitely take it on board.

Baroness Uddin (Non-Afl): I thank the Minister for repeating the Statement and, in doing so, pay my respects to all carers, particularly those unpaid carers, without whom many more may have perished. I have two points. First, how are the Government encouraging GPs and hospitals to monitor and collect information on patients who may be concerned about or reporting long Covid symptoms without knowing it, and those who may be complaining of or experiencing post-vaccination effects? Secondly, now that the JCVI recommendation is being considered for vaccination of 12 to 15 year-olds, the Minister will be fully aware of the major concern aired by parents—who are all over the radio, with their views and questions—feeling confused about informed choices. Can the Minister assure all parents that, if vaccination is approved, they will be given the fullest information available on the

[Baroness Uddin]
potential side-effects, and that no parent who may choose to opt out of the vaccination for this age group will be pressured or demonised?

Lord Bethell (Con): I am enormously grateful to the noble Baroness for raising in the same breath the importance of secure data arrangements and the question of what we are doing on long Covid, because we could not do what we are doing on long Covid if we did not have access to GP records. The truth is that we are doing an enormous amount. Long Covid, as the noble Baroness knows, is touching more than 1 million patients here in the UK. We have got NICE to take steps to put in place a really clear clinical definition. The NHS has mobilised Covid-specific clinics, which we acknowledge are under pressure but which are an extremely valuable resource for understanding this dreadful condition. NIHR has mobilised research resources, and I pay particular tribute to Great Ormond Street and its CLoCk research project, which is looking at long Covid among children—something which of course concerns us all. Lastly, the royal colleges have done an enormous amount to present both new data and training tools to their members and to feedback information from the front line. Long Covid will be one of the lasting and most concerning aspects of this dreadful pandemic, but we are putting everything we can into dealing with the consequences.

Lord Cormack (Con): My Lords, may I once again raise with my noble friend an issue that I have been returning to for some months now? When are we going to ensure that all those who attend to the most intimate needs of residents of care homes are vaccinated? There are still far too many who have refused vaccination; it should be a condition of employment that they are vaccinated. My noble friend has indicated sympathy with this point of view, but nothing has yet been done.

While I am on my feet, as we have plenty of time and we are allowed to raise two points, why was the advice to choral societies changed after 17 May? Suddenly, 2 million singers and 40,000 choirs can only rehearse with six people indoors. This has caused enormous distress and the cancellation of many performances. It has damaged morale in places such as Lincoln very significantly.

Lord Bethell: I pay tribute to my noble friend. He was an early bird in championing the vaccination of social care workers. He has made his point clearly and has definitely influenced policy in this area. I would like to reassure him that it is simply not the case that nothing has been done. A review is going through the matter at the moment. This is not something, I am afraid, that could be implemented by government fiat; it is important that we go through the process, not least to maintain people's trust. One of the aspects of the successful vaccine rollout is that we have not behaved abruptly. We have not sought to admonish or to demonise anyone who is hesitant about taking the vaccine. Instead, we have sought to engage, and that is the reason why we are going through an extremely thorough review and engagement programme. I completely understand my noble friend's frustration that this cannot be done more quickly, but I would like to reassure him that, on balance, this is the way in which to get the task done in the most impactful and effective way that we can think of.

On choral societies, I completely sympathise with my noble friend's point. I was at Garsington Opera on Sunday, and my spirits were lifted by the sound of the singing in that wonderful place. I have only the assessment of the PHE officials to hand; it has become clear that the dangerous presence of aerosols in the air has been the really effective transmission mechanism for this dreadful disease. It is just an unavoidable and inescapable truth that people singing their heads off will fill a room with loads of infectious aerosol, and that is the reason why this decision has been made. It is regrettable, and I understand the consequences and I have been contacted by many who are concerned and affected by it. But I would like to reassure my noble friend that it has been done for the best reasons and for, I believe, very strong scientific reasons.

2.23 pm

Sitting suspended.

Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021

Motion to Agree

2.26 pm

Moved by ***Baroness Pinnock***

That a Humble Address be presented to Her Majesty praying that the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021, laid before the House on 31 March, be annulled because it introduces a significant policy change without being subject to sufficient parliamentary scrutiny; it affects the ability of communities to have a say in important changes to their local areas; and it does not present an effective or sustainable solution to the housing crisis (SI 2021/428).

Relevant document: 52nd Report from the Secondary Legislation Scrutiny Committee, Session 2019-21 (special attention drawn to the instrument)

Baroness Pinnock (LD): My Lords, I draw the attention of the House to my relevant interests as a member of Kirklees Council and as a vice-president of the Local Government Association.

I thank the Minister for taking part in this debate. I am sure he will give a clear explanation of what he believes this piece of secondary legislation will do. However, until today, none of these significant changes has been the subject of political debate either in this House or in the other place. As a negative instrument, this piece of secondary legislation would have sailed into law without any further ado. My colleagues and I between us have extensive experience of planning matters, particularly as they impact individuals and local communities. We believe that legislating for significant

changes to planning law in this way, by stealth and without public scrutiny, is totally inappropriate in a democracy.

The report of the Secondary Legislation Scrutiny Committee drew this conclusion:

"Given that the changes made by this Order are permanent and may have a considerable impact on high streets and the development of key infrastructure, such as schools, colleges, universities, prisons and ports, the instrument again raises the question whether it would have been more appropriate to make these changes in a Bill, enabling Parliament to scrutinise the changes and their potential impact more fully. This is particularly apposite as the instrument also puts the Government's approach to protecting historic statues, including those which may be controversial, on a statutory footing.

This Order is drawn to the special attention of the House on the ground that it is politically or legally important and gives rise to issues of public policy likely to be of interest to the House."

I concur completely.

Those are the reasons why I have tabled a fatal Motion against this statutory instrument. To be clear, I am not opposed to the process enabled by the general permitted development order, which permits some planning changes without a full planning application process. The process of permitted development has been successfully used for some time. The Government, though, have gradually increased the number of planning changes that can be made without full local consideration of the impact on communities. With this SI, there is a considerable extension of permitted development rights to include, for instance, major extensions to schools and prisons. Permitted development explicitly removes the right of the voice of local people, often those directly affected, to be heard and considered. People care deeply about the place they live in and want to be able to voice an opinion.

This instrument permanently extends permitted development rights in four further ways. There is an extension of the right to change shops, offices and commercial buildings to residential use. This has been enabled by the changes made by an SI last year that altered the planning use classes, whereby all shops except small local ones, offices, cafes, gyms and some commercial properties were moved to the same planning use class and thus more easily given permitted development rights to move to residential use.

Some minor caveats are proposed. Prior approval of the local planning authority has to be given in some instances. Those relate to noise and transport impact—but just those related to rights of access—and ensuring space standards and even adequate light. Who would have thought that that needed to be controlled? Of course, it is good to regenerate town centres by enabling more residential use. Some of us have been arguing that for several years but this order is not the way to go. Shop fronts could be changed to residential and the cohesive attraction of a high street completely lost. These changes are permanent and apply equally to conservation areas, which have special protection under planning law. A full planning application would enable such issues to be more readily and openly resolved.

In a further insult to leaseholders who are currently fighting the Government's complete intransigence on safeguarding them from developers' fire safety failings, the Government note that prior approval to consider fire safety issues will not be part of the instrument and will be added later. Fire safety as regards changes to residential use is seen as an afterthought. Yet, changing offices to residential use will have considerable implications for fire safety.

The instrument also enables schools, colleges, universities and prisons to expand by as much as 25%. That is a large extension for, say, an average high school of 1,000 pupils. Just think of the consequences in terms of traffic and, more importantly, school admission planning. Growth in one school is often at the expense of another, which is harmed as a consequence. The idea that this huge change can be made less bad by submitting a travel plan that is unenforceable, which it is hoped will be sufficient to quell the anger of local people at a significant rise in school traffic, cannot be and is not a serious proposition.

Port facilities can be built and extended just by saying so. There will be no consideration for local people and certainly no opportunity for them to have their say.

Meanwhile, in the fourth part of this statutory instrument, statues and monuments are being protected by the requirement for a full planning application and for the Secretary of State to be informed of any changes. Statues to the respected and the notorious are to be fully protected but the rights of people to have their say on major changes in their communities are to be removed by the flick of a pen.

In my experience, earlier extensions of permitted development are not going well for the Government. The right to erect 25-metre mobile phone masts without any ability for local people to amend the outcome caused outrage in one of the villages that I represent as a councillor, as did the right to build an extra storey on to a retirement bungalow in a street of retirement bungalows. People just want the right to influence what happens in their neighbourhood or wider community. It is what you expect in a democracy.

The Motion that I am proposing is definitely not to hinder change and halt development but is aimed at ensuring that individuals and communities are engaged and involved in planning decisions that affect their lives. Any argument that suggests that this is all about the speed of planning decisions ignores factual evidence that shows that planning decisions are currently made within reasonable timescales—set by the Government—and are of the same timescale as those that require prior planning approval. I urge Members to support my Motion for the sake of good governance and the democratic process. I beg to move.

2.38 pm

Lord Kennedy of Southwark (Lab Co-op): My Lords, I draw the attention of the House to my relevant registered interests as a vice-president of the Local Government Association, a non-executive director of MHS Homes Ltd and chair of the Heart of Medway Housing Association. I should make clear that at the appropriate time I intend to divide the House on my regret Motion.

It is extremely disappointing that this order is before us. I concur with many of the remarks of the noble Baroness, Lady Pinnock. However, sadly, it is how the Government operate, with scant regard for communities,

[Lord Kennedy of Southwark]
the need to make their areas sustainable or, frankly, any understanding of what a stable community actually is. The order is another example of the Government's inept planning policy. I have stood here so many times in recent years discussing orders, planning Bills and so on. They are just non-stop and I am sure we will be back again. The Government are completely inept in what they are doing.

Imagine if the roles were reversed. The noble Lord, Lord Greenhalgh, would be standing up and demanding, "You must let local communities have their say. How dare you do this?" I am sure that he would make the arguments that I am now giving. The Government have no interest in what local communities want to do. The noble Lord should know because he has been the leader of a council, whereas I have been only a member of a council. He knows how much councillors are the voices of their local communities and how much the local community wants to engage with its council. What we have here pushes all that to one side. It will hold back our high streets and open the floodgates for poor-quality housing in towns, cities and villages across England with no regard for what communities actually want.

What happened to localism? That word has disappeared from the Government Benches recently. There is nothing about that any more. Now Whitehall will decide and you will do as you are told. Localism was another fad from the Government—another slogan that has now gone out of fashion.

The country is in desperate need of affordable housing. We talk about it all the time. This order does nothing to achieve that. Instead, what we have here is a developers' charter that removes powers from locally elected representatives and hands them to Whitehall-appointed boards. As the noble Baroness, Lady Pinnock, said, there is virtually no scrutiny whatever, just a negative Motion before the House. There is no legislation here. The Government are not prepared to put it in front of the House of Commons. It is only because we have tabled the regret Motion and the fatal Motion that we are actually debating these issues. The Government are running scared from debating them.

There are three main reasons why I have tabled this regret Motion and I will set them out. I believe that this order will hold back communities. First, it takes away from local people and locally elected people the ability to make their points known. Local councillors know their area best. They are the right people to decide. Instead, we are transferring powers to Whitehall-appointed boards. It shows contempt for local representatives. More than that, is the Minister actually saying that the boards and the Government know better than local councillors and local people? Surely, he is not saying that at all. Local communities know their interests and their needs and know what needs to happen in their area.

The second concern from these Benches is the risk of swathes of poor-quality housing appearing as a result of this order. We have enough poor-quality housing in this country. We have a housing crisis, as the Minister knows. We talk about it all the time in this House. This will do nothing at all to help that. We need good-quality homes and this, sadly, will do nothing to deliver on that.

The third point is about how it seems acceptable to let it go through with little scrutiny in Parliament. The risk is that we will see retail units being converted to low-quality flats. There is no guarantee that they will be what the local community actually wants. It could also decimate town centres. We all know that our high streets are in crisis. I would like the Minister to set out for us how this order will help and save our high streets. It does nothing for them at all. It adds to the risk that our high streets will become ghost towns. In these tough times for local businesses, the Government should be standing with businesses and communities and ensuring that our high streets and town centres are developed and supported, but, sadly, they are not.

To be clear, I intend to divide the House on my regret Motion when the time comes but neither I nor my Benches will be supporting the fatal Motion in the name of the noble Baroness, Lady Pinnock. I like the noble Baroness very much and I respect her views but I am also conscious of the constitutional position of this House. The House has the power to put forward fatal Motions but should use that power very sparingly. I want to express my regret, annoyance and anger at what the Government are doing here. They need to behave better on these things and should have put them in front of the House of Commons in proper legislation to have them debated.

I suspect the Government are not doing that because they know the problems they will have from their own Back Benches in the other place, in particular, if they put these proposals forward. That is why they are using this negative measure. It is regrettable that it takes away the voice of local communities and will hold back the high street. It also does nothing to improve the housing situation. I suspect that this is the way that the Government will continue on a number of issues. I will leave it there. As I said, I will put my regret Motion to the vote but will not support the fatal Motion.

The Deputy Speaker (Lord Alderdice) (LD): The noble Lord, Lord Lilley, has withdrawn from the debate so I call the noble Lord, Lord Berkeley.

2.44 pm

Lord Berkeley (Lab) [V]: My Lords, I am very pleased to take part in this short debate. I support every word that the noble Baroness, Lady Pinnock, and my noble friend Lord Kennedy have said. This is a quite extraordinary piece of secondary legislation covering permitted development rights, which I have had an interest in for many years. My remarks will cover not only what is in the order but what is not in it. I fully intend to ask the Minister one or two questions as to why.

First, regarding what is in the order, and in support of what the two noble Lords have spoken about, I note that paragraph 7.1 of the Explanatory Memorandum says that this process allows

"for local consideration of key planning matters through a light-touch prior approval process."

Those are lovely soft words that should make everybody say, "Well, it is all right." Actually, as the two noble Lords have said, it is not all right and is taking away local democracy where it is very important. As my noble friend said, where is localism? It is crazy.

I think there are going to be very serious problems with some of the proposed changes between commercial and residential, with very few constraints and local comments. I had a message from the noble Earl, Lord Lytton, this morning. He suggested that giving away permitted development rights without any preliminary consideration of visual effects, massing, overlooking and those kinds of amenity considerations ultimately erodes the quality of the environment. The noble Earl regrets not being able to speak but he is a real expert on these things and I think his views need to be taken into consideration.

It is extraordinary that this draft order has suddenly been brought forward. I suspect it was done to ensure that no more statues are removed without planning permission. It seems an extraordinary priority for Ministers, with all the housing problems that the noble Baroness and the noble Lord have spoken about, to worry about statues. We may need changes to schools, colleges, universities, hospitals and prisons but they all need to be done properly. I do not see any constraints within these regulations to give the local planning authorities—which actually know what they are talking about—any meaningful input to Whitehall running everything.

There is another problem that is not in the order. That is to do with permitted development rights for Highways England to demolish bridges. A number of noble Lords have spoken about this in times past. Highways England has sought and is using permitted development rights to demolish bridges which are apparently no longer fit to take 44-tonne lorries. Many of the bridges are on side roads and bridleways or footpaths or could become bridleways or footpaths subject to the comment and approval of local planning authorities.

Highways England is going around the countryside saying, "We're going to demolish 100 or 200 of these bridges because they are too expensive to maintain." Highways England took them on, knowing the cost of maintenance and knowing that they would never have to redesign and rebuild them to carry 44 tonnes; the agency is doing this in the hope that no one will know and that the planning authorities will not be able to do much about it.

The other part of permitted development rights included in this regulation is the development of docks, piers, harbours, water transport, canals or inland navigation undertakings. I understand that this is needed primarily to facilitate free port development. While that sounds quite reasonable, I am not convinced that free ports will necessarily see the light of day. It is probably a reasonable thing to do, but I will ask again: what role will local planning authorities have within this particular part of the regulation?

What is missing are any permitted development rights changes on the railways. As noble Lords will know, railways have permitted development rights to do lots of things, given their ownership of the tracks and stations, but my understanding over the years is that the railways have been fairly reticent about making changes if they feel that there will be a problem with the local planning authorities. They have often sought planning permission, even though they could have argued that it was not strictly necessary because of their permitted development rights. Perhaps the Minister could explain why there is nothing about railways in the order. What rights do the railways have in respect of changes that they might make to stations, tracks and signals, fencing and everything else which they could obtain through permitted development rights, but then do not necessarily do that?

On the one hand we have Network Rail bending over backwards to be helpful, but on the other it is still a railway—HS2—that is trampling over the rights of all individuals, environmental or otherwise, due to a fairly flawed hybrid Bill that went through your Lordships' House several years ago. There is a significant incoherence and uncertainty about what the railways are allowed and not allowed to do, along with what they choose to do and choose not to do.

Finally, the noble Baroness mentioned fire and safety which, as we all know, is still the subject of massive worry for many residents. I fear that these regulations will not help those residents in any way, either historically or in the future.

I support both these Motions tabled in the names of the two noble Lords and look forward to the Minister's response.

2.53 pm

Lord Davies of Brixton (Lab) [V]: My Lords, I thank the noble Baroness, Lady Pinnock, and my noble friends Lord Kennedy and Lord Berkeley for setting out so clearly what is wrong with this statutory instrument. I agree with all they have said about its shortcomings, and in particular, I share the anger of my noble friend Lord Kennedy. I want to add my voice on a couple of key issues.

The Government pay lip service to the idea of localism. We know that the Conservative Party pays no heed to its manifestos, but the 2019 version says explicitly:

"Local government is the bedrock of our democracy."

It also promises

"beautiful, high-quality homes with every community able to decide on its own design standards for new development, allowing residents a greater say on the style and design and development in their area, with local councils encouraged to build more beautiful architecture."

Really? Are these proposals going to lead to more beautiful architecture? What nonsense. The reality is that this approach is not localism, it is that the Secretary of State knows best.

I am another ex-councillor who believes in local government, warts and all. These regulations are wrong in principle. There is no doubt that changes which are this fundamental and will have an impact on the look of our towns and cities for decades to come should be enacted in primary legislation. It is clear that in practice, these new rules will limit the role of the local planning authority in determining the appropriate uses for its particular area.

[Lord Davies of Brixton]

The fundamental problem is actually more than a problem—it is a catastrophe. The new rules will allow residential development in potentially unsuitable locations. That is the whole point of the proposals because otherwise this statutory instrument would not be required. What we know is that these will be the slums of the future. More specifically, the new rules will allow commercial frontages on high streets to be converted to residential use in a way that will wreak even more harm on the traditional function of town centres, already under so much pressure. Albeit that there will be a need for separate planning permission for the external treatment of buildings, we know from experience that there is always considerable room for uncertainty by gaming the system, in particular about the vacancy requirement.

We all know that developers cheerfully agree to include shops and pubs within a development and then ensure that they remain vacant until the local authority gives in to the effective blackmail. Of course we need more housing, but this is the wrong way of providing the high-quality stock that we so desperately need. History tells us how to achieve the massive new-build housing programme we need, and it was provided, surprisingly, by a former Conservative Government in the 1950s, summed up in an adequately resourced programme of council housing.

Then there is all this stuff about statues, memorials and monuments. How will the Minister present this with a straight face? We know what they are doing, they know we know what they are doing, and we know that they know, et cetera. Where is the problem that this is supposed to address? It is there only to play to the ignorance and prejudice of the base. The giveaway is in the press release by the Secretary of State on 17 January 2021 under the heading "New legal Protections for England's Heritage". It says:

> "New legal safeguards introduced for historic monuments at risk of removal. All historic statues, plaques and other monuments will now require full planning permission to remove, ensuring due process and local consultation in every case. The law will make clear that historic monuments should be retained and explained".

The giveaway is that the Secretary of State will be able to call in any application and ensure that the law is followed. The threat is clear: it will be the Secretary of State who decides, not the local authority and the local community. That is made even more manifest in the statement in the Explanatory Memorandum to the effect that the Government will introduce a requirement for local planning authorities to notify such planning applications to the Secretary of State. Really? Does he not have better things to do?

What needs to be understood is that saying that monuments should be retained and explained is a political statement, taking one side in a deeply contested debate. It is a view that members of the Conservative Party are fully entitled to hold, but it is wrong to write such a political statement into the law of the land.

Finally, as an aside, free ports are a pointless zero-sum gimmick, and there really is no more to say.

2.59 pm

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I declare my interest as a vice-president of the Local Government Association. This is yet another attack on local democracy. I held elected office on Somerset County Council for 20 years and on South Somerset District Council for 10 years. I am passionate about the role of local and national democracy and the right of those who hold elected office to be able to communicate with and represent the views of those who live in the area for which they were elected.

Introducing these changes via the negative procedure to avoid proper parliamentary scrutiny is to deny communities the right to say what happens to them. Local voters may not have voted for the person elected, but it is a duty of the councillor to do their best to take account of all views, when making decisions. These decisions should involve planning permissions. I took this seriously once I was elected. Whether the application is for a school, a children's home, housing for the disabled, housing for those who are upsizing to four bedrooms or housing for those who are struggling to make ends meet and need a roof over their heads, local input is important. I fully support the comments of my noble friend Lady Pinnock, the noble Lord, Lord Kennedy, and the previous two speakers.

I know that the Minister, who was a long-standing and well-respected councillor, understands these issues. However, the Government have been chipping away at local democratic involvement in planning processes for a while and I find the proposals before us today a step too far for me and my colleagues. I believe that my colleague, my noble friend Lady Pinnock, is likely to divide the House.

Yesterday, we debated the Environment Bill, wherein the Government are looking to local authorities to ensure diversity gain when planning permissions are granted. There is a dichotomy here between what the Government want from their planning system and what they are prepared to allow it to do. We are one of the oldest and finest democracies in the world, both nationally and locally. Our elected representatives, in the vast majority of cases, take their roles seriously. If we ignore the importance of local democratic representation, we do so at our peril. Local councillors know their areas; they know what housing is required and where it is best situated. This is not always popular with some sections of communities, but to remove it altogether is very unwise.

Given that this may be my only opportunity to speak on this SI, I will talk to it. The Government's consultation on these changes, which are permanent and not temporary, ran from 3 December 2020 to 28 January 2021. At the start of this period, the country was getting ready for Christmas and the hope of seeing our families. This was quickly crushed. By the end of the period, we were well and truly in lockdown and councils were not meeting in public but via Zoom. This can hardly be said to be extensive consultation.

The Explanatory Memorandum is very clear on what is covered and it is chilling. I agree with the Government that permitted development has an important role to play, but what is proposed does far more than

streamline the planning process; it drives a coach and horses through it. It will certainly speed up housing delivery, but just what type of housing communities it produces, if any, is another matter. Turning business premises into dwellings is not likely to lead to more employment.

No change of use is allowed if premises have been empty for the previous three months, but temporary closure due to Covid is exempt. However, it is possible for landlords to give businesses notice to quit, leave the premises empty for three months and then apply to convert them into dwellings. All homes will be required to meet the minimum national prescribed space standards. Can the Minister tell us when these were last revised and if another review is planned for the future? I am horrified that the Government are thinking of residential use on heavy industrial and waste-management sites. Although impacts have to be assessed, these can easily be simplified to allow development.

I turn now to health centres and registered children's nurseries. I despair: to allow these vital centres of communities to be turned into homes is appalling. We have a housing crisis, but we also have a mental health crisis among children, young people and women in particular. Health centres provide a vital service and should be preserved, at all costs. Children's nurseries are a lifeline, not only for women returning to work, but as an opportunity for young children to meet, learn how to socialise, share and play—all part of their emotional and physical development. Surely these two categories of service provision should be excluded from being taken over for housing.

The Explanatory Memorandum is helpful in listing what is going to happen and when. For instance, a developer or landowner can apply for PDR to convert an office block into housing, and can do that now. Later in the year, the Government will produce separate legislation to amend the right to introduce an additional prior approval on fire safety in relation to the building changing use. By this time, the building is likely to be half way constructed, without fire safety regulations having been considered. The right to change the use of offices, shops, takeaways, et cetera, to dwellings will attract a fee of £100 per dwelling house, up to a maximum of £5,000. If the maximum fee is reached, it will be for a conversion of potentially 50 dwellings from a single commercial property. Will they all have relevant parking?

On the subject of fees, paragraph 7.18 of the EM refers to applications attracting a fee of £96 to be introduced later by secondary legislation, which will also introduce the fee of £100. I ask the Minister whether these fees, which will be introduced later in the process, will be applied retrospectively or effective from some date in the future. It appears that this fee of £96 could cover a larger extension to a hospital or university. That seems like a snip to me; perhaps I have misunderstood the EM, so would be grateful for the Minister's clarification. I note that all PDR developments must be completed within three years. If only this applied to extant planning permissions, we would not have a housing crisis in the first place.

Paragraph 11.1 refers to guidance being

"available in time for the new rules coming into force".

As this SI was laid on 30 March and came into force on 1 April, I wonder where this guidance is. Has it been finalised and published? Are local authorities aware of what it actually says?

Lastly, I refer to Article 6 of the statutory instrument itself,

"Insertion of Class MA in Part 3 of Schedule 2".

Under "Development not permitted … MA.1", paragraph (1)(f) says,

"if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained".

Farming and agriculture are in a state of flux. Farmers are having their previous income, under the CAP, reduced each year and the replacement funding, under the environmental land management scheme, is by no means certain or transparent. Development land attracts a far higher price than agricultural land. I can envisage a situation in which a landlord approaches a tenant and offers a sum of money for vacant possession. A tenant, not certain of what the future holds for him or her, may accept. The landlord will then apply for PDR, which will be granted.

We will see farm buildings and land converted into dwellings. While this has happened on a small scale in the past, to the advantage of many villages—where farm buildings have provided bungalows for the local elderly to downsize—this was through the normal planning route. However, at the moment, at a time of anxiety in the farming community, there is the possibility of widespread conversions and the resultant loss of agricultural holdings. At this time, the mantra should be not only "build, build, build", but "grow, grow, grow". I would be grateful for the Minister's comments on this clause.

3.09 pm

Lord Paddick (LD) [V]: My Lords, I completely agree with the speeches of my noble friends Lady Pinnock and Lady Bakewell of Hardington Mandeville. I am not and never have been a local councillor, but my noble friend Lady Pinnock asked me, as a police officer, to speak on the protection of statues.

I agree with everything that the noble Lord, Lord Davies of Brixton, has said on this issue. The order includes a permanent change to Class B of Part 11 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, which specifies that development is not permitted if it involves the demolition of certain structures, even if development otherwise would be permitted. The exemption applies to the demolition of statues, memorials and monuments which have been in place for at least 10 years. The changes in this order mean that, in future, this will require an application for planning permission, unless they are already covered by other legislation. This permanent change in legislation is justified as a result of a change in government policy announced in a Written Ministerial Statement—a change that provided no automatic opportunity for debate in Parliament.

Paragraph 7.29 of the Explanatory Memorandum states:

"Statues, memorials and monuments which are erected to commemorate prominent individuals and events can become the subject of disagreement. Government considers that decisions to

[LORD PADDICK]

remove such public landmarks should be made following proper process in accordance with the local development plan, national planning policy and other material considerations, and consultation with the public."

Although this all sounds very reasonable, as the next paragraph explains,

"Separately to this legislative change"

the Government have

"introduced a requirement for local planning authorities to notify such planning applications to the Secretary of State",

to allow the Secretary of State to call in such applications for their determination, instead of determination by the local planning authority.

Quite rightly, the Government's other legislation proposed to protect statues—to enable magistrates to commit someone to the Crown Court if they damage a memorial, in order that a harsher penalty can be imposed—is being proposed in, and will be debated fully as part of, the Police, Crime, Sentencing and Courts Bill. That is primary legislation—Clause 46 of the Bill currently before the other place. That the Bill offers more protection to statues than to emergency workers speaks volumes about this Government's priorities.

This is a significant policy and legislative change, giving central government decisions on local planning issues because, potentially, a 10 year-old statue is in the way of what would otherwise be permitted development. But the Government have given themselves the power to overrule local democratic authorities as a result of a policy change announced in a Written Statement and implemented by means of a statutory instrument, subject only to the negative procedure. That is totally unacceptable.

This, and the other major legislative changes proposed in the order, has no place in a statutory instrument, let alone in one subject only to the negative procedure. It is all very well for the noble Lord, Lord Kennedy of Southwark, whom I greatly admire and respect, to say that a fatal Motion should only rarely be used, but this is one of those rare occasions. When my noble friend Lady Pinnock divides the House, I will be voting with her. I urge all noble Lords to do the same. Parliament is being treated with contempt, and we should not allow that.

3.14 pm

Baroness Thornhill (LD): My Lords, I too declare my interest as a vice-president of the LGA. I have a very strong sense of déjà vu, or Groundhog Day, because here we go again. This is of course a key issue for us on this side of the Chamber, because, despite overwhelming evidence from an amazingly wide range of sectors and professional bodies, apart from cutting red tape and speed, there are no compelling reasons to bring forward another raft of permitted development rights removing the need for full planning permission. Perhaps the Minister could enlighten us. This considerable disquiet has changed to a rather loud chorus of bewilderment and disbelief that these PDRs continue to be brought forward without even an attempt at an impact assessment or evaluation.

Much of the detail has already been given by my noble friend Lady Pinnock and the noble Lords, Lord Kennedy and Lord Berkeley, on the level of parliamentary scrutiny and the undue haste to bring these changes into law under the negative procedure, which leaves a debate such as this the only route for any scrutiny. We on these Benches are by no means unsympathetic to the aims that the Ministers claim for them, but these proposals will not in any way contribute to those aims—quite the reverse. Paradoxically, we are likely to see property owners taking the quick and easy option of a change of use via PDRs, when a greater involvement by the local planning authority might have helped achieve a wider and more comprehensive scheme that would further the Government's stated objectives. Among local planning officers, there is already anecdotal evidence: "Oh my God, if only they'd come to us first, we could have made this better".

We also believe that this continuous erosion of the ability of communities and their local elected representatives to contribute to the shaping of the places they live in is damaging to democracy and ultimately counterproductive. People already feel disempowered by the planning system—you need only attend a local planning committee to know that. Even if they are denied a role in the planning process, they will, thank goodness, find a way to make their voices heard.

Of the several aspects of this SI, I give full support and agreement to the position on statues, ably outlined by my noble friend Lord Paddick and the noble Lord, Lord Davies of Brixton. In line with our localist principles, we believe that this is a matter for local communities to decide. We have heard from my noble friend Lady Bakewell about the potential loss of health centres and nurseries, and the danger that this will be exacerbated if such facilities can be converted to residential use without permission. We have heard from the noble Lord, Lord Berkeley, extremely practical examples of how Whitehall does not always know best.

I would like to focus on further conversions to housing on the high street. The debate today shows that opening up high streets to property speculation—which is what this is—is a misguided attempt to answer current challenges that have existed for years and have been exacerbated significantly by Covid and by changes in our shopping patterns. We believe that it will only worsen the ingrained inequalities that have been so starkly exposed by the pandemic.

Back in 2019, the Housing, Communities and Local Government Select Committee produced a report on the future of the high street, which argued that the Government should suspend any further extension of PDRs, pending an evaluation of their impact on the high street. And here we are again. It is clear that this united opposition to the extension of PDRs, backed by evidence, has simply been ignored by the Government, apart from some small changes, such as that the homes created now should contain a window. It is too late for those that I brought to the attention of the House two years ago—the notorious case in Watford—but it is progress.

Changing the face and fortune of a town takes years. I know, because it was one of my primary objectives for 16 years while Mayor of Watford. Put bluntly, it is hard-going and requires building enduring partnerships with different stakeholders—easier said

than done with the competing aims and demands from all those with a legitimate interest in the high street—and genuine community buy-in, as many of the changes are very significant, which is never easy to obtain and even more difficult to hold over time. Most of all, it needs a plan, resources and time. It flies in the face of all my experience that a planning free-for-all is the answer to that problem.

I am also concerned by the implication in these proposals that local authorities do not know what their high streets need and are not already working to produce good solutions. Good councils have long recognised that housing in a town centre is a good thing. They were at the forefront of recognising how repopulating town and city centres could turn urban decline into renaissance. They promoted flats above the shops, mixed-use development to create residential, leisure and community uses alongside retail, and a move to have activity in our town centres that was not just about daytime shopping and late-night drinking. It has taken years to get to that point in many a high street, including ours, and yet these proposals have the ability to undo that work.

Someone has to hold the ring for a whole place, not just think about making a fast buck from a single site. What will our high streets look like in five, 10 or 15 years' time? How do we get there from here? We believe that these proposals undermine such strategic thinking, with a misguided attempt at a quick fix. They certainly undermine the democratic mandate of elected representatives.

These are big issues but, from my experience, PDRs have always had the potential to be controversial, and have been a source of anger and upset from affected residents. I have stood looking out of a window in a family's beautiful home while having to explain that the significant extension their neighbour was building was legal, permitted by government rules and did not need planning permission, and that thus the council had no power to suggest amendments, let alone refuse it. I remember the look of incredulity on their faces. It was one small family home, but the impact on their enjoyment of it was huge. This is often the case, which is why council officers try to balance the needs of all parties and why obtaining planning permission has a useful and positive purpose, which appears not to be recognised by the Government.

Some of the issues the Government believe they are trying to solve are absolutely legitimate, and their views are shared by those on our Benches, but we are asking: why not allow people putting forward such schemes to apply for planning permission, as now? This would mean that genuine consultation can occur, and that planners and councillors would be able to do their jobs. It would help the Government's professed objective of driving up quality and building beautiful. Prior approval gives officers a rotten job to deal with, knowing that they cannot really say no—after all, that is the purpose of these changes—and councillors still have to carry the can for a decision that they cannot influence or change. It is lose-lose for all but the developer/investor.

That is the crux of this issue, illustrated so well by my noble friend Lady Pinnock, the noble Lord, Lord Kennedy, and others. The Government have continually eroded the role of local democracy to decide on or even influence matters that suit the circumstances of its communities. We believe that there is more to come in the future planning Bill. All this is before we even get to the quality of the conversions, which were heavily criticised by the Government's Building Better, Building Beautiful Commission, which concluded that they have diminished quality, delivered low levels of affordable housing and reduced developer contributions. It said that increased PDRs had "inadvertently permissioned future slums". That was colourfully articulated by the noble Lord, Lord Davies of Brixton. There is very little time to talk about the impact on conservation areas.

We feel that these reforms lack the critical safeguards to prevent further damage to already suffering high streets by turning community amenities into often substandard homes. Those are some of the reasons why we wish to express more than mere regret at what is happening to our planning system and, more importantly, to our communities and our democracy.

3.23 pm

The Minister of State, Home Office and Ministry of Housing, Communities and Local Government (Lord Greenhalgh) (Con): My Lords, we have had an interesting and passionate debate on this order. I am grateful to noble Lords on all sides of the House for their contributions. I will take this opportunity to respond to some of the points which have been raised.

Before I do so, I will set out briefly what is included in this statutory instrument, which introduces a number of important measures. First, it includes the new permitted development right, discussed today, to allow for the change of use from the commercial, business and service use class to residential use. Secondly, to support the ambition of Project Speed and to ensure that new investment in public service infrastructure is planned and delivered faster and better, this order introduces important measures to allow schools, hospitals and prisons to expand their existing premises, helping to deliver additional capacity for local communities more quickly. Thirdly, it includes measures relating to freedoms for development at ports, including free ports. Finally, it includes measures to support the Government's heritage agenda by allowing for local consideration of the removal of statues and monuments, which are often important heritage assets. This issue was raised by the noble Lords, Lord Berkeley, Lord Davies of Brixton and Lord Paddick.

I turn to the points raised on the adequacy of parliamentary scrutiny by the noble Baroness, Lady Pinnock, and the noble Lord, Lord Kennedy, as well as by the noble Baroness, Lady Thornhill. The general permitted development order under which permitted development rights are granted is made principally under Section 59 of the Town and Country Planning Act 1990—the primary legislation. That Act enables the Secretary of State, through secondary legislation, to make a development order under the negative resolution procedure. Therefore, it is entirely appropriate that this statutory instrument was laid before Parliament under the negative resolution procedure. That is the procedure that Parliament approved when

[Lord Greenhalgh]
it passed the parent Act. As demonstrated today, the House may call attention to and debate particular legislation of interest.

The noble Lords, Lord Kennedy and Lord Berkeley, the noble Baronesses, Lady Pinnock and Lady Thornhill, and others raised community engagement and prior approval by the local planning authority, as well as the adequacy of local decision-making. The permitted development right for the change of use from the commercial, business and service use class is subject to prior approval by the local planning authority if that authority so wishes. This enables the consideration of key planning matters in consultation with the local community. Adjoining owners or occupiers are required to be notified. The council may then consider representations made on those specified matters for prior approval as set out in the legislation. That was summarised by the noble Baroness, Lady Pinnock.

Other matters the local planning authority can consider include, in conservation areas, consideration of the impact of the loss of ground floor commercial use; and, in all areas, access to the site, flood risk, the impacts of noise on future residents, any impacts on occupiers from the introduction of residential use in an area that is important for heavy industry, storage and distribution and waste management, and—this responds to the noble Baroness, Lady Bakewell of Hardington Mandeville—the impact of the loss of health centres and registered nurseries on the provision of such services. The local authority is required to take into account any representations made to it as a result of any consultation when making its decision whether to grant prior approval.

It is important to recognise that the Government are committed to delivering the new homes that the country needs. Last year around 244,000 new homes were delivered, which is the highest number in over 30 years. Permitted developments are just one mechanism under which new additional homes can be delivered, and they encourage the development of existing buildings on brownfield sites. They protect the green belt. This enables additional net extra homes.

I do not agree with the points made about a lack of focus on quality. This will not be a floodgate to poor-quality housing—I think that that is the phrase that the noble Lord, Lord Kennedy, used. On this point, 72,000 new homes have been provided. There has been the example of the one home in Watford without natural light, and we recognise the issue of space standards. That is why we have listened to the House and made sure that we have taken steps to address these problems. We have introduced a condition that all homes delivered through permitted development rights must, since April this year, meet the nationally described space standards, and we require that all homes delivered under permitted development rights should include adequate natural light in all habitable rooms.

To respond to the noble Baroness, Lady Bakewell of Hardington Mandeville, I say that the nationally described space standards were introduced in 2015. My understanding is that there are no plans to review them, since they were introduced relatively recently.

As the Minister with responsibility for fire and building safety, I also point out that all homes built through permitted development have to meet building regulations, including fire and other building safety requirements. My department, the Ministry of Housing, Communities and Local Government, has made it very clear that there are restrictions on the use of combustible materials when additional residential storeys are added.

There has, quite rightly, been a great deal of concern about the importance of high streets. On the points raised by the noble Lord, Lord Kennedy, and the noble Baroness, Lady Thornhill, I reassure the House that we are committed to boosting regeneration and supporting our high streets and town centres. The pandemic has taken its toll and magnified the problems facing town centres and high streets, and we want to support them in adapting to these changes to become thriving, vibrant hubs where people live, shop, use services and spend their leisure time. We have therefore allocated £3.6 billion through the towns fund and an additional £4.8 billion in the levelling-up fund, which, alongside the high streets task force, will give high streets and town centres expert advice to adapt and thrive, and funding to help create jobs and build more resilient local economies and communities.

This new permitted development right will simplify the planning process and enable best use of existing and underused buildings. This is not about developers gaming the system; it is about ensuring that we see active high streets, that vacant premises do not sit there unused, blighting an area, and that there is greater flexibility in planning to enable the change—in this case—to residential use. But there are protections: there is a size limit of 1,500 square metres of floor space so that we focus on the medium-sized high street for this planning flexibility. In conservation areas, it further allows for consideration of the impact of the loss of ground floor use to residential on the character or sustainability of the area.

I beg the noble Baroness, Lady Pinnock, to reconsider the use of a fatal Motion. I have been educated by the noble Lord, Lord Kennedy, that fatal Motions come along very infrequently; I can count them on the fingers of one hand. We need to recognise that the fatal Motion would also impact on the delivery of public services in our schools and hospitals. The legislation is a very important part of our ability to grow our public service infrastructure: it enables permitted development rights for larger extensions for schools and hospitals, and enables schools, colleges and universities to increase their capacity by up to 25%, enabling them to respond to the challenges the country has faced in the pandemic and provide adequate social distancing. I hope that the noble Baroness will consider not dividing the House, because any move to annul this order would affect our ability to deliver this critical public service infrastructure.

The noble Lord, Lord Berkeley, is testing my knowledge of railway policy as the Minister responsible for local government, but we will take note of the important point he raises about the permitted development rights to demolish bridges and follow it up with the Department for Transport. With regard to the reason for the omission of railways, we will liaise with the Department for

Transport on how we can best support infrastructure delivery, including for railways, and the asks of Network Rail.

In conclusion, I hope that I have provided some assurance on the benefits of these measures, and that bringing them forward via secondary legislation is the appropriate route provided for in law. The diversification of our high streets and town centres will help their recovery as the country starts to open. The mix of retail, leisure and residential uses will make them attractive places to visit, live and work. The legislation will enable a wider range of commercial and retail buildings to change use to residential through a simplified planning process while still providing important protections and allowing local consideration of a range of matters to protect local facilities and uses where appropriate, and allow local communities to have a say.

As I have set out, the legislation also provides important measures that support key public service infrastructure, such as schools, hospitals, ports and heritage. I therefore ask the noble Baroness, Lady Pinnock, not to divide the House and to withdraw her Motion.

3.35 pm

Baroness Pinnock (LD) [V]: I thank the Minister for his response. I am grateful for the very well-informed and passionate debate that we have had in this hour or so this afternoon.

Many Members have drawn attention to the value of engagement and decisions that are taken with a wider range of views. Unfortunately, this instrument is a continuation of the erosion of the rights of local people just to have their say on changes that affect them and their communities. There is no need for the extension of permitted development to achieve the Government's aims. For instance, the Minister has just talked about the need to enable the expansion of schools without going through a full planning application. A response to a full planning application can be achieved within eight weeks if the right information is provided to the planning authorities. That is a drop in the ocean compared to the time it takes to organise a development or extension of a school on that scale, and it is worth doing because it engages everybody in what is happening and what the consequences will be, for good and for ill.

It is a sad day for democracy and good governance when the Government believe that this approach is acceptable. It is such an assault on democratic decision-making at a local level. I do not take these matters lightly: I have never before in my time in your Lordships' House proposed a fatal Motion and I have done so not necessarily on the content of the statutory instrument, but on its principle, which is the erosion of local democratic rights and good governance. We cannot allow this to continue—this steady drip, drip, drip of democratic rights disappearing. It is not right, and it has to be stopped. That is why I maintain that a fatal Motion is appropriate in this case and, as such, I wish to test the opinion of the House.

3.38 pm

Division on Baroness Pinnock's Motion called. Division called off after 16 minutes due to technical problems.

3.54 pm

The Deputy Speaker (Lord Russell of Liverpool) (CB): We have been unable to resolve the technical problem but we have worked out how to resolve the situation. I call the Government Chief Whip.

Lord Ashton of Hyde (Con): My Lords, with the agreement of the usual channels, we are going to defer both votes until tomorrow, so they will be on tomorrow's Order Paper. After this, to give everyone time to move over to the next business, we will have a short adjournment.

Lord Kennedy of Southwark (Lab Co-op): I thank the Government Chief Whip. I would have been very happy for my vote to be agreed by the collecting of voices, but the Government did not take me up on that offer. Obviously, I fully understand about these technical issues and we are happy for the votes to take place tomorrow.

3.55 pm

Sitting suspended.

Finance Bill

Second Reading

4.01 pm

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

That the Bill be now read a second time.

The Minister of State, Cabinet Office and the Treasury (Lord Agnew of Oulton) (Con): My Lords, we are here to debate the annual Finance Bill, introduced in the other place following the Budget on 3 March. My right honourable friend the Chancellor of the Exchequer outlined a Budget with three key objectives: first, to protect jobs and livelihoods and provide additional support to get the British people and British businesses through the pandemic; secondly, to be clear about the need to fix the public finances once we are on the way to recovery and to start that work; thirdly, as we emerge from the pandemic, to lay the groundwork for a robust and resilient future economy. This Finance Bill enacts changes to taxation that support all those objectives.

The House will of course be aware of the severe public health and economic shock caused by the pandemic; at its peak, the economy shrank by 10%, the largest fall in more than 300 years. The Government have responded with an extraordinary package of support for the economy which, taking into account measures introduced in the 2020 Budget, is now estimated at £407 billion for this year and last year. This has been essential. Thanks to it and the rapid rollout of vaccinations, the Office for Budget Responsibility and other independent authorities now expect a swifter recovery than had previously been forecast. Indeed, the OBR expects the UK economy to recover to pre-crisis levels six months earlier than it did previously—in the second, rather than the fourth, quarter of 2022.

Our first objective is protecting jobs and livelihoods. There are positive signals that we are now on the right path, but it is crucial that we continue to support the economy over the coming months and deliver on the Budget's first aim of protecting jobs and livelihoods.

[Lord Agnew of Oulton]
That is why the tax measures outlined in the Bill go further to support the economy. We are extending the 5% reduced VAT rate until 30 September to protect almost 150,000 hard-hit hospitality and tourism businesses which employ over 2.4 million people. To help those businesses manage the transition back to the standard rate, VAT will then increase to an interim rate of 12.5% from October until the end of March.

The Bill ensures that any business that took advantage of the original VAT deferral new payment scheme will be able to pay that deferred VAT in up to 11 equal payments from March 2021, rather than by one larger payment due by 31 March 2021. For those businesses that have been pushed into losses, the trading loss carry-back rule is being extended from the existing one year to three years for losses of up to £2 million. This will deliver a significant cash-flow benefit for eligible businesses.

The Bill also puts into legislation the temporary cut in stamp duty land tax, with a residential stamp duty nil rate band remaining at £500,000 in England and Northern Ireland until the end of June. This will be followed by a phased transition back to the normal rate. From 1 July 2021, it will fall to £250,000 until the end of September, before returning to £125,000 on 1 October. This extension helps buyers and supports jobs which rely on the property industry.

As well as protecting jobs and livelihoods, the Bill takes important steps to deliver on the second of the Budget's key objectives: to strengthen public finances as we emerge from the pandemic. The coronavirus response, as we all know, created unprecedented challenges for the Exchequer. The first outturn estimates from the Office for National Statistics show borrowing for last year is estimated to have totalled £300 billion, or 14.3% of GDP. As we continue our response to this crisis, borrowing is forecast by the Office for Budget Responsibility to be £234 billion this year, which is 10.3% of GDP. This means we are forecast to borrow more this year than during the financial crisis, an amount so large it has only one rival in recent history—last year. The Government need to balance this enormous support provided to the economy in the short term with the need to start to fix the public finances in the longer term. The Bill takes forward a number of measures to do this responsibly.

First, the income tax personal allowance will rise with the consumer prices index, as planned, to £12,570 from this month. This level will then be maintained until April 2026. The higher rate threshold also rises to £50,270 from this month and will then be maintained at this level until April 2026. These changes are a fair and progressive way to meet the fiscal challenge presented by the pandemic. For example, it is worth noting that the 20% highest-income households will contribute 15 times that of the 20% lowest-income households.

Secondly, the inheritance tax thresholds, the pensions lifetime allowance and the annual exempt amount in capital gains tax will be maintained at their 2020-21 levels until April 2026. Maintaining the pensions lifetime allowance at current levels affects only those with the largest pensions—those worth more than £1 million.

Thirdly, the Bill legislates for the rate of corporation tax paid on company profits to increase to 25% from 2023. Businesses have been provided with over £100 billion of support to get through this pandemic, so it is only fair to ask them to contribute to the overall recovery. Of course, since corporation tax is charged only on company profits, businesses that may be struggling will, by definition, be unaffected. The increase will not take effect until two years' time, well after the point when the OBR expects the economy to have recovered. This measure protects small businesses with profits of £50,000 or less by including a small profits rate, maintained at the current rate of 19%. The effect of this is that 70% of companies, or 1.4 million businesses, will not see an increase in their tax rate.

The third goal of the Budget was to lay the foundations of our future economy as we emerge from the pandemic. This requires that the Government encourage business investment now, to help spur growth and drive productivity in the coming years. That is why the Bill contains the innovative new super-deduction measure. In most cases, this measure will allow companies to reduce their taxable profits by 130% of the cost of investment they make, equivalent to a tax cut of up to 25p for every pound they invest. It is expected to lift the net present value of the UK's plant and machinery allowances from 30th among the countries of the OECD to first. This will bring forward investment; the OBR has said that, at its peak in the financial year 2022-23, the super-deduction will incentivise an additional £20 billion of business investment.

The Bill also contains clauses that will enable the creation of free-port tax sites. In these sites, businesses will be able to benefit from a number of tax reliefs, including a stamp duty land tax relief, an enhanced structures and buildings allowance and an enhanced capital allowance for plant and machinery. This tax offer will be combined with simpler import procedures and duty benefits in customs sites to help businesses trade, along with planning changes to give a green light to much-needed development and spending to invest in infrastructure. This comprehensive package will allow free ports to play a significant role in boosting trade, attracting inward investment and driving productive activity.

I have talked about how this legislation delivers on the core objectives of the Chancellor's Budget. However, as might be expected in the annual Finance Bill, it also takes forward a number of other measures to progress the Government's long-term aims to ensure a flexible, resilient and fair tax system. As part of the United Kingdom's commitment to be a global leader on tax transparency, the Bill allows for the implementation of OECD reporting rules for digital platforms. This will help taxpayers in the sharing and gig economies get their tax right and help HMRC detect and tackle non-compliance. It will enable the extension of Making Tax Digital requirements to smaller VAT businesses from April next year, building on the successful introduction of Making Tax Digital for VAT businesses.

It implements reforms to the penalty regime for VAT and income tax self-assessment to make it fairer and more consistent, and harmonises interest for VAT and income tax. It tackles promoters of tax avoidance through strengthening existing anti-avoidance regimes

and tightening rules. Importantly, it introduces an exemption from income tax for financial support payments for potential victims of modern slavery and human trafficking made by the UK Government and devolved Administrations.

I turn to how the Bill helps us deliver the important commitments the Government have made on the environment and carbon reduction. The new plastic packaging tax will encourage the use of recycled plastic instead of new plastic in packaging. For plastic packaging that contains less than 30% recycled plastic content, the rate of the tax will be £200 per tonne. This will transform the economics of sustainable packaging. To help tackle climate change and improve the UK's air quality, the Bill reforms the entitlement to use red diesel from April next year. This will help ensure that the tax system incentivises users of polluting fuels such as diesel to invest in cleaner vehicles and machinery, or just to use less fuel.

To conclude, the coronavirus pandemic has presented an immense challenge to this country and delivered a dramatic shock to our economy. The Government have met that shock with a determined and sustained response, but the work is not yet done. This Finance Bill continues to support the lives and livelihoods of families and businesses. As we emerge from the pandemic, it will set the ground for an investment-led recovery and for strong public finances in the coming years. The Bill delivers a number of measures for a fairer and more sustainable tax system in support of the work needed to tackle climate change. For these reasons, I commend it to the House.

The Deputy Speaker (Baroness Finlay of Llandaff) (CB): My Lords, I remind all in the Chamber that we are expected to be masked when seated.

4.12 pm

Lord Bridges of Headley (Con): My Lords, I have the honour of chairing the Finance Bill Sub-Committee and I start by thanking all its members, a number of whom I see here today; I look forward to hearing their remarks. I especially thank our excellent clerk and superb special advisers for all their hard work, energy and commitment.

Last December we published a report which scrutinised a range of new powers sought by HMRC and called it *New Powers for HMRC: Fair and Proportionate?*, with a question mark—an all-important question mark. To answer that question, we identified a number of principles that we believe should apply to any new power given to HMRC. The power must have a clear policy objective and justification, and it must be simple, targeted, proportionate and have appropriate safeguards and sanctions. With those principles in mind, let me focus my remarks on the powers we examined included in this Finance Bill.

The first is the power to tackle promoters and enablers of tax avoidance, under Clauses 121 to 123. These clauses need to be seen against the backdrop of the loan charge, which has ensnared thousands of people—many on low incomes—who entered disguised remuneration schemes, often at the behest of their employers, only to find themselves clobbered years later with enormous tax bills that many now find difficult to pay. Now is not the time for me to go into the loan charge in detail, although our committee remains very focused on it.

Regarding these clauses, of course we support action to clamp down on the hard core of promoters of tax avoidance schemes. But the committee was unconvinced that these plans would be sufficient to tackle that hard core of promoters who continue to promote these schemes, and so the effectiveness of existing measures must be kept under review and all the weapons in HMRC's arsenal should be brought to bear on them. For example, we reiterated our view, first expressed way back in 2018, that alerting taxpayers to these schemes via HMRC's spotlights on GOV.UK is not enough. That is especially so given that promoters have been targeting medical professionals returning to the NHS during the pandemic. Given that, we recommended that HMRC focus its attention on employers, employment intermediaries and the umbrella companies using these schemes. Specifically, we said that a first step should be that no public sector bodies should contract with an employment intermediary that operates disguised remuneration schemes.

In light of all this, I have some questions for my noble friend the Minister. If he cannot answer when he winds up, perhaps he could answer in writing. First, could he tell us how many of these hardcore promoters still exist? Secondly, in 2019-20, HMRC doubled its resources in this area. What will be spent on this agenda in future—in this financial year? Thirdly, a new communications campaign targeted at contractors was launched in November 2020. How is that progressing and how is success being measured?

Finally, on umbrella companies, a recent "File on 4" BBC investigation revealed that around 48,000 mini umbrella companies have been formed in the last five years, fronted by 40,000 people in the Philippines to exploit the employment allowance scheme. Meanwhile, the implementation of IR35 and the impact of the pandemic has reportedly led to a surge in the use of such companies by contractors. One survey found that 71% of workers deemed inside IR35 were moved under an umbrella company ahead of the off-payroll working rules extension into the private sector in April. Given all that, can the Minister tell us whether there are any plans to regulate umbrella companies?

Let me move on to the second topic the committee focused on, which related to the civil information powers in Clause 126. These will allow HMRC to obtain information about taxpayers from financial institutions to charge the right amount of tax and enforce payment. There are two safeguards in HMRC's current power: the need for tax tribunal approval before information can be required and a right of appeal for financial institutions where provision of information is unduly onerous. These have been discarded on the basis that the process takes too long which, according to the Government and HMRC, means delays in meeting information requests from other countries.

Our committee expressed concerns about the Government's approach when it was first proposed back in 2018. In this recent inquiry, we concluded that the removal of safeguards was unjustified as cases

[Lord Bridges of Headley]
involving international information requests were only a very small minority—less than 15% of the total—and the tribunal referral does not significantly add to the timescale. I will not ask my noble friend the Minister any questions on this, but simply note that the committee recommended that the safeguards be restored as their removal is wrong in principle and not supported by the evidence in practice.

The third topic our committee looked at was the

"New tax checks on licence renewal applications"

in Clause 125. This measure will make the renewal of licenses for running taxi and private hire services and for scrap metal traders conditional on being tax compliant. It therefore introduces a new concept of conditionality into our system. Our committee questioned how effective this proposal was likely to be, since those non-compliant for tax might also be non-compliant for licensing and tax checks might drive more to be non-compliant for licensing. The result could be mainly to impose additional burdens on the already compliant rather than to tackle non-compliance. The Government have failed to produce evidence to support applying conditionality in these instances. Furthermore, the condition is to apply to all applications for licenses, not just those applying for the first time as was proposed in the original consultation.

Taking a step back, these three measures are at best, in my mind, a mixed bag. One can draw from them some general lessons, which our report highlighted. Existing powers should be used properly before new ones are requested. Focus should be put on non-legislative action. The tax policy consultation framework should be observed. There should be clear evidence to support the need for a new power. Powers must be proportionate and targeted, with adequate safeguards. Those are all principles that should always be abided by.

That brings me to an issue that our committee has not yet focused on: Clause 129, which covers reporting rules for digital platforms. What I am about to say is my view and not that of the committee. I am sure we would all agree that our tax system, rooted in the analogue age, needs a reboot to meet the challenges of the digital era. Digital platforms must pay the taxes they owe in the countries where they operate. Likewise, sellers of goods and services on those platforms should also pay the taxes they owe. Clause 129 will give HMRC the power to require certain UK digital platforms to report information to HMRC about the income of sellers of services on those platforms. The platforms in questions are taxi and private hire services, food delivery services, freelance work—a very broad term—and the letting of short-term accommodation. We may all agree with the objective of ensuring that businesses pay the tax they owe on services they sell online, but I draw your Lordships' attention to this, because Parliament is going to give the Treasury power to make these regulations, despite the fact there has been no consultation at all. It has yet to begin, despite the fact that, according to the Government, this power could affect up to 5 million businesses which provide their services via digital platforms. We are giving this power, despite the fact that the cost of the regulations is unknown. Although the impact for each seller is expected to be small, the Government states that it

"is expected to have a significant combined impact."

Here is why:

"Data, including bank account information if the platform holds that information, will be collected and provided to HMRC, and exchanged with other tax authorities when appropriate. This information will be used to identify and risk assess the individual or company."

The policy paper also states:

"This measure is likely to significantly increase customer costs for some of the businesses affected."

Note this: it says that sellers of goods

"may be affected at a later stage, subject to consultation."

Digitising our tax system is laudable. It is a necessity, but this is no way to proceed. It is the way mistakes are made, and the Government would do well, I suggest, to heed the words of the playwright Sheridan, who wrote over 200 years ago:

"First there comes the act imposing the tax; next comes an act to amend the act for imposing the tax; then comes an act to explain the act that amended the act, and next an act to remedy the defects of the act for explaining the act that amended the act."

This is a horrible, familiar process that we are all too well aware of in this House. I would just gently say to my noble friend the Minister that he needs to justify why HMRC is being given this power without proper consultation. How can he justify taking a power, the cost and impact of which is unknown? Once again, HMRC's remit appears to be growing, without consultation, without evidence, without real scrutiny. Is it fair? Is it proportionate? We do not know.

4.24 pm

Lord Butler of Brockwell (CB): It is a pleasure to follow the noble Lord, Lord Bridges, who chaired our sub-committee with great competence, and I shall have a word to say about that later. I start in the general area about which he was speaking. As we debate the Finance Bill today, I warmly welcome last week's agreement by G7 Finance Ministers to work together, to ensure that all countries get their fair share of revenue from multinational corporations. I congratulate the Chancellor of the Exchequer on presiding over this achievement. However, while I do not want to rain on his parade, I cannot agree with him that this shows what the UK can do post Brexit, as he claimed.

To my mind, it shows two different things. The first, somewhat contrary to what the Chancellor claimed, is that international problems, such as the taxation of multinational corporations, can be addressed only by countries working together and by pooling part of their sovereignty. They cannot be solved by individual countries acting independently. The second lesson of the G7 Ministers' agreement is that nothing happens until the United States decides that it should. This first step could not have been achieved without the United States giving a lead.

I turn now to the report of the Finance Bill Sub-Committee on the new powers of HMRC in the Finance Bill that we are debating today. I comment first on a quirk of our curious constitutional procedures. I joined this sub-committee at a late stage of its work. It seems to me that the report is a useful commentary on the powers in the Finance Bill, but our constitutional procedures prevent your Lordships' House turning the committee's conclusion into amendments to the Bill. There really is no reason of Commons financial privilege why the Lords should not be able to pass amendments

relating to the fairness and proportionality of HMRC's administration of the tax system. The only reason is that they happen to be contained in the Finance Bill. As a result, this sub-committee's report turns into a mere commentary, which may influence the House of Commons if anyone there bothers to read it, but otherwise it is simply the basis of a conversation between the committee and the Government. That can be quite a useful conversation, since the main means by which your Lordships' House can influence events is by persuading the Government. The committee has persuaded the Government on some of the issues in the report, but it is frustrating that, having debated this report, your Lordships' House has no option other than to nod the Finance Bill through in the form in which it has reached us.

It was a privilege to serve on this sub-committee, which was superbly chaired by the noble Lord, Lord Bridges, and benefited from the participation of the chairman of the main Economic Affairs Committee, the noble Lord, Lord Forsyth. As the noble Lord, Lord Bridges, has said, the committee was very well served by the excellence of its clerks. We also had good co-operation from the Financial Secretary to the Treasury, Jesse Norman MP, senior members of HMRC, and representatives of professional associations affected by the Bill's provisions.

On rereading the report, I feel that it perhaps comes across entirely as an indictment of HMRC. That may be inevitable, because the report concentrates on those powers in the Finance Bill that seem to the sub-committee excessive or not fully thought through. Speaking for myself—I speak with a Treasury background—I have considerable sympathy with HMRC, particularly in its task of dealing with schemes of tax avoidance and evasion, which are like a many-headed Hydra—as soon as HMRC hits one of the heads another pops up. Yet it is not difficult to feel that HMRC has been more zealous and effective in pursuing often innocent taxpayers, rather than those who have made a fortune from promoting avoidance schemes.

There have also been ongoing deficiencies in HMRC's dealings with taxpayers, some of which HMRC acknowledges. The sub-committee received distressing evidence from victims of the loan charge to which the noble Lord, Lord Bridges, referred, not least about delays or failures in getting a response from HMRC when taxpayers have sought to achieve a settlement of their affairs.

A compelling account of the distress caused by HMRC's handling of the loan charge was given in the BBC Radio 4 programme "File on 4", to which the noble Lord, Lord Bridges, referred, and which I commend on its investigations into these issues. A recent edition of the programme dealt with a further scheme with some similarities to the loan charge, to which the noble Lord, Lord Bridges, also referred: the recruitment of staff through umbrella companies, which offer to save employers overheads in the form of national insurance contributions, holiday pay and employment regulations by offering recruitment in penny numbers, each too small to incur those overheads.

I know that IR35 has recently come into effect as a means of distinguishing between general and useful recruitment agencies and those set up for avoidance, but I echo the noble Lord, Lord Bridges, in asking the Minister whether there are signs that it is preventing the offering of services for avoidance purposes by umbrella companies with overseas directors who are difficult to pursue. It would be a tragedy if another version of the loan charge were to become established, which could cause distress for its victims for many years to come.

I end by commending HMRC and the Government on the detailed response the sub-committee received to the report we are debating. The Government's response is that out of 24 main recommendations in the report, nine were accepted, six were partially accepted and nine were rejected—you might call it a score draw. A sceptic might say that it was the recommendations of general principle that tended to be accepted by the Government and the specific recommendations that were rejected. Nevertheless, there is evidence that the report served a useful purpose in challenging HMRC, and it was an honour to take part in preparing it.

4.32 pm

Lord Forsyth of Drumlean (Con): My Lords, I begin by expressing complete agreement with everything the noble Lord, Lord Butler, has just said, in particular what he said about the officials who supported the sub-committee and about the chairman, my noble friend Lord Bridges. When I asked him to take on the chairmanship of the sub-committee so that I did not have to chair both, I thought it was something of a hospital pass—but he did it absolutely brilliantly and with great distinction in what is a very complex area. We were very grateful to him for the leadership he gave in his indefatigable way. As the noble Lord, Lord Butler, said, we should be grateful that some of the recommendations have been accepted. I am probably the cynic: they were the ones of general principle, rather than the specifics.

I want to focus on this doorstep of a Bill. The papers I am holding are the Finance Bill and the papers that enable us to understand what is in it. I cannot help but ask my friend on the Front Bench: whatever happened to tax simplification? Whatever became of the Government's declared policy of lower, flatter, fairer, simpler taxes? That policy was grounded in the belief that individuals, families and companies will make better investment decisions than Governments and that wealth creation is essential to the support of key public services such as health, education and social care. We wait with bated breath for the Government's response to the Economic Affairs Committee on social care and on higher and further education.

We face the biggest financial crisis of our lifetimes—even our lifetimes in this House. It is an enormous challenge facing the Government, but the Covid measures continue to destroy our productive economy. Like a scorpion, the virus leaves behind its sting in the huge backlog of patients requiring serious procedures; the damage done to our young people's education and career prospects; the impending crisis in housing caused by rent arrears; and the unemployment currently disguised by the furlough scheme continuing. Major industries have haemorrhaged cash on an enormous scale. Substantial debt provided by the Treasury has been

[Lord Forsyth of Drumlean]
taken on and, frankly, will never be repaid. Are we seriously going to take £20 a week from some of the poorest people in the land, just as electricity and food costs are rising? That decision alone is some £6 billion.

What is the Government's strategy for facing this challenge? Tax and spend is not the answer. Nor can we continue selling IOUs to ourselves, which is given the name "quantitative easing"—a subject the main committee is about to report on. Inflation is already coming down the track, with the costs of raw materials soaring and pressure on wages rising because of labour shortages at a time when the Government are maintaining employment for many people through the taxpayer.

The Bank of England's reassuring messages that there is nothing to see here and nothing to worry about, and that it will delay interest rates as soon as there is inflation—which will be a short-term effect—worry me. I remember, when I was a young man first engaging in politics, how quickly inflation got out of control, as people started pricing for anticipated rates of inflation. It ended in inflation of over 20%, interest rates of 15% and a lot of pain faced by the Conservative Party in government and the country as a whole. Inflation may be convenient for Governments with big debts but, as Jim Callaghan put it, inflation is the father and mother of unemployment.

The only way we can get through this crisis is by getting our economy growing again. That means recognising that the current long-term growth projections of just under 2% from the Government's own statisticians are wholly inadequate and not acceptable. We need to change our strategy.

Increasing corporation tax—here I disagree with the noble Lord, Lord Butler—is the opposite of what is needed if we want to see more investment, growth and employment. Entering a cartel to set a minimum level of corporation tax may be good news for the United States, with revenues from its increasingly overmighty tech companies, but what happened to that vision of global Britain—the place to invest and create jobs and prosperity? The thinking embodied in the Chancellor's welcome vision for free ports needs to be applied to the nation as a whole. If we believe in competition as the way to secure innovation and prosperity, why are we suddenly abandoning competition in taxation? "Take back control" was as much about setting our own taxes and laws as about regulation. It should be for the other place to decide tax matters and tax policy, not the President of the United States, and not by international treaty. It is the other place's duty to vote means of supply, and it is wrong for the Executive to circumvent that in this way.

I fear that, as the President of the United States now appears to want to opine on the Northern Ireland protocol, it may be time for Boris Johnson to have his "Love Actually" moment and not just make the speech but unleash the talents of the British people. That means supporting the self-employed and encouraging outsourcing. While it is commendable that HMRC tackles tax dodgers and abusers, this should not be at the expense of struggling self-employed businesses by imposing additional costs. The self-employed are not the same as those on PAYE. There is no statutory sick pay for them and no holiday entitlement, and the next penny depends on identifying the next job. IR35 is having a severe impact and will discourage others to set up on their own. I talked to someone in exactly that position just over the weekend. These small and medium-sized businesses are the seed corn of our future growth, and the Government should honour their long-standing promise to bring forward a new status for self-employment following the Taylor report, as my noble friend Lord Bridges indicated in his excellent speech a few minutes ago. This was also a manifesto commitment; I cannot remember how many manifestos ago it was, but it was certainly a clear commitment from this Government.

It now seems every Finance Bill brings forward new powers for HMRC, even before the review of the use of existing powers is completed. This Bill is no exception, taking away the right of appeal to a tribunal for financial institutions to provide specific information about a taxpayer. The disgraceful and effectively retrospective treatment of loan charge victims, such as local authority and health service workers placed in schemes by their employers without full understanding of what they meant, has not been matched with the same zeal in pursuing those responsible for marketing those schemes, now languishing on their superyachts with their ill-gotten gains. I am disappointed that the Government have refused to apply measures retrospectively to these promoters, as recommended by the Finance Bill Sub-Committee, but I welcome the proposals for tougher action that are currently subject to consultation. It is beyond belief that these schemes are still being promoted, and some are targeting workers returning to the NHS. HMRC itself has been using firms that use these schemes.

To conclude, we need a clear vision from the Prime Minister and the Chancellor and a strategy to get our economy going again if we are to meet our duty to secure a safety net for those most vulnerable and disadvantaged in our country. Higher taxes, more bureaucracy and continuing uncertainty are anathema to achieving that, for, as the Book of Proverbs reminds us,

"Where there is no vision, the people perish."

4.43 pm

Lord Dodds of Duncairn (DUP): My Lords, we understand the difficult job the Chancellor has had of bringing forward this year's Budget in the unprecedented circumstances in which this nation finds itself. The immediate priority, looking at the economy, must be ensuring that we come out of this pandemic with as many safeguarded jobs and livelihoods as possible. The economic packages, especially the furlough scheme and the help for the self-employed, have been incredible interventions, which have helped stave off the worst ravages of economic depression that may otherwise have occurred. I congratulate the Government, as we all do, on the incredible investment in the vaccine rollout, which has produced stupendous results.

Once again, the benefits of being part of one of the biggest economies in the world has been illustrated for all our citizens through all parts of the United Kingdom. I have to say that I have been reassured somewhat in recent weeks by the feedback from people normally critical of the United Kingdom—even of being part of

the United Kingdom—about the way in which this country has responded, with the vaccine rollout in particular but also throughout this pandemic with the economic interventions.

The Chancellor is having to balance the need for immediate actions to counter imminent economic shocks against long-term economic recovery and mounting levels of eye-watering debt. So far, I believe that, generally speaking, the Government's approach has been the correct one. Some of the measures, which normally no one would ever contemplate, have been necessary to avoid far worse problems. That is not to say that there are not issues that need to be addressed and addressed quickly, and I want to refer to a number of general points before making a specific reference to a particular, discrete issue affecting electricity generation in Northern Ireland.

The hospitality and tourism industries, which the Minister referred to in terms of the VAT relief, have been decimated by the pandemic and the lockdowns. I welcome what the Government have announced in relation to VAT for these sectors—the extension of rate cuts until September and tapering measures until March next year—but it is vital that these sectors are allowed to get back to full working capacity as quickly as possible. They can survive only by full reopening and full working, and I hope that that will happen as quickly as possible—if not on 21 June then as quickly as possible thereafter, conscious of the need to take all necessary health precautions.

I also want to mention the issue of air passenger duty. We have some of the highest rates anywhere in the world. Peripheral parts of the United Kingdom are very dependent on air connectivity. Rail options do not exist for places such as Northern Ireland to reach other places in the United Kingdom. I ask the Government to keep under review measures that will alleviate the burden on businesses and families of air passenger duty on internal United Kingdom flights.

It would be impossible to participate in a debate like this and not make reference to the burdens that are being placed on the Northern Ireland economy and Northern Ireland businesses, and our communities more generally, by the Northern Ireland protocol. I am disappointed that there is little, apart from provisions in relation to the steel industry, that will alleviate those burdens, particularly in relation to customs requirements.

However, I do look forward to the Government introducing two new measures—in the near future, I hope—that will address the underlying problems of the protocol and do away with the incredible situation whereby, if the grace periods that are currently in force are not extended or a permanent solution not found, as many if not more checks will be done on foodstuffs and other materials coming from Great Britain to Northern Ireland as are done on those entering the entirety of the European Union from the rest of the world. That is an amazing, incredible and scandalous situation which must be remedied by the Government. I hope that those measures will be comprehensive and far-reaching.

I want to turn to the aspect of the Bill I mentioned and explore it in more detail. I believe it is something that perhaps is an unintended consequence of what is otherwise a reasonable provision: it is do with the prohibition on power plants putting rebated fuel—red diesel—through electricity generators after 1 April 2022. I fully understand, and electricity generators also appreciate, the policy objective of helping meet climate change and air quality targets by removing the tax advantage of red diesel, thus encouraging end-users to use more expensive white diesel, which is taxed at a rate that reflects the impact of the emissions that they produce.

However, the Bill will have a particular, unique and unintended detrimental consequence for electricity generators in Northern Ireland. Kilroot and Ballylumford power stations in Northern Ireland have a historical licence obligation to maintain stocks of red diesel as part of the Northern Ireland Fuel Security Code obligations. The licensing obligation for Northern Ireland electricity generators requires back-up fuel—red diesel—to be held for security of power supply purposes in the event of gas supply interruption. The Bill requires the disposal of all existing red diesel stocks before 1 April 2022. There is in fact major uncertainty about whether that timetable could be met. There will be significant additional costs of doing this to both Ballylumford and Kilroot, estimated at £14 million for one and £1.6 million for the other. That includes all the logistical problems as well as the replacement of the fuel itself.

There is, however, a major competitive commercial disadvantage for Northern Ireland power generators vis-à-vis others within the competitive integrated single market and vis-à-vis the Great Britain market. There is no equivalent requirement to hold reserves of what the Irish equivalent of red diesel is in the Irish Republic, and the requirement to hold back-up fuel is applicable only to Northern Ireland power generators and does not apply to gas-fired power generators in Great Britain. One of the perverse impacts of the requirement of the provision in the legislation, if it is not remedied, is that it will lead to additional and higher CO_2 emissions in Northern Ireland that would otherwise be avoided: having to use up the fuel in generating electricity will cause much greater emissions. It will be costly for the consumer; the extra cost is estimated at £60 million based on commodity prices, as of 1 May 2021. Then there is the risk of security of supply for Northern Ireland in the period between getting rid of one fuel and replacing it.

I welcome discussions which have taken place between power generators, Ministers and officials in Her Majesty's Treasury. It is vital that the Bill's unintended consequences are addressed. I understand that progress has been made, but I would like the Minister, in responding to the debate, to put on the record how he understands the way forward. Will he confirm that HM Treasury is looking at fixing this problem, that guidance will be issued relating to the Bill or that there will be secondary legislation to address the issue? Could he confirm that there will not be a requirement placed on Northern Ireland power generators to rid themselves of existing stocks of reserved fuels by the prescribed date, with all the detrimental impacts that I have outlined? I hope the Minister will be in a position to respond positively, because this would be good news for the plants themselves, for consumers and for the environment.

4.52 pm

Lord Leigh of Hurley (Con): My Lords, I join the congratulations to my noble friend Lord Bridges—under the excellent mentoring of my noble friend Lord Forsyth—and his committee on the report, which is most welcome. Of course, I first refer your Lordships to my register of interests.

This is an important debate, as the Finance Bill and the powers of HMRC affect us all. I am therefore somewhat surprised to see how few Peers have put their name down for this debate. While I am delighted to see so many here physically—I think all but one are speaking in the Chamber—I am perplexed by why so few are speaking on this matter today. Of course, we do not have the power to amend the Bill, but this sort of Second Reading is exactly the place where we can interrogate government and, I hope, come up with some ideas which would be of assistance based on our expertise and experience. It also does not help those who argue for a smaller House if we cannot attract a strong number for such an important debate, and it means that people with knowledge and awareness of finance, tax and business should be recruited into the House. The Government do listen to these debates and to Peers' comments on taxation, as I will elaborate later.

I start my comments on the Bill by congratulating my noble friend the Minister and his colleagues on the 132 clauses originally tabled, as physically displayed by my noble friend Lord Forsyth. They address so much that affects our daily life, from the rates of tax payable to capital incentives—which I believe will encourage greater investment in industrial plants and machinery—some nudging behaviour away from plastic packaging, and even encouraging cycling to work, with cycle equipment being written off. There really is much in here to be commended. I thought I would focus most of my remarks on what is not in the Bill, sometimes with good reason, and some matters which might be considered for future Budgets.

The first, which is not in the Bill, is an increase in the capital gains tax rate. Before the Budget there was a somewhat rogue report from the aforementioned Office of Tax Simplification. It is normally a sensible office producing sensible ideas, but on this occasion it proposed that it would be simpler to equalise income tax and capital gains tax—a somewhat unsophisticated thought, as it does not allow for the essential difference between income or salary and capital gain, which is a return on risk taken. Fortunately, after somewhat of a campaign—in which I confess I played a part—the Chancellor agreed that CGT rates should stay as they are. This Finance Bill does not change them, which is an eminently sensible and pragmatic decision.

My first question to my noble friend is, given all this wasted noise, effort and focus against raising CGT and that the Chancellor has clearly researched the subject and reached a conclusion, can we avoid all this palaver at every future Budget of this Government by announcing that the rate will stay fixed, as has been done for other taxes in the Conservative Party manifesto? This will provide much greater certainty to entrepreneurs, investors and businesspeople for the next few years. The cynic might argue that the Chancellor likes the uncertainty as it encourages people to realise assets when they would not otherwise do so, and thus send money to the Exchequer ahead of the anticipated date. However, we all know on this side of the House that the Chancellor is not that type of politician and is instead focused on making life easier and more predictable for taxpayers. By the way, the retention of the current rates proves my earlier point that the Government listen to people in this House and elsewhere and consider their arguments carefully.

In the debate on the Motion to Take Note of the Budget Statement in this Chamber, I asked my noble friend the following:

> "I would be grateful if the Minister could tell us to what extent this Budget complies with pillar 1, and in particular pillar 2. What steps will HM Treasury be taking to ensure that we fully comply with pillar 2?"—[*Official Report*, 12/3/21; col. 1919.]

There were many speakers on that occasion, so I assumed that I did not get an answer because of other priorities. It turns out that the reason I did not get an answer was because the Government were busy hatching a plan with world leaders to do just that. This is another matter not in the Finance Bill, but I hope the Minister will allow me to comment on the historic announcement as it will fundamentally affect corporate taxation and is thus very germane to this Bill.

The Red Book estimates that only £40 billion will come from corporation tax this year but that the new rates proposed in the Bill will increase that by £2.3 billion in 2022-23, £11.9 billion the following year and £16 billion the year after that—those are just the increases—so a lot is riding on corporation tax yield increasing as the rates move up. Accordingly, it is very important that corporations pay their fair share. I have tracked the OECD proposals on base erosion and profit shifting for some time. Indeed, it was the subject of my maiden speech in 2013. I hope the Minister will allow this as an acceptable forum to raise this related issue, not least as no other forum other than today's PNQ has been offered to Peers to discuss the OECD announcements—although, of course, he may want to answer some of my questions in writing at a later date. The UK really needs a deal on pillar 1, as much as we are seeing progress on pillar 2. At the moment, the details are somewhat vague. It is all very well for profits which are diverted into tax havens to be transferred into the HQ country, but the minimum rate of tax—be it 15% or 21%—does not of itself affect the amount of tax the FAANG or others will pay in the UK.

DST—digital services tax, which I will come on to again in a minute—was put in place to ensure that profits generated from UK customers were taxed here. Clearly, future tax should be based on user bases rather than sales made—not just customers, but user bases. As we know, sales to UK customers are currently often based in places such as Ireland, but the goods are delivered here. DST seeks to achieve proper taxation on this, but we need to know how pillar 1 will do so likewise, as the expectation is that DST will be dropped at some point. Perhaps the Minister can assure us on that point.

Meanwhile, the pillar 2 proposals are encouraging, but I urge some caution. The IPPR issued a report estimating that with a global minimum rate of 21%, our take could be £14.7 billion. That would be nice,

but at a global rate of 15% now being suggested, our share would be much lower. Let us not forget that we already have controlled foreign corporation legislation in place—I think it may have been introduced by my noble and learned friend Lord Clarke, but it may have been before his time—and that this legislation seeks to equalise UK-headquartered corporations' tax take. I am indebted to Glyn Fullelove, formerly president of the Chartered Institute of Taxation, for sharing with me his calculations, which suggest that a figure nearer to £2 billion or £3 billion could be the amount raised by the pillar 1 and 2 proposals. Perhaps HM Treasury could share its estimates with us at some point.

We introduced the digital services tax so that companies such as Amazon would pay their fair share. Unfortunately, it is not working as well as it should. First, Amazon, which clearly has monopoly-type power, has simply told its suppliers to pay. Secondly, it applies only to marketplace fees, not to direct sales. This is a very important difference. It is another area I was disappointed not to see mentioned in the Finance Bill, as we now have the situation where DST has made it harder for SME retailers to compete with Amazon.

The current DST legislation is defective in not taxing the user-created value arising from sales made by marketplace providers on their own account. Additionally, the application of DST to marketplace fees and commissions charged to third parties, without a corresponding charge arising on the value created when the provider uses the platform to make sales on its own account, is a distortion to competition. I and a number of others have proposed that the scope of DST be extended, so that when a marketplace provider uses the marketplace for its own sales—or uses a similar platform alongside the marketplace—an amount of digital services revenue, which can be taxed, arises.

As the Minister might be aware, I have discussed these ideas with the Financial Secretary, who is resistant to changing DST at this point. As a result, there is nothing in the Bill on this issue. I hope, however, that the Government will reconsider this matter, as we are quite a way from a final deal on a pillar 1 and 2 agreement and, in the interim, we are losing a very large amount of revenue.

Finally, on the enterprise initiative scheme, or EIS, Brexit gives us a chance to look again at restrictions placed on HM Treasury to avoid accusations of state aid. EU laws restrict the ability of the SEIS and EIS to provide entrepreneurs' start-up capital quite dramatically. Will my noble friend the Minister agree to revisit this area?

5.02 pm

Lord Bilimoria (CB) [V]: Before our UK Budget of 3 March, in February, I attended a virtual meeting with the senior civil servant in India in charge of the budget there, along with the director-general of the Confederation of Indian Industry, the sister organisation of the CBI, of which I am president. They both said categorically that India's budget did not increase any taxes for two reasons. First, businesses had suffered so much already and, secondly, they did not want to stifle the recovery after the pandemic. After that, I implored our Indian-origin Chancellor, Rishi Sunak, to follow India's lead and not increase any taxes in our Budget on 3 March. He listened and, on the whole, taxes were not increased. However, he announced that corporation tax would increase from 19% to 25% in 2023. Our businesses drew a huge gasp of breath at taxes going up by almost one-third in one go. With Ireland next door to us with a rate of 12.5%, this was a concern. Of course, in November 2019, we had heard Boris Johnson, the Prime Minister, announce at the CBI annual conference that a reduction in corporation tax in the UK, to 17% from 19%, would no longer go ahead. Inward investment is really important, so this is a worry: will it affect inward investment?

Fortunately, the Government seem to have resisted the suggestion by the Office of Tax Simplification to equate capital gains tax with income taxes. To do this would be suicide. It would deter investment, entrepreneurship and risk-taking. We need to encourage wealth creation. The UK is the second or third-largest recipient of inward investment in the world. We have a Minister responsible for inward investment at the DIT—our colleague, the noble Lord, Lord Grimstone. We need to be a magnet for inward investment, as we have been. We have left the EU but, of course, as I always say, we will never leave Europe. When we were in the EU, we were seen as a gateway for investment into the EU. Today we should be seen as a gateway to Europe for investment. So we must resist equating CGT with income tax. That will deter inward investment and domestic investment, there would be capital flight, and it would deter entrepreneurship and risk-taking, as I said earlier. It would be hugely damaging to listen to the OTS regarding CGT. Does the Minister agree?

The Chancellor listened and has not done this so far. Entrepreneurs' relief has been cut by the Government, which was not a good step if it was meant to encourage entrepreneurship. On the other hand, the super deduction was a masterstroke by the Chancellor and the Treasury: to encourage investment by giving relief of 130% instead of 18%, to have 25% off your tax bill, and to encourage investment—wow! The Government are doing the right thing, but they have announced that this will be taken away in two years' time, just at the time when corporation tax will go up. Should not the Government consider continuing with the super deduction? Will the Minister give us his opinion?

At the CBI, of which I am president, we welcome measures such as the super deduction, supporting business investment, the extended loss reliefs and supporting business cash flow. We hope that the current cap on carried-forward losses can be temporarily lifted to allow the many viable and vibrant businesses in the UK even greater flexibility in how they use their exceptional Covid-related losses, along with other policy measures already in place. This will help to support businesses of all sizes to recover and grow after the pandemic.

The CBI is also calling for a tax road map. We were disappointed, as was the Treasury Committee, that the Government have not yet consulted on producing this. We believe that the relative success of, for example, the corporation tax road map, demonstrates the value to businesses and people alike of laying out the direction of travel of the tax system and how the Government will use taxes to achieve their manifesto policy goals.

[Lord Bilimoria]

On green taxes, there is very little in the Budget about net zero and tax. We would like to see much more leadership on this from the Government, particularly leading up to COP 26. The CBI has produced a paper on greening the tax system that aims to start a discussion between the Government and business about how tax can best support net zero. This is a once-in-a-generation platform to boost climate-progressive industries, associated skills and innovation, to show that the UK can lead the world in the technologies of the future and accelerate our response to climate change. Devising suitable regulatory frameworks will be key, given the pressures on public finances, but fiscal measures, including environmental taxes and tax incentives, will also be an important lever in driving change. Does the Minister agree?

The £400 billion invested by the Government in supporting our economy and our businesses has been phenomenal. Whether in absolute terms or in per capita terms, it is one of the highest sums in the world. I was privileged to chair the B7 last month, which fed into the G7 this week. Dr Gita Gopinath, chief economist of the IMF, spoke to us, saying that in the global economy there will be a two-track recovery. Some economies, such as ours, have been fantastic with their vaccination programmes. Full credit goes to Nadhim Zahawi, our Vaccinations Minister, who has achieved a vaccination rate of 75%, with double doses at 50%. This is tremendous. Likewise, America is doing very well. With our huge £400 billion of support, we will be able to bounce back very quickly. Andy Haldane, chief economist of the Bank of England, has likened our economy to a coiled spring. On the other hand, sadly, many economies in the world have hardly vaccinated their citizens and have hardly been able to provide any support to them.

How will we pay for this £400 billion? How will we pay for the nearly 10% drop in our GDP, the worst performance in 300 years? I get asked this question a lot, and I believe that the way we pay for it is by generating growth and with the support the Government have given—for example, the furlough scheme, which has saved millions of jobs and businesses, and the 100% guaranteed loans. The British Business Bank, which had a loan book of £8 billion in February last year, today has a loan book of £80 billion. Hats off to it for giving these loans, which have saved so many businesses.

What about unemployment? In February last year, it was at 3.5%, one of its lowest levels; it is now at 4.8% because of all the measures that have been taken. We have to prevent unemployment, and youth unemployment in particular. Young people have suffered so much during this crisis. Some 50% of jobs lost, sadly, were among young people. If this coiled spring is to work, the supply side measures which encourage economic growth must be there. It means creating jobs. This will be the best way to pay for the £400 billion. It means not increasing taxes. We need to encourage inward investment as well as domestic investment. We need to create growth. This will create jobs which, in turn, will create the PAYE and the NI that make up the biggest proportion of taxes. The people who get those jobs will spend and that will generate VAT—which will be far more than the relatively small proportion generated by corporation tax. I give full credit to the Chancellor for leading the agreement by the G7 for the 15% minimum global tax rate. We have always said that, if there is to be a minimum tax rate, it must be agreed globally. Let us see what happens at the G20. However, we still need to encourage businesses to locate in the UK. We need to get the Amazons and the Googles to come here to create the thousands of jobs that will create the taxes.

At the CBI, we have a new director-general, Tony Danker. Six months into his role, we published *Seize the Moment*, our economic strategy for the United Kingdom during the next decade to 2030. It contains six pillars: a decarbonised and an innovative economy; science and technology; research, development and innovation; universities and businesses working together, and a globalised economy with the UK as a trading powerhouse. It encourages levelling up around the country in clusters such as between Cambridge University and AstraZeneca. We have also launched *An Inclusive Economy* to change the race ratio and promote ethnic minority diversity and inclusion across all businesses. McKinsey has shown that companies which embrace diversity and inclusion are more profitable; Deloitte has shown that they are more innovative.

Finally, we are promoting a healthier nation, including mental health and well-being, within an action plan that includes a long-term tax road map for the United Kingdom. To enable all this and for Andy Haldane's coiled spring to happen, we need the supply side to be there. The United Kingdom needs a competitive tax system that will encourage investment and job creation—one which is globally competitive and super-effective.

5.12 pm

Lord Sikka (Lab): My Lords, I draw attention to my entry in the register of interests. I am an unpaid adviser to Tax Justice Network. Tax justice is the theme of my remarks today.

A key requirement for building a just and sustainable society is for people to have good purchasing power with which to buy goods and services and to stimulate the economy. This simple truth is neglected not just in this Finance Bill but in many previous Bills. The Bill depresses people's purchasing power. The current tax-free personal allowance of £12,570 has been frozen until 2026, as have income tax thresholds. The net effect is that one in 10 adults will pay a higher rate of income tax, with the poorest ending up paying a higher proportion of their income in tax. This measure alone removes some £19 billion of spending power from households. It will condemn many to a great deal of insecurity and difficulty.

Regressive taxation has been normalised in each year's Finance Bill. The TaxPayers' Alliance estimates that the poorest 10% of UK households now pay 47.6% of their income in direct and indirect taxes. This compares with 33.5% by the richest 10% of households. Because of wage and benefit freezes, zero hours contracts and job insecurity, this gap is now much bigger than in 2010. The Government need to examine why their policies continue to hurt the poorest in our society. They increased VAT to 20%; this is a regressive tax which hits the poorest hardest. There is no proposal for reform in the Finance Bill.

Council tax is regressive. This year, it has increased in the range 3% to 5%. Virtually the same council tax is paid on a property worth £3 million as on one worth £350,000, without any regard for any ability to pay. The poorest tenth of our population pays 80% of their income in council tax, while the next 50% pay 4% to 5% and the richest 40% only pay 2% to 3%.

There is no reform of national insurance contributions —another regressive tax. Employees generally pay 12% of their monthly incomes between £797 and £4,189 in contributions. Above that, the rate is an additional 2%. Inevitably, the rich pay a lower proportion of their total income in national insurance, compared to the poor.

Unlike the noble Lords, Lord Leigh of Hurley and Lord Bilimoria, I cannot support the capital gains tax regime. Why on earth do the rich need a special tax regime? Capital gains are taxed at marginal rates of between 10% and 28%, whereas earned income is taxed at marginal rates of between 20% and 45%. Both increase somebody's welfare and purchasing power. I can see no rationale whatever for taxing capital gains at a lower rate than earned income.

The Government's policies on capital gains are also a bonanza for the tax avoidance industry. Armies of accountants and lawyers are busy converting income to capital gains so that their clients end up paying lower taxes. By taxing capital gains in the same way as earned income, the Government could raise around £14 billion a year. This could help the less well off by making the £20 a week universal credit permanent; the Government could also easily double it by this one simple reform.

There is tax relief of around £40 billion a year on contributions to pension schemes. Just 10% of high earners receive 50% of tax relief. There are 1.3 million individuals who pay into pension schemes but receive no tax relief and zero government support. This is because their income is less than the tax-free personal allowance. Again, the poor are being punished, for putting a little away for their retirement income.

I hope the Minister will explain why the Government insist on hurting the poorest with regressive tax policies. Just in case he is tempted to defend government policies by claiming that, in recent years, they have increased tax-free personal allowances, I remind the House that this has not changed the burden of tax on the poorest. Increasing the personal allowance has done nothing for 18.4 million individuals whose annual income is less than the personal allowance. We need a rethink if we want a just society.

The report, *New Powers for HMRC: Fair and Proportionate?* is very impressive, but I cannot help wondering whether the committee has not been hoodwinked by the Government and the tax avoidance industry. On page 3, the report states:

"On the proposals for tackling promoters of mass-marketed tax avoidance schemes, we welcome the Government's intention to take further tough action against the known 'hard core' of promoters, but urge it to redouble its efforts in this respect, and to take further measures to combat the continued proliferation of new schemes."

Where exactly is the evidence for tough action? There is an enormous difference between the law on the books and the law in practice. The Government have been soft on the tax avoidance industry. Big accounting firms have long raided the public purse through complex tax avoidance schemes. Occasionally HMRC goes to court, but the Government do not take any action against the firms.

Let me give some examples. The UK Supreme Court heard the case of HMRC v Pendragon plc and others. The case related to a VAT avoidance scheme marketed by KPMG, which would have enabled car retailing companies to recover VAT input tax paid while avoiding the payment of output tax. The court declared the scheme to be unlawful and the judge said:

"In my opinion the KPMG scheme was an abuse of law."

That is a very strong conclusion. To this day, no action has been taken by any regulator or accountancy trade association against KPMG.

The court judgment in Development Securities plc and others v HMRC threw out a complex PwC scheme designed to shift apparent management control of some UK entities to Jersey to gain tax advantages by claiming that the entities were not liable to the UK taxes. The scheme was declared to be unlawful by the courts, but no action was taken against PwC.

An Ernst & Young scheme involved loans between companies in the same group, and the ultimate aim was to enable a company making the interest payment to claim tax relief on the expense while enabling the company receiving the interest to avoid tax. That scheme was sold to Greene King. After a prolonged legal battle, the scheme was declared to be unlawful. No action was taken against Ernst & Young.

Deloitte promoted a scheme to enable companies to generate deductible tax losses through complex financial transactions. The scheme was sold to Ladbrokes, but it gambled incorrectly and the court said that the scheme was unlawful. No action of any kind whatever was taken against Deloitte.

Big accounting firms have been peddling unlawful tax avoidance schemes and are not investigated, fined or disciplined but are given government contracts and seats on HMRC's boards. The advisory panel on the general anti-abuse rule, GARR, is also dominated by the same people. Amazingly, none of the GARR panel's rulings relate to any of its clients.

In sum, I question the claim that tough action against accounting firms for selling tax avoidance schemes has been taken. I invite the Minister to explain why big accounting firms peddling unlawful tax avoidance schemes have not so far been investigated, fined disciplined or prosecuted.

5.23 pm

Lord Empey (UUP): My Lords, my noble friend Lord Forsyth referred to simplification. A 417-page Bill and 349 pages of Explanatory Notes to explain it—I know that most noble Lords will have read both from cover to cover—illustrates that we are not moving in the direction of simplification.

We now have a situation in this country where, because of our devolved settlements, significant economic barriers are being exercised in the devolved areas—particularly in Scotland, where taxation powers are broader than in the other devolved Administrations.

[Lord Empey]
But there is one thing that we are not doing: we are not explaining to the people in those regions where the money that the devolved Administrations spend comes from.

I have said before in this House that the devolved Administrations are a bit like giant ATM machines; when the cash stops coming out of the machine, those in the devolved areas simply say, "Well, Westminster didn't give us enough". We do not explain the arithmetic to the people in the devolved regions. That would not be a difficult exercise; all it would require would be for the Treasury, perhaps on an annual basis, to produce a short leaflet, or put it online, to show people where the money actually comes from. Local authorities often send out leaflets telling people how their taxes are spent but that does not happen nationally. There is a total absence of accountability to this Parliament for the funds given to the devolved Administrations. Vast sums of money are given over but there is absolutely no feedback or requirement to account for it. That is a perverse principle.

We talk about the pandemic and the rollout of the vaccines bringing our nation together, which I support and which is an excellent selling point. But when the biggest single element that affects the devolved Administrations is the money that they receive from the Treasury through block grants and Barnett consequentials, why do we not tell citizens in the devolved areas what the arithmetic is? It would not be a huge undertaking and it could be done on an annual basis. I suggest to my noble friend the Minister that the Chancellor might look at this. It is a simple exercise, but it would put in context what is actually going on in this country.

I want to refer to a matter that the noble Lord, Lord Dodds, raised on Clause 102, which deals with restrictions on the use of rebated diesel and biofuels. I mentioned the Explanatory Notes, at least some of which I have looked at. The background note at paragraph 33 states:

"This measure introduces changes that will remove the entitlement to use red diesel and rebated biodiesel from most sectors from April 2022 as part of the government's strategy to meet the UK's target of net zero carbon emissions by 2050."

That is a laudable aim but, as the noble Lord, Lord Dodds, mentioned, there is a perverse effect relating to our power suppliers in Northern Ireland. They are legally and contractually required to have distillate back-up in the event of a crash of the gas supply, because there is a single source of supply, called SNIP, which comes from Scotland to Larne, in County Antrim. If anything were to go wrong with that pipeline—which, thankfully, has not happened in all the years it has been operating—it is perfectly legitimate to require the people who generate our electricity to have that back-up. It is the only power supplier in these islands that has that legal requirement placed on it.

Distillate means red diesel, so the effect of the measure in the Bill would be that 12,000 tonnes of red diesel which does not need to be burned would have to be burned by April 2022 and replaced with another 12,000 tonnes of white diesel, simply because one has dye in it and the other has not. There is no technical difference between the two fuels—they are just the same, but one has red dye in it and one does not. The systems would have to be purged and because the number of tankers allowed to bring fuel in per day is limited to eight for environmental reasons, it would take between three and four months to purge and then replace. I am no climate expert, but we will produce an additional 23,000 tonnes of carbon that could be left sitting there because that fuel supply is only for an emergency and, fortunately, has not had to be used.

I appeal to the Minister to take this matter back to his colleagues. I have no doubt that the legal obligation for our power suppliers to have this back-up is one of those things that people had not realised—both the noble Lord, Lord Dodds, and I were Energy Ministers in Northern Ireland, and I do not know whether I enforced it or if it is his fault—but it was the right thing to do. It might even have been the Deputy Speaker's fault, because he was there before I was.

So I think it is just one of those things that had not been picked up, but its effects would be negative and perverse. It would mean extra costs for the consumer and have significant implications for our power suppliers because we are in an all-island market now; there is no similar requirement for power suppliers in the Republic of Ireland to have such a back-up, so they will automatically be more competitive when they are bidding to generate electricity to go into the grid. I appeal to the Minister to be kind enough to take this matter back to his colleagues and explain the difficulties. I am sure they can be dealt with and overcome.

I support the general principle, although there is no question that red diesel is abused. I also make the point that paramilitaries have been smuggling such products for 20 years—reasonably successfully so far, from their point of view—so to penalise the electricity consumer through no fault of their own would be perverse in the extreme.

By the way, it would be interesting to know—the Minister may not know this or he may not have the information at his disposal today, but he can let me know—if in fact he received any representations from the relevant department in the Northern Ireland Executive and, if so, when.

On a broader, general point, very few people in any of our lifetimes have seen anything like the last 18 months. There is no doubt that the Chancellor has been very vigorous in his attempts to ensure that our industries do not collapse, but I have to say to him that one industry that is in severe trouble, as the Minister will know, is the aviation and aerospace sector. I am a member of the APPG on Aerospace, and we had a well-attended meeting with the Minister, Robert Courts, just before I came into the Chamber. The sector is in despair because of the chopping and changing.

Aerospace is one of the key providers of high-quality jobs in the UK—over 100,000 of them, highly skilled and highly paid. It also provides apprenticeships, which are vital for the future. The uncertainties and the on/off process that is unfolding before us make it very difficult. Orders for aircraft have, naturally, gone down dramatically. We need more investment in reducing fuels, developing alternative means of propulsion and

so on, but at present that whole supply chain is in dire straits. It is propped up by the furlough scheme, but that will not last for ever.

I appeal to the Government to get their house in order with regard to the aviation sector, and that means deciding when people can move around. I know these issues are difficult, but I have to say that a lot of the very good work that has been done is at serious risk of leading to high job losses. It is an area where this country in particular already has great leadership potential. In aerospace we are number two in the world, and there are not too many sectors of our economy about which we can say that. I appeal to the Minister to ensure that we protect this sector, which is so vital to the UK's economy.

The Deputy Speaker (Baroness Pitkeathley) (Lab): The noble Lord, Lord Moylan, has withdrawn, so I call the noble Baroness, Lady Neville-Rolfe.

5.35 pm

Baroness Neville-Rolfe (Con): My Lords, it is always a pleasure to follow the perceptive remarks of the noble Lord, Lord Empey. I thank my noble friend Lord Agnew for his crisp summary of the financial situation and of the Finance Bill. I have also benefited from reading the explanation given at Second Reading by the Financial Secretary, Mr Jesse Norman, who has already been mentioned by the noble Lord, Lord Butler.

So we are well informed, but, unfortunately, the picture painted is a grim one. Pleased though we all are by our success on vaccination, I do not believe that the country has yet taken on board the full gravity of the financial situation that we face. The level of the national debt and the deficits that we continue to add to it are of a staggering dimension. It will be the work of many years to right the ship.

In case there are some who might want to claim that reducing the debt from its present size is unnecessary or can be put off to the Greek calends, I point out that the only reason why our financial response to Covid—with vast government grants and loans, furlough and all the rest of it—was feasible was because we had reduced debt as a proportion of GDP greatly since World War Two. The markets would not have accepted the levels of unfinanced expenditure that we have adopted in the last 15 months or so to deal with Covid if we had started with our present level of national debt. Everything that I say today is subject to the overriding necessity of improving the national finances. I am not sure that we, or indeed most other countries, are focusing enough on this issue.

That said, I thank the Treasury, where I served as a Minister, for the speed and creativity with which it provided support for the Covid crisis. I particularly commend the furlough scheme, although I think the rate was set too high, which will cause difficulties as it is phased out. However, the idea of using the PAYE system backwards is an excellent example of simplicity, a theme that I want to emphasise today. The aid to business, especially the simple suspension of VAT and the rates, has also shown bravery and flexibility. I hope that such imagination will now be applied to the long overdue review of rates.

The Treasury and HMRC have done well during Covid as they have been allowed to take risks and innovate. That reminds me of the wartime example of rationing. I know about this from my mother, who served on the Board of Trade in the rationing team in World War Two. In the dark days of 1941, with shipping disrupted, they were asked to extend rationing to textiles. Luckily, my mother's boss was a clever academic from Cambridge. His idea was not to start again but to make the back pages of the food ration book into clothing coupons. Rationing came in overnight. This was an example of speed and simplicity similar to the furlough scheme.

I am extremely grateful to my noble friend Lord Bridges of Headley and his committee for a clear and compelling report on the Finance Bill, and for his new point about powers in relation to digital platforms, which might impose new burdens or costs on millions of businesses without proper scrutiny. I think that is in paragraph 125 in our fat book of Explanatory Notes.

I particularly agree with the concern that the committee expressed about the new tax checks linked to licence renewal applications for taxi drivers. This could even have the perverse effect of reducing compliance by taxi drivers nervous of the taxman. Like my noble friend, I also dislike the proposed removal of the important taxpayer safeguards in pursuing information requests. I believe the Government should think again on both points.

Ministers and civil servants do not understand how frightened people and businesses are of HMRC, how its powers to fine summarily are resented and how the complex web it spins confuses people. The lack of simple advice at the end of a phone is a real problem to the honest citizen and to the smaller enterprises that are the lifeblood of our economy. We are constantly told that stakeholders are involved in compiling the rules. Over the years, I have found this assurance less and less comforting, as most of the bodies being consulted are too similar in their thinking to that of the Treasury and HMRC.

Moreover, I was concerned to see the briefing from the Chartered Institute of Taxation, which suggested problems with the penalty provisions—see the notes on Clauses 112 and 113. These include a risk of disproportionately high penalties—so more reasons for people to be fearful. My noble friend Lord Forsyth of Drumlean is right to argue for a look at the Bill and, perhaps more importantly, the whole tax code in the spirit of simplification and, I suggest, with an eye to encouraging enterprise and SMEs.

There is a wider point that is relevant here. A book that I have been reading from our wonderful Lords Library, by Eric L Jones, suggests that the rate of economic growth back to the Middle Ages reflects, in part, the removal of institutional and environmental barriers. Examples would be the ending of tithes and the lifting of rationing. The very process of opening up fuels growth and productivity, which generates a greater tax base in turn. So I say no to licences, where they can be avoided, and to new cross-compliance, as proposed in this Bill. I add a no to the continuation of needless or new EU-based rules. On the same principles,

[Baroness Neville-Rolfe]
I say yes to free ports, to the two-year super-deduction for plant and machinery investment proposed in the Bill and to the right kind of planning reform.

Probably the biggest example of new burdens on business in the Bill is the new tax on plastic packaging. I am as keen on reducing plastic packaging as anyone in this House, as my contributions in many debates have shown. However, I wonder whether all this is worth the candle, given the detail and scale of intervention involved. I doubt whether it is the best way to reduce use and encourage recycling. I recommend massive simplification. Plastics are oil-based and there may instead be a case for a simple duty like that on petrol or alcohol, albeit at a much lower level.

As my final contribution to this debate, I will mention skills, especially technical and vocational skills, which are essential for improved productivity and levelling up. We are at last making some progress in technical education, and youngsters can see that practical skills are vital and that university is not always a wise aspiration. However, from day one, the apprenticeship levy scheme has been complex and unimaginative. I know from direct experience that some businesses and organisations are not even spending their levy pot, because of these complexities.

I am glad to see the attention that the Chancellor gives to vocational skills, with well-publicised visits to talk to apprentices and online seminars. Could my noble friend, who I know is expert and sympathetic to this issue of skills, explain how the Government will improve outcomes in this vital area?

5.43 pm

Baroness Bennett of Manor Castle (GP): My Lords, I rise with the unusual luxury of 10 minutes' speaking time, given because we have only a dozen Back-Bench speeches on this crucial taxation issue. I hope that some Peers in your Lordships' House who specialise on issues of poverty and inequality—indeed, on any issues at all—will join these debates in future. Taxation, or the lack of it, shapes our societies. As the richly informative and powerful speech of the noble Lord, Lord Sikka, outlined, decades of decisions about taxation have helped to give us our deeply unequal, poverty-stricken society. We have been taxing the poor and allowing large companies and rich individuals to get away without paying.

The noble Lord, Lord Leigh, suggested that your Lordships' House may need more experts in tax, finance and business, but this is a far broader issue that needs a far broader input. I quote the American historian Albert Bushnell Hart:

"Taxation is the price which civilized communities pay for the opportunity of remaining civilized."

It is clear now, on the streets of London, that there are strong and rich debates about how the people who benefit from the investments of this and previous generations—in roads, public buildings, electricity supplies, and the services that we all pay for such as schools, hospitals and policing—make a fair contribution to the maintenance and restoration of our degraded physical and social infrastructure, and the impacts of austerity that we see in potholed roads, closed libraries and inadequate social care provision. These are not technical issues, but are at the very foundation of our society.

Noble Lords might worry about where they get sources of information. I thank Tax Justice UK for an excellent briefing and for drawing attention to the work of the Women's Budget Group, which has identified how women, people on low incomes and BAME communities will benefit least from the tax breaks in the Bill and bear the chief brunt of the scheduled spending cuts.

It is interesting that, in the debates so far, the failures of regulation and of culture in our financial sector have come up again and again. Noble Lords who took part on the then Financial Services Bill might reflect on this. The noble Lord, Lord Bridges of Headley, talked about umbrella companies, which is an area where the UK is world-leading in entirely the wrong direction. The noble Lord, Lord Butler of Brockwell, talked about the "many-headed Hydra" of tax-dodging schemes, as did the noble Lord, Lord Sikka, in great detail. The fact is that we have too large a financial sector, which is milking not just the UK but the entire world and particularly the global south. The centre of global corruption is on our doorstep.

It has been suggested that we all live in social media bubbles these days, but in your Lordships' House I feel like I am in the vigorous Atlantic surf of strong disagreement on economic issues. I particularly disagree with the noble Lord, Lord Forsyth, and the noble Baroness, Lady Neville-Rolfe, about their entire economic commentary. The ways and means mechanism and its implementation have existed for many years and show how the rules of the game have changed and that the old economic approaches failed disastrously and gave us the global financial crash. We are finally looking differently at how the economy works and what it is for. The noble Lord, Lord Forsyth, and many others said that we need to get the economy going again and focusing on growth. I remind your Lordships' House, in the country that is the chair of COP 26, that we cannot have infinite growth on a finite planet. That is not politics; it is physics.

The noble Baroness, Lady Neville-Rolfe, recommended some reading to us. I have some alternative reading to suggest, a book I reviewed this week in the *House* magazine by Professor Tim Jackson. He is quite a mainstream economist and his book *Post Growth* is well worth a read. I also pick up on the points of the noble Lord, Lord Bilimoria, which focused on the importance, as he sees it, of giant multinational companies. I stress that 61% of employment in the UK is in small and medium enterprises. The Government talk of levelling up, but I would rather talk about spreading out prosperity. The foundation of prosperity for every community in this land needs to be built on strong local economies of small independent enterprises and co-operatives—a different and stable kind of economic model.

Having set the scene, I turn to some details in the Bill. I take the point made by several noble Lords about the thickness of the paperwork but, when you look at the measures, you see that it is actually a modest Bill. It talks about tidying up some Northern

Ireland and VAT Brexit issues—another reminder that Brexit is by no means done. There are some modest measures that noble Lords have referred to about plastics, red diesel and cycling—very modest again for the chair of COP 26, when you think about the need to act on the climate emergency. We also have an increase in stamp duty land tax for overseas purchases of residential property in England and Northern Ireland which, should your Lordships take an imaginary scan of the boroughs around where we sit today, might be best described as shutting the stable door after the horse has bolted.

The headline measure is a super deduction for the largest companies, many of which have done very well out of the great tragedy and suffering of the global pandemic. This is estimated to be going to cost the Treasury £25 billion. That would be a lot of social care or a large injection that our education sector so desperately needs. The Office for Budget Responsibility said that £5 billion of the spending that would be covered by this will be spent on previously planned investments. The *Times* reported that tax advisers specialising in capital allowances have pointed out that jacuzzies are listed as one investment that could receive a 130% rebate.

Perhaps we also need to think about what is not in this Bill. It is interesting that, despite widespread debate in society now, both in the Bill and in the debate around it in the other place, no amendment was put down about a wealth tax. There was no real discussion of it in the other place despite that now being a major topic of discussion among even some quite mainstream economists and certainly among the public.

Of course, there is a lot of discussion about the levels of corporate taxation, led not by the UK but by Joe Biden's America. When I asked the Minister on 14 April about the US President's plans, he effectively gave me a "no comment" response when I asked what the UK stance would be. I am pleased to see that we have now signed up to the US initiative. The noble Lord in his answer to my supplementary question then said something very interesting. He said the Government had always been one that wanted to reduce taxation wherever possible. Perhaps he might like to consider the words of the Chancellor in deciding to end the race to the bottom in corporation tax by increasing the headline rate to 25% in 2023 after Her Majesty's Treasury found that the cut in the headline rate since 2010 did not drive inward investment. To quote the Chancellor, it

"might not be the most effective way to drive capital investment up".

I also refer to the comments from the noble Lord, Lord Bilimoria, about those statistics. He referred to inward investment. I would say that that inward investment very often has been the selling off of the family silver, whether that is our water companies, publicly held land or, indeed, the family beds when it comes to selling off our care homes to the hedge fund industry.

If we did have, let us say, a wealth tax, where might it go? Despite the Government's talk of an end to austerity, a £15 billion cut in annual government departmental spending is planned. These budgets are already cut to the bone and, of course, are being hit by the huge and continuing impacts of the pandemic.

There is some very useful information about who is paying and who is not. I have referred noble Lords to a report from the CAGE institute at the University of Warwick. In 2015-16, a quarter of people who had more than £1 million in taxable income paid less than 30% tax, while one in 10 paid just 11%—the same as a person earning £15,000 a year. This is a key issue.

I come back to the inequality and the poverty in our society, issues so well covered by the noble Lord, Lord Sikka. We are talking about capital gains tax and inequality in the way income is taxed. These issues are all missing from this Bill. They will need to be confronted soon.

The Deputy Speaker (Baroness Pitkeathley) (Lab): My Lords, the noble Baroness, Lady Wheatcroft, and the noble Viscount, Lord Trenchard, have withdrawn, so I call the noble Baroness, Lady Kramer.

5.54 pm

Baroness Kramer (LD): My Lords, I pick up the point made earlier by the noble Lord, Lord Leigh, that there has been a relatively small number of speakers in this debate but my goodness they have been powerful speeches, and across a very wide range of issues. I hope the Government will take notice of the quality of this debate and the range of points made.

I start with a couple of general comments. I want to pick up the point made just now by the noble Baroness, Lady Bennett, that this Finance Bill is a very modest Bill. I think that we all know that, but it leads into the issue raised by the noble Lord, Lord Forsyth, the noble Baroness, Lady Neville-Rolfe, and others that we are in a very precarious economic period. I suspect that perhaps the noble Lord, Lord Forsyth, or the noble Baroness, Lady Neville-Rolfe, in fact many people, including the noble Baroness, Lady Bennett, would not agree on the same solutions to the problem, but we can at least agree that there really is a problem and bottom out the extent of it and look for the Government to come forward with a strategy. Can I impress upon the Minister the importance of a government strategy that is realistic and faces up to the grim realities—to use the phrase from the noble Baroness, Lady Neville-Rolfe? We have to have that to be able to go forward effectively and successfully. I do not think that we should pretend that that role is picked up in this Bill. Please can the Minister make sure that it is picked up—and soon, quite frankly?

I want also to pick up the issue raised by the noble Lord, Lord Butler, on the G7 and the global tax and to echo something that the noble Lord, Lord Forsyth, said. I am glad to see that the G7 is coming together to tackle this issue. To me, it is a real illustration of the might of the United States and the flexing of its muscles. Almost every country will take some benefit from the changes in the way that a global corporate tax will be raised as a consequence but, in fact, it will be quite modest for most countries. The United States Treasury is the very big winner, and it is a reminder that when you delve into the world of economics and power politics you have to recognise size and power. I continue to be worried that for the UK this means being essentially a stone that is grated between big regional economies and power bases. If ever it needed

[Baroness Kramer]
to be illustrated, I think it has been the quick acceptance of the US proposals by the British Government because, frankly, they absolutely had no choice.

We have discussed a lot of the Bill in various Budget speeches so I am not going to labour those points, but I have some real pleas to put before the Minister. I am very concerned that the VAT relief rate should not rise to 12.5% in September. When we look at the hospitality industry and the pressures that it is facing, we now recognise that there may even be delays to full opening on 21 June. We know that new variants can come through. Keeping this at 5% to the end of the fiscal year surely would be sensible and would reassure the industry at this moment in time.

The noble Lord, Lord Forsyth, raised the issue of individuals facing rent arrears, which will now come tumbling in on them. So many of our small business, again probably especially in the hospitality industry, are facing in excess of £3 billion in unsettled rent levies. I think the Government are going to have to step in on this and I hope they will look at providing some support specifically on rent issues. Small businesses and self-employed people are very far from being out of the woods. Again, that argues for flexibility on the furlough scheme. The noble Lord, Lord Empey, talked about it in the context of aerospace but, really, so many industries are going to need some ongoing support, or they will end up in a dire crisis. Looking at continuing furlough into the future, for at least some period, may be essential.

According to the Federation of Small Businesses, about 40% of small businesses are finding their debt levels completely unmanageable. We do not have a mechanism at the moment to convert that into a capital base. We need to be able to enable them and support them in converting debt. I think the noble Lord, Lord Bilimoria, has talked in previous speeches about a sort of variation on 3i, but there has to be some mechanism or else many of our small businesses are never going to be in a position to begin to grow; they will be overwhelmed by a debt burden that continues to drain them for a series of years to come.

I make one final plea again on behalf of the 3 million excluded, mainly contractors and freelancers. The Government could, at this very last minute, step in to support that group, and I ask them once again to do so. The noble Lords, Lord Bridges and Lord Forsyth, talked about wrapping this in with following through on the recommendations of the Taylor report. The environment for those businesses—and they are our future—has to be shaped by recognising the risks they face, looking at the rights and the benefits that they do without, and helping to structure the tax environment that they sit in within that overall context. The Taylor report should not be left on the shelf any longer.

I agree with the noble Lord, Lord Sikka, that we have a problem with freezes on income tax thresholds. It really is a mechanism to raise income tax, which is slightly ironic when the Government have basically decided not to raise capital gains tax. Some of the poorest people will now be stepping in to fill that gap. It is also ironic given that the increases in corporation tax are delayed to 2023, so income tax rises will, in effect, hit first.

While I tend not to spend a lot of my time thinking about the best paid, can I get some assurance from the Minister on the freezing of the pensions lifetime allowance? Last time, this created a real crisis for us in the NHS, with consultants realising that one hour of additional work meant that they would get a tax bill that was larger than the associated income. In fact, they could not even ask not to be paid and do the work voluntarily because of the way the system works. A large number of our senior military just got up and left because they were caught in the same conundrum—people who did additional hours on the battlefield were whacked then by the tax system. Can the Minister give me assurances that the way this is designed now will not repeat that particular set of problems? Again, with the super-deduction, I have never understood why it is analogue and not digital. Surely we want people to be investing in the technologies of the future and not just in plant and machinery. That one is completely beyond me.

I was privileged to be a member of the Finance Bill Sub-Committee, chaired brilliantly by the noble Lord, Lord Bridges, and with the noble Lord, Lord Forsyth, also there. I am quite humble when I speak about this report, because it was driven by people of extraordinary capability—it was a very powerful sub-committee. I just want to make some quick remarks, and I will try not to be repetitive, on the three key sections that the report addressed.

I am very worried that powers are being extended before a proper evaluation of how HMRC uses its existing powers. The noble Lord, Lord Bridges, made most of the comments that are relevant in this area, but it struck me—and I am making a personal comment here—that when we heard the Treasury, whether it was officials or the Minister, talk about the review of powers, it seemed more about identifying where powers could be increased and not about looking at how existing powers could be used far more effectively. We seem to have complete miscommunication around that issue.

As I remember it, that recommendation was embedded in real concerns about the loan charge and IR35—others have mentioned this—particularly because of the focus on the little people who got caught up in all kinds of schemes that they were completely unaware of and suffered very significantly as a consequence. Like others, I am delighted if HMRC is now determined to use powers, and extended powers are fine, to deal with promoters. But I am very frustrated that the retro-effective philosophy which is being used against individuals caught up in the loan charge, going back as far as 2010, is not being applied to the promoters who have accumulated huge profits in giving advice which, frankly, was from day one exceedingly questionable.

I join others in being worried about HMRC's increasing instinct to outsource its compliance responsibilities. We are not talking about IR35 today, but the extension of the use of private companies to make the call on whether contractors they hire are caught by IR35 or not struck me as an overreach. We know that those companies, anxious not to have a fight with the tax authorities, are using quasi blanket determinations. Although an individual company can challenge a determination, it knows that at that point it gets labelled as a troublemaker and probably blacklisted

for any future business. These are real problems we have with outsourcing, and they carry on into the issue of licensing taxi drivers and scrap metal dealers. At the moment, it is just an information exchange, but we can all be concerned that it is potentially the thin end of the wedge.

I join the noble Baroness, Lady Neville-Rolfe, in being very afraid—I think the noble Lord, Lord Forsyth, said the same thing—that individuals will simply disappear from the system altogether. That could mean unsafe vehicles on the road because we have lost people from the licensing system, or real abuse of scrap metal arrangements, which can descend into the criminal underworld. I do not want to put a bad label on scrap metal merchants, who are decent, honourable people, but we can see where the pressures will come. I am desperately concerned about the issue raised by the noble Lord, Lord Bridges, on the use of digital platforms as essentially HMRC's information-gathering mechanism, because it takes us even further into that area, which is one we absolutely must examine.

I shall make just one last remark—I realise the time is going fast and I should stop, but this is something we should draw to the attention of the House. The third area of concern that the report raises is the oversight and scrutiny of HMRC and the powers to circumvent the safeguards of the tax tribunal. The noble Lord, Lord Bridges, discussed that in some detail. The House may not recognise how necessary it is always to have such outside scrutiny.

Many of us received a copy of an email that the Loan Charge Action Group accessed through a freedom of information request. It dates to 31 January 2019, and is from Jim Harra, who is chief executive of HMRC, to a staff member. It follows a witness evidence session to a Treasury Select Committee, and refers to those to the House of Lords. It is about the loan charge. One must understand that the treatment of loan contractors depends entirely on a case brought before the tax tribunal called the Rangers case, which concerns Rangers Football Club. A decision came in 2017 which, I think, everybody who read it thought would be the weapon to use to go after companies that hire contractors and use disguised remuneration, but nobody was under the impression this could be used as the legal basis to go after individual contractors. The chief executive of HMRC wrote:

> "In recent months I have repeatedly tried to obtain legal analysis to understand the strength of our claim"—

that is, the claim that there is a legal basis for going after individual contractors—"with very little success."

I challenge anyone to show me where, in any of its evidence given to the Treasury Select Committee or the Finance Bill Sub-Committee, HMRC reflected that level of uncertainty. It demonstrates that the temptation to be parsimonious with the truth, to press on to achieve the target of maximum revenue-gathering, means that HMRC, like every other organisation, needs outside scrutiny. The importance of tax tribunals is paramount, and we must stop the constant whittling away of that power.

6.10 pm

Lord Tunnicliffe (Lab): It is nice to rise to a few cheers. I am almost the penultimate speaker and there must be a sense of relief.

Let me begin by thanking the sub-committee of the Economic Affairs Committee on its report on new powers for HMRC. I must say that there was little surprise when the committee identified a number of shortcomings in how the Government had gone about their work in recent years. The report raises concerns that will sound familiar to many: the questionable timing of announcements, somewhat odd prioritisation of workloads and the often relaxed attitude towards best practice and evidenced-based policy-making. Given both the economic and moral case for cracking down on tax avoidance and other forms of non-compliance, the findings of the report are of concern.

We have taken note of the Government's response and acknowledge that some of the recommendations expressed in the report are being or have been enacted. However, it is clear that there is more for both HMRC and Ministers to do if we are to close the loopholes and promote better behaviour. As always, we are confident that officials are doing everything they can to meet the targets set for them from above. It is a case of ensuring that departments are properly resourced and appropriately directed. When the Financial Secretary introduced the Bill in the House of Commons, he paid tribute to the work of officials in the Treasury and HMRC throughout the Covid-19 pandemic. He was right to praise them for the dedication and creativity that they have shown by turning new concepts into reality and putting money into people's pockets in record time.

As the Opposition, we have not shied away from challenging the shortcomings of the various coronavirus support schemes or the Government's wider handling of different aspects of the pandemic. However, as with the report on the powers of HMRC, any shortcomings rest ultimately with the politicians in charge. With a certain amount of bullying from within and without, some of the issues of Covid-19 support were addressed, but sadly some problems have still not been acknowledged and the patchwork of support has left many people in similar situations facing very different financial circumstances.

As we progress along the Covid road map, the Government will need to think carefully about when and how support is withdrawn from businesses and workers. It is also vital that lessons are learned to start closing the gaping holes that have been exposed in this country's social security safety net.

The Financial Secretary referred to what he identified as three objectives underlying the Budget in March, all of which focused on defeating Covid-19 and rebuilding after it. We disagree fundamentally with his claim that his Bill will enact changes in taxation that will support all those objectives. Neither the Budget nor this Bill is sufficient to address the long-standing challenges to the British economy and to put us on a path to sustainable growth that would benefit all communities across the UK. Such challenges contributed to the UK having the worst downturn of any major economy at the height of the pandemic.

[Lord Tunnicliffe]

Despite our recent return to growth, which we welcome, and the continuing hard work of the British people, I worry that the Government's lack of ambition on economic reform will hold us back vis-à-vis our international friends and competitors. The Chancellor's last-minute decision to sign up to President Biden's corporate tax proposals through the G7 communiqué is a clear example of his lack of ambition. The UK initially resisted the proposal, the only G7 member to do so, and while we witnessed a U-turn over the weekend, experts in the field have already identified potential loopholes.

Returning to the Budget and the Finance Bill, it is a shame that, rather than supporting front-line workers, the Government have essentially snubbed their heroic efforts in the past year and a half. We are all familiar with the paltry pay rise for NHS nurses, but other public sector workers have received poor pay settlements too. Rather than embracing opportunities around corporate tax, such as levelling the playing field for online and so-called bricks and mortar businesses, this Finance Bill enables a corporate super-deduction while freezing the income tax allowance. The latter will hit low-paid households that have been lifted out of income tax only in recent years. Rather than present proposals for welfare reform to put more money into government to ensure adequate funding for pupils to catch up with the education they lost during the multiple lockdowns, the Budget instead laid out plans to cut certain welfare benefits and slash departmental budgets. In sum, rather than delivering on warm words and promises on job creation, addressing the climate crisis or levelling up, the Finance Bill is merely a continuation of the political decision-making that has left so many feeling that the Government are not on their side.

The past year and a half has been tough for us all. We have had to make sacrifices and do things differently but Covid-19 has also exposed the very best of many: NHS staff, other key workers and those who played an active role in their local communities. However, there is also a need to help the unemployed back into work, address the ever-growing debt burden faced by many businesses and provide meaningful investments to put our economy and public services on a surer footing. This Bill and the Government's broader economic policy do not meet those tests.

In the House of Commons, the Labour Party proposed several sensible amendments to make the legislation fairer. Rather than engage, the Government opposed measures to ensure that large multinationals pay their fair share, to increase transparency around the actual economic impacts of free ports, and to review the effectiveness of plans to prevent overseas entities funnelling dirty money through UK property. Think tanks and commentators of all political persuasions have been unimpressed by the lack of urgency on important issues such as these.

All that said, any noble Lord who has had the pleasure of participating in debates on Treasury statutory instruments will know that I am no fan of constitutional crises. It is not for the House of Lords to oppose the Finance Bill, and we have no intention of breaking that convention today. However, I was seized by the debate that broke out earlier about what we cover and the extent to which the Finance Bill creates cover for issues that arguably should be properly debated in legislation.

It is very interesting to sit back and see what the House of Lords does best. I think that the House of Lords, in a sense, divides its attention between the political and better legislation. I have been involved, over the past 11 years, with every bit of finance legislation that has gone through this House, usually at the junior level with stars helping me. What has emerged from that is the improvement that legislation has enjoyed in this House. It has been a really powerful step forward. It happens because thoughtful people bring up poor areas of legislation and, combined with the fact that the Opposition takes a political interest in it, focus is brought to bear on those areas and small changes and nuances are achieved. I think that the noble Lord, Lord Bridges, was in a sense referring to that, that the noble Lord, Lord Butler, was particularly referring to it, and that the noble Lord, Lord Forsyth, indicated some sympathy with it. I hope he and his committee might consider the extent to which the Government are starting to smuggle legislation that really should come to this House through the political process by hiding it in money Bills.

I also thought there were some interesting concerns about HMRC and the level of scrutiny. I headed a pretty large organisation; one of the problems with large organisations is the attractiveness of using your power to do things to people who are less powerful. Of course, you do it because it is good for you, but we need processes that test whether it really is. One of the worst problems in any complex society is that large organisations emerge because they are efficient but, because they are large, they have unreasonable power. We need proper, better processes—there was reasonable consensus on this during the Financial Services Bill we have just done—in the FCA, for political scrutiny, and better processes in the PRA.

On a more political point, I also felt that the concept from the noble Baroness, Lady Kramer, of the need for a more strategic approach from the Government was important. There have been lots of initiatives from this Government; we have disagreed with some and have supported others, but at no time have they seemed strategic. Two particular areas interested me. First, there is the failure to pick out sectoral initiatives; there are areas—I think the noble Lord, Lord Leigh, brought this out—in aerospace, for instance, where if we lose where we are now, no amount of money will get us back to the same place. There should be a stronger strategy for looking at where the weaknesses are. Secondly, there is this whole problem of debt; if debt is to be repaid—will it be?—it could become a millstone on the companies that should be bounding ahead. We need the best minds thinking about whether there is some way of turning that into equity, and so on.

There is much more to ponder. I hope that processes can be found for that pondering to be done in this House, and that we can be part of the legislative process. If anything makes the Government think, it is the fear of a vote going against them. I do not know whether anyone records this, but we do not actually like winning votes; we like persuading the Government

to do good things because they are frightened of us winning votes. That is what happens—but anyway, I have something else to say.

It seems the Economic Affairs Committee's conclusion that Ministers must do better applies more broadly than to tax avoidance policy. This Bill is yet another missed opportunity to grapple with the challenges our economy faces. Sadly, as is so often the case under this Administration, working families will pay the price for the Government's lack of ambition.

6.23 pm

Lord Agnew of Oulton (Con): My Lords, this has been an excellent debate, and I thank noble Lords for their contributions. I will round up by addressing some of the issues raised by your Lordships, starting with comments on the Economic Affairs Committee and HMRC's powers.

I take this opportunity to thank noble Lords for their contributions on the new report from the Economic Affairs Committee, which focused on HMRC powers to combat tax avoidance and promote compliance. The Government have carefully examined the issues raised by the committee and given it a comprehensive response. I am pleased to say that nine of the committee's recommendations were accepted and six were partially accepted.

Since the publication of the committee's report, HMRC has published its evaluation of the implementation of powers, obligations and safeguards introduced since 2012. Working closely with representatives of taxpayers and agents, the evaluation has highlighted a number of new opportunities for HMRC to improve public trust in the tax system. It is crucial that HMRC has the powers necessary to identify the minority of people and businesses who seek to avoid or evade tax, while ensuring an appropriate balance of safeguards for taxpayers.

My noble friends Lord Bridges and Lady Neville-Rolfe raised the loss of safeguards, but this new measure does have important safeguards. For example, the notice may be issued only where the information is "reasonably required" to check a known person's tax position or in connection with the recovery of a tax debt. An authorised officer must approve all notices and must pass a test every three years to retain their status. The financial institution can appeal against any penalties charged for failure to comply with the notice, and HMRC is required to make an annual report to Parliament on the use of the financial institution notice.

My noble friend Lord Bridges asked about umbrella companies and mini umbrella companies. The Government agree on the importance of regulating umbrella companies properly and have already committed to regulating them by extending the remit of the Employment Agency Standards Inspectorate to include these. An employment Bill will be brought forward as parliamentary time allows. The mini umbrella company model is fraudulent and presents an organised crime threat to the UK Exchequer. HMRC works closely with trade bodies and other government departments to raise awareness of the mini umbrella company fraud.

My noble friends Lady Neville-Rolfe and Lord Bridges asked about Clause 125 on licensing authorities. The check has been designed to be minimal in scope and will only test compliance with the most basic obligation to be appropriately registered for tax. It does not create new tax obligations but simply ensures that these existing rules are complied with, promoting fairness for everyone in the sector. For most users it will take minutes to do and is needed only when licences are renewed—typically every three years.

My noble friend Lord Forsyth asked about corporation tax rates. At 25%, the rate is still highly competitive relative to our international peers, with the lowest headline rate in the G7. Alongside this tax increase, the Chancellor announced in the Budget a super-deduction, as we referred to earlier, from April of this year until April 2023. My noble friend is particularly concerned about the loan charge. I am sure that there is nothing I can say today that will completely allay his concerns, but I want to try because I appreciate his passion on this subject.

Promoters of tax avoidance schemes are already subject to significant penalties if they fail to meet their obligations. Since its formation in 2016, HMRC's fraud investigation service has regularly secured convictions relating to arrangements that have been promoted and marketed as tax avoidance. Most of these people were involved in promoting tax avoidance schemes. However, we know that more can be done, and we are committed to ensuring that they face significant financial consequences for promoting these schemes.

My noble friend Lord Forsyth asked about the impact of IR35 on the self-employed. It is important to note that the reform does not apply to those who are self-employed according to the existing employment status tests. A worker's employment status for tax purposes is not a matter of choice but is determined by the terms and conditions under which they work. This is determined by a number of factors which are set out in case law, such as whether they can send a substitute to do the work on their behalf, and the control that the client has over the work that that person does.

In terms of reforms to employment status, as laid out in our manifesto, the Government will bring forward measures to establish an employment framework which is fit for purpose and keeps pace with the needs of modern workplaces. These include measures that will encourage flexible working, protect vulnerable workers, take a smarter approach to enforcement of employment law, and build on the strengths of our flexible labour market to support jobs. The Government recognise concerns about employment status and are considering options to improve clarity in the system, making it easier for individuals and businesses to understand which rights and obligations apply to them.

The noble Lords, Lord Dodds and Lord Empey, are concerned about the red diesel issue for power generation in Northern Ireland. In response to concerns raised by red diesel users in this context during last year's consultation about their ability to run down fuel stocks, the Government have decided to give HMRC officers the ability to disapply the liability to seizure where the user can provide evidence to satisfy officers that they have not built up their stocks or taken red diesel into the fuel system after the rules change. The Government recognise that for some users, such as those who need red diesel for back-up power generation in case of emergencies but may use it only for a few hours a year, their last purchase of red diesel may be some time before the tax change.

[Lord Agnew of Oulton]

The noble Lord, Lord Dodds, asked about air passenger duty. We are currently consulting on the Government's initial policy position, but the effective rate of air passenger duty on domestic flights should be reduced to support the union and regional connectivity. The consultation closes in a few days, on 15 June.

My noble friend Lord Leigh asked about capital gains tax reform. The Government are committed to a fair and simple CGT system which strikes the right balance between raising revenue and supporting the UK's economic recovery and long-term growth. Last year, the Chancellor commissioned the Office of Tax Simplification to examine areas where the present rules on CGT can distort behaviour or do not meet their policy intent. The OTS provides independent advice. It is the role of the Government to make tax policy decisions. The Government keep all taxes under review and will respond to the OTS in due course.

My noble friend also asked about the digital services tax and pillar 1. The UK digital services tax is an interim solution to the widely held concerns with international corporate tax, and the Government's strong preference is to secure a comprehensive global solution on digital tax and remove the DST once this is in place. We are pleased at the progress that has been made in recent days towards securing that solution but recognise that there is still work to do in reaching wider agreement among the OECD key 20 countries ahead of July. The Government's efforts will be focused on that objective.

It is premature to set out revenue estimates—the final design details and parameters of the rules will need to be worked though—but a key condition for the UK is that pillar 1 appropriately addresses our concern and ensures that the amount of tax that multinational groups pay in the UK is commensurate with their economic activities here. My noble friend also asked whether we are no longer committed to a competitive tax regime. We are absolutely committed to one, and as I mentioned, our headline corporate tax rate of 25% is competitive among our international peers.

The noble Lord, Lord Bilimoria, made important points. I passionately agree with his point about leading the recovery from this crisis through job creation. Employment gives people dignity and a sense of purpose. We are pleased with the results so far. The OBR now expects unemployment to peak at 6.5% in the fourth quarter of this year, as the CJRS is scheduled to end, falling gradually to 4.4% by the end of 2025. The estimated unemployment rate is 1% lower than its November forecast. This is equivalent to 340,000 fewer people in unemployment, partly thanks to the extension of the furlough scheme. The noble Lord will, be aware of other initiatives, such as our dramatic increase in the number of jobcentres.

The noble Lord, Lord Sikka, asks about tax avoidance, particularly of the large accountancy firms. Rigorous anti-avoidance activity by HMRC has seen a significant proportion of those promoting schemes, including the large accountancy firms, being driven out of this market. It is now only a hard core of unscrupulous promoters, largely based offshore, who continue to promote tax avoidance schemes. The Government recognise that more could be done to raise standards more widely across the market for tax advice and ran a call for evidence on this last summer. The summary of responses and next steps was published in November. As part of this, the Government are consulting on introducing a potential requirement for tax advisers to hold professional indemnity insurance.

The noble Lord, Lord Sikka, and the noble Lord, Lord Tunnicliffe, asked about the IT and PA threshold, the freeze depressing people's purchasing power. This policy will not come into effect until April 2022, when the economy will be on a stronger footing. We are asking people to make only a relatively modest contribution, to help fund good public services and to rebuild public finances. This is a universal and progressive policy, with those more able to pay contributing more. An average basic taxpayer will be only about £40 per year worse off in 2022-23. These are responsible decisions that will help to ensure the post-crisis task of putting the public finances back on a sustainable path.

My noble friend Lady Neville-Rolfe asked about Clauses 112 and 113 on the penalty systems that are being introduced. The current penalties and interest levied on taxpayers when they miss a submission deadline or pay their tax late are inconsistent across different taxes. The changes in this Bill bring consistency. The new approach to late submissions means that an automatic financial penalty will no longer be applied. Instead, the taxpayer will accrue points, much like driving licence points, with a financial penalty being applied only after repeated non-compliance. This means that taxpayers will incur penalties proportionate to the amount of tax they owe and how long payment is outstanding.

The noble Baroness, Lady Bennett, is concerned that we cannot aim for continuous growth because of its damage to the environment. I would respectfully disagree with her and refer her to a book called *More from Less* by Andrew McAfee. A couple of simple statistics on the US Geological Survey, which has been running for over 100 years, has tracked 72 resources from A, aluminium, to Z, zinc, and only six are not yet past their peak. Energy use in the UK in 2017 was 2% below what it was in 2008, even though GDP had increased by 15%. An aluminium can built in 1959 weighed 85 grams, whereas one built in 2011 only weighs 13 grams. It is extraordinary the innovation that is occurring in our society.

The noble Baroness, Lady Kramer, asked about a pre-emptive rise in VAT rates. The Government appreciate that the expiry of any temporary cut will need to be carefully timed so that it does not impede progress as the economy recovers. That is why we are announcing this six-month extension followed by six months of the 12.5% rate, which will help businesses to manage the return to a standard rate. As the Chancellor made clear in his Budget speech, it is important for the Government to be honest about the need to keep the public finances on a sustainable footing. The Government will of course keep the situation under review. The reduced rate is expensive and is expected to cost over £7 billion in tax forgone. Applying a permanently reduced rate would further increase the cost to taxpayers.

The noble Lord, Lord Tunnicliffe, asked about the G7 agreement on tax reform. We are delighted that the G7 has come together to back these proposals. It represents a major reform to the international tax framework. The UK has been at the forefront of OECD discussions to address tax challenges of digitisation. The Chancellor has made it a priority of the UK's G7 presidency to support progress towards an agreement. Our consistent position has been that it matters where tax is paid, as well as the rate at which it is paid. So we are delighted that we have G7 backing for both pillars of the OECD proposals on reallocating taxing rights as well as the global minimum taxation.

On the concerns of the noble Lord, Lord Tunnicliffe, about multinationals, the Government have taken significant steps, both domestically and internationally, to ensure that companies pay the right amount. The corporate interest restriction rules prevent multinationals from avoiding tax using funding arrangements. This has raised £1 billion a year since its introduction in 2017. The diverted profit tax has led to £5 billion in additional revenue by countering aggressive tax planning techniques used by multinationals to divert profits away from the UK. The tax charge on offshore receipts, in respect of intangible property, is forecast to raise £1.1 billion from companies that put valuable intangible assets in low-tax jurisdictions. The UK has also been at the forefront of the OECD discussions on this, and the Chancellor has made it a priority of the G7 presidency to support progress towards an agreement.

The noble Lord, Lord Tunnicliffe, asked about freeports and economic transparency. We have a firm commitment to ensure that the transparency extends to the freeports programme. That is why we published a decision-making note that clearly sets out how sustainable economic growth and regeneration were prioritised in the assessment process. This built on a robust bid assessment, where the eight successful English freeports demonstrated a strong economic rationale for their proposed tax sites. The Government have already taken action to address the concerns that any additional reporting requirements are seeking to resolve. We will be publishing costings of the freeports programme at the next fiscal event, in line with conventional practice.

Let me wind up by saying that I hope I have succeeded in addressing noble Lords' questions. I will of course review the record of this debate and follow up in the usual way, and write where I have not been able to provide detailed answers.

Bill read a second time. Committee negatived. Standing Order 44 having been dispensed with, the Bill was read a third time and passed.

HMRC: New Powers (Economic Affairs Committee Report)

Motion to Take Note

6.41 pm

Moved by ***Lord Bridges of Headley***

That this House takes note of the Report from the Economic Affairs Committee *New powers for HMRC: fair and proportionate?* (4th Report, Session 2019–21, HL Paper 198).

Lord Bridges of Headley (Con): My Lords, I have been told that, thanks to the intriguing procedure we have in this House, I am not entitled to give a full 10-minute speech, which no doubt noble Lords will greet with a great sense of relief at not having to sit through 10 minutes of me wittering on. I would just ask noble Lords to indulge me for a few moments.

I thank my noble friend the Minister for what he has just said, but ask him to write to me on the points I raised and the specific questions I asked, in particular as regards Clause 129, which I see as an enormous—I would use the words "power grab". In my view, it is certainly an unwarranted clause, given that we have not even had the consultation which this policy clearly demands. We do not know the costs or the impact. I would therefore very much like to hear more from him on that.

I was relieved to hear that action will be taken on umbrella companies. That is clearly needed, although there is a crying need for action on the mini umbrella companies. We absolutely need to focus on that, and I am sure that our committee will do so.

I was also grateful that the Minister mentioned that the Government are still committed to their manifesto commitment at least to look at the measures in the Taylor review. This is long overdue, as my noble friend Lord Forsyth, the noble Baroness, Lady Kramer, and the noble Lord, Lord Butler, said. It is absolutely critical. We need to address the impact which the digital revolution is having on our tax and employment systems. Until we do that, I fear that all the other tinkering that we do will be nothing but sticking plasters. We absolutely need a radical review, and this cannot happen soon enough.

As I said on the gracious Speech, it is greatly disappointing that this Government have not so far used the opportunity presented by having a majority of over 80 to start thinking in these ways and looking at taking some decisions that may be unpopular and tough but are needed.

I thank the members of the committee for their speeches and their very kind words about me. As noble Lords will no doubt have recognised and acknowledged in their speeches, it is their contribution that makes our committee pack its punch. In my opening speech I failed to mention my thanks to the Financial Secretary, Jesse Norman, and HMRC for co-operating with our committee's inquiry. Clearly, we did not agree—it says so in the report—but as the noble Lord, Lord Butler, rightly said, we got to a score draw. I think that shows that I and we could do more next time, but at least that is better than nothing. As the noble Lord, Lord Butler, said, it is a pity that the Government seem to agree more with the principles and the theory that we came up with than the practical next steps that we would like them to take. Better luck next time.

This has been a short debate, but it has been a double espresso sort of a debate; I feel we have packed an enormous punch into it and covered a wide range of issues. We have had very good contributions on the digital revolution, the enormous debt crisis I fear we are facing, climate change—the pressing issue of our

[Lord Bridges of Headley]
time alongside the digital revolution—and inequality. I found the contributions challenging, and they have all been very interesting.

I have two points. First, it is somewhat depressing that there have not been more Members of this House contributing on what I see as the defining issues of our time. We can all think why that may be; one reason is that we are sitting in this Chamber as it is. The sooner we can get this House and the other place back to operating as close to normal as possible, the better. That will make sure we can debate these issues and challenge properly and effectively, as we are here to do. Until that happens, I fear we are going to go on having these kinds of debates; where we feel like we are talking to ourselves and not actually able to hold the Government to account—which is what we are here to do. That absolutely needs to happen.

Secondly, on the point that the noble Lords, Lord Butler, and the noble Baroness, Lady Kramer, made, and the noble Lord, Lord Tunnicliffe, also made in winding up, I completely agree; it is very odd that we spend hours debating in committee, then coming up with committee reports outlining practical measures that can and should be taken by the Government on the Finance Bill. And what happens? In the space of an hour and a half, the entire Bill has gone through and it has gone through all those processes in the space of under a minute.

I recognise that how we do this means looking long and hard at our role with the other place on how we can make amendments to the Finance Bill that do not tread on their toes. I seriously think that, as the noble Lord, Lord Butler, said, we need to look at this because there are some powers in this Bill that have not had anything like the amount of scrutiny they demand. Clause 129 is a good case in point. That really should change. It has been a very good debate, but noble Lords can sense my frustration that we have not been able to go on further. I beg to move.

Motion agreed.

6.46 pm

Sitting suspended.

Education Recovery

Statement

The following Statement was made in the House of Commons on Monday 7 June.

"With permission, Mr Deputy Speaker, I will make a Statement regarding the latest phase of our education recovery programme.

Helping our children recover from the impact of the pandemic is an absolute priority. Pupils, parents and staff have all experienced disruption, and we know that continuous actions are required to help recover lost learning. That is why we have already made provision available to support children to catch up. As a result, a quarter of a million children will receive tutoring this year who would not have been able to access it beforehand; over half a million pupils will be able to attend summer schools; and schools have access to both a catch-up and a recovery premium to enable them to assess what will help their pupils catch up on lost learning and to make provision available to ensure that they do so.

The evidence we have shows that disadvantaged children and those who live in areas that have been particularly hard hit by high Covid rates, such as the north-east of England and Yorkshire, are among those whose learning is most likely to have been affected. We have always been clear that we will continue to take the action that is required. That is why we continue to pledge significant packages of investment and targeted intervention to help them to make up on their lost learning. I would like to take this opportunity to thank Sir Kevan Collins for his contribution to these efforts, his thoughts and his inputs over the past few months.

Last week, I announced the details of the next step in our efforts to ensure that children and young people catch up after the disruption of the pandemic and to support our ongoing education recovery plans. We have announced an additional programme of extra help and support, particularly for those from disadvantaged backgrounds, which focuses on areas that we already know are going to be most effective. They are high-quality tutoring and more effort, more work and more programmes to support great teaching. This brings our total recovery package to more than £3 billion. The lion's share of this new money—£1 billion of it—will fund a tutoring revolution, delivering 6 million 15-hour tutoring courses for schoolchildren and the equivalent of 2 million 15-hour courses for 16 to 19 year-olds who need additional support to catch up. Year 13 pupils will also have the option to repeat their final year where this is appropriate.

The evidence shows that one course of high-quality tutoring has been proven to boost attainment by three to five months, so additional tutoring will be vital for young people in recovering the teaching hours lost in the past year. This represents a huge additional teaching resource, putting it among the best tutoring schemes in the world. It means that tutoring will no longer be the preserve of the most affluent but will instead go to those who need it most and who can get the most benefit from it. Schools will be able to provide additional tutoring support using locally employed tutors, and that will build on the successful national tutoring programme, which is on target to provide a quarter of a million children with tutoring in its first year.

I can also tell the House that it is not just data that shows us that tutoring works; we are seeing the positive impact on children at first hand. As we go around the country, speaking to children in different schools, we hear how it is helping them to learn, to catch up and to achieve the very best of themselves. We hear time and again how these activities are helping young people to make up for the time they lost through not being in school. It is also giving them the increased confidence and self-esteem that they develop through the extra tutoring and the extra attention.

I have said that we are determined to fund these catch-up activities based on the evidence of what works, and the next stage of our recovery plan will include a review of time spent in school and college and the impact that that could have on helping children

and young people to catch up. Schools already have the power to set the length of the school day, but there is a certain amount of disparity in approach across the sector. I know it is not just the Government who are thinking about the length of the school day; it is an important issue with so much catching up still to do. When that is the case, I question whether it is justifiable that some schools send their children home at 2.45 pm when others keep them in for much longer. The findings of the review will be set out later in the year to inform the spending review, and a broad range of reforms and changes to our school system will be set out.

I said that we would be concentrating this huge investment on two areas that we know work, and the second of them is to give our teachers more professional support. Teachers have done so much for children in the pandemic. Now it is time for us to do even more for those teachers. An extra £400 million will be made available to help provide half a million teacher training opportunities across the country, alongside professional development for those working in early years settings. We will make sure that all of them can access high-quality training, giving them the skills and tools to help every child they work with fulfil their potential.

Of that funding, £153 million will provide professional development for early years staff, including through new programmes that focus on key areas such as speech and language development for very young children, and £253 million will expand existing teacher training and development to give schoolteachers the opportunity to access world-leading training, tailored to whatever point they are at in their careers, from new teachers to aspiring head teachers and head teachers themselves.

We know from numerous studies that the most powerful impact on a child's learning is made by the teacher in front of them in the classroom. By investing in our teachers, enabling them to grow professionally and develop their skills, we invest not just in them but in every pupil in every class. It is worth adding that we have not lost sight of our main aim, which is to provide world-class education for every child, whatever their background, and to set them up with the knowledge and skills that they need to fulfil their potential and look forward to a happy and fulfilling life. The recovery package will not just go a long way to boost children's learning in the wake of the disruption caused by the pandemic but help bring down the attainment gap between disadvantaged children and their peers that we have been working so hard to get rid of for so long.

This is the next stage in what will be a sustained programme of support, building on the landmark £14.4 billion uplift in core schools funding that was announced in 2019 and the more than £3 billion in addition that has been announced so far for recovery. As the Prime Minister said last week, there is going to be more coming down the track, but do not forget that this is a huge amount that we are spending. For that reason, I commend the Statement to the House."

7.40 pm

Lord Watson of Invergowrie (Lab): My Lords, I am afraid there is simply no disguising the fact that the resignation of Sir Kevan Collins as Education Recovery Commissioner is a huge blow to the Secretary of State's hopes of delivering on support for school pupils. I have to say that the Secretary of State's response to the shadow Secretary of State yesterday was inept. He seems to regard all scrutiny and questioning as opposition, ignoring that all Governments need scrutiny to improve policies and their delivery.

At this time, young people and their families are looking to the Government for urgently needed help; a siege mentality will do very little to meet those needs. The mean-spirited plan outlined in the Statement is the one brought forward after the Prime Minister rejected Sir Kevan Collins's own proposals to provide pupils with extra time and teaching to catch up on lost education over the next three years. The commissioner used his years of experience to produce plans that were simply cast aside by the Treasury. It is probably stretching things to imagine that the Prime Minister even cast his eye over them. The paltry scheme the Government are willing to fund was described by Sir Kevan as "a half-hearted approach" that

"does not come close to meeting the scale of the challenge"

and

"risks failing hundreds of thousands of pupils."

It is no wonder he resigned.

Sir Kevan's proposals were costed at £15 billion over the next three years. Last month, the Education Policy Institute published a full set of proposals for education recovery—a package of £13.5 billion over three years, required to reverse learning loss and support pupil well-being. Last week, Labour published our children's recovery plan; it was costed in detail and totalled £14.7 billion over the next three years. So, in the past month, there have been three proposals, all within the same ballpark in their costings. Yet the Government reckon they have a monopoly on wisdom and believe that around 10% of that amount will get the job done. I know the Minister will say that some support for the recovery has already been committed and more will follow in the spending review, but the Government are so far short of what the experts—and I am not placing the Labour Party in that category—think is required that they effectively inhabit a different world.

It is not simply academic recovery we should be concerned about. Cases of probable mental health disorders have increased from about one in every nine young people to one in every six because of the pandemic, and we are only now beginning to understand how their well-being has suffered as a result of isolation and anxiety. Yet, there was not a single mention of "well-being" or "children's mental health" in the Secretary of State's Statement. Even when asked directly yesterday by the shadow Secretary of State, Kate Green MP, he had nothing to say on those areas, which are vital to children's recovery.

The Statement does mention the national tutoring programme, and that has failed even to meet the target set by the Secretary of State. He promised that a minimum of 65% of tutoring provision would reach pupil premium children, but the National Audit Office recently found that only 44% of those accessing tutoring could be classified as disadvantaged.

I want to ask the Minister questions that may be familiar to her. They were put to the Secretary of State yesterday by Kate Green, but did not receive answers.

[Lord Watson of Invergowrie]
I am confident that the Minister can do rather better than her boss. Where is the bold action needed to boost children's well-being and social development, which parents and teachers say is their top priority and is essential to support learning? Where is the increased expert support to tackle the rise in mental health conditions among young people? Where is the targeted investment for those children who missed most time in class, struggled most to learn at home and were left for months without access to remote learning? Where is the funding needed for the pupil premium to replace the stealth cut to school budgets that the Government imposed when they changed the date of the census recently?

As she left office in February, Children's Commissioner Anne Longfield revealed that she had encountered what she termed "institutional bias against children" in this Government, especially in the Treasury. That was an astonishing claim, yet the parsimony of the education recovery package announced certainly reinforces that view. It is one that the Government will need to work hard—much harder, I suggest, than they have done in the past week—to overcome. In this, their hour of real and urgent need, our young people are being failed by this Government.

Baroness Garden of Frognal (LD): My Lords, I agree with so much of what the noble Lord, Lord Watson, just said. I thank the Minister for the Statement, but I do not think there is much we have not heard before. She often tells us with pride about the £1 million here, the £200 million there, even £14.4 billion—how have I forgotten that, when it is so close to Sir Kevan Collins's ask? This all begins to add up to real money, but where is the overview, the strategy, the cohesion? I suspect we might have found it in Sir Kevan's review, had we had the chance to study it before the Government trashed it. I am sure he appreciated being thanked before resigning because of the decimation of his proposals, but then, he consulted real experts and, as I pointed out in my question yesterday, which the Minister wisely ignored, this is not a Government who respect experts, to their shame and to the loss of the rest of us.

I do not suppose that even the Education Secretary's best friends suggest he is an education expert, so how good it would have been for him and the Government to have taken heed of real education specialists. If the Government genuinely thank Sir Kevan for his efforts, his thoughts and his input, why on earth are they not implementing his well-researched proposals? Of course, tutoring is most welcome. The children who will have lost out most are those from families without the time, technology or education to help them with home lessons and learning. The Minister has told us about the thousands of computers and iPads given to the deserving poor but, for many of them, these will have been useless without tuition. We heard of many families having to share a single piece of kit between numerous students, but without any person to talk them through.

On the tutoring scheme, where are these tutors coming from? Will they be the hard-pressed teachers being asked to do yet more? Or will they perhaps be university students, keen to earn some money while close enough in age but, we hope, superior in wisdom, for the youngsters to feel an affinity? What plans are there to make up all the social parts of school that the noble Lord, Lord Watson, referred to—mixing with others, learning teamwork and how to win, how to lose, how to make friends and how to befriend your enemies? Where are the proposals for the softer skills of school, so vital in life? Where is the careers information and guidance? I could find nothing in the Statement about that.

As the noble Lord, Lord Watson, said, we know the detrimental impact the pandemic has had on the mental and emotional well-being of children and young people, so will the Government take action to evaluate mental health service provision in schools and allocate enough resources to bolster these services and address shortcomings in provision? Research by the Carers Trust shows there has been a worrying decline in the mental health of young carers during the pandemic. What are the Government planning to do to support the educational and emotional recovery of young carers? We hear that many children return to school having forgotten how to sit in a class for an hour, how to pay attention and even how to hold a knife and fork. How are the Government helping them?

How kind to offer more training for overworked teachers. Most teachers are pretty well trained already, and of course there is always room, if not time, for more training, but would our wonderful teachers, who have gone over and above in lockdown for their pupils, not perhaps appreciate some extra pay as a thank you? I declare an interest as the mother of a primary teacher who is working all the hours God gave to ensure that her little four year-olds continue to learn and, perhaps even more importantly, to enjoy learning. Because school should be fun: learning should be exciting and accessible and the youngest children need to find that that is the case so that they really catch the bug of lifelong learning. If the Government are so intent on investing in teachers, why not pay them more?

So, my verdict on the Government is: "Could do better". Give us the holistic picture. We can see that vast sums have been spent, but could they not have been spent more cohesively, more helpfully and in a more targeted way? These are the next generations, the young people whose skills, knowledge and enthusiasm will be sorely needed to help us through the aftermath of the pandemic, not to mention Brexit. They will be needed to help revive the economy, take the jobs that are needed, not necessarily the ones they wanted, and to be adaptable. I see little in the Statement to show that the Government appreciate the size and breadth of the job that needs to be done.

The Parliamentary Under-Secretary of State, Department for Education and Department for International Trade (Baroness Berridge) (Con): My Lords, I repeat the thanks of the Government to Sir Kevan for his work. Actually, there is great scrutiny of this—this is the second opportunity that noble Lords have had to scrutinise it. I am so very grateful to the Private Notice Question procedure in this regard. In relation to his plan, tutoring and the teaching element were part of his recommendations, as part of an overall strategy. I assure the noble Baroness that the strategy is about evidence-based interventions, and it is clear from the

information we have from Renaissance Learning that some students in autumn 2020 were, on average, behind by three months in maths and two months in reading. We know that months of catch-up can be done using tutoring as an intervention, whether that is one-on-one or small group. This is an evidence-based part of the strategy and has been part of the recovery package from the beginning, so it is important that it now has about £1 billion worth of funding and includes about 6 million interventions for children.

Noble Lords will have seen the Prime Minister's comments that this will not be the last word. Obviously, recovery is for the lifetime of this Parliament and it will be part of the forthcoming spending review. Of course, there will be the analysis needed of any extension to the school day or timetable. At the moment, many schools have flexibility on the hours they have in the school day, but the impact on the workforce and all other details need to be taken into account. That is why there will be a consultation or review of that element of the package before any changes are made.

The noble Lord and the noble Baroness mentioned targeting. Throughout the pandemic, vulnerable children were offered a school place, and I think that was unusual across most jurisdictions. We did keep and see, with the work of teachers and outreach, increasing numbers of vulnerable children taking up those school places during the pandemic.

Well-being is obviously a key part of the recovery for children and young people; the noble Baroness outlined the social skills they have missed. As noble Lords will be aware, transition points are particularly important and can be very challenging at the best of times. That is why there is the summer schools programme —a £200 million pot of money—which around 80% of secondary schools have bid into to provide not just education but wider activities, physical exercise and well-being. Over 80% of secondary schools have applied to that pot to provide this provision for their forthcoming year 7 pupils.

I cannot remember the precise amount offhand, but there has been a significant planned investment into CAMHS—child and adolescent mental health services. There has been an investment of £17 million, announced during Mental Health Awareness Week, and one of £79 million, because we are of course aware of the rising demands on schools in relation to mental health, pastoral and bereavement issues at the moment. I spoke today to someone who had visited a large secondary school where, I think, 30 children had lost their parents. These are significant issues, and we are investing to enable over 7,800 schools to have a trained-up senior mental health lead within the school staff. We have been investing in that.

Of course, every year there is the pupil premium, and £2.5 billion has been put in through that this year. I do not think that one should underestimate the flexibility there has been. Although some of the money is targeted, we gave much of the £650 million universal catch-up premium to schools with flexibility so that they have been able to buy in extra pastoral support and do more enrichment activities. We are trying to get that balance between the targeted, and the £200 million that is for summer schools only, and the general school budget, as school leaders know more about the needs of their children.

On the NAO report, the pupil premium and children in tutoring, throughout the pandemic, because of its dynamic nature and employment issues, it was important that school leaders were allowed to classify children as vulnerable. That may be because they did not have the internet access that they should for remote learning, because of caring responsibilities or because of the situation at home. It is not possible to say that it was precisely 44% using the classic measures, but school leaders are using their best judgment. There can be all kinds of reasons why a child needs tutoring because of the totally unpredictable way that the pandemic has affected particular households, so we entrust school leaders to make those decisions. That is not to say that we do not analyse the statistics, but we are aware of the discretion that we must give school leaders.

Our focus in the department is on children. The raison d'être of what we are doing, day in, day out, is to try to enable children to catch up. It is a dynamic picture, as noble Lords are aware. We have now had three reports from Renaissance Learning. Noble Lords will have seen today the additional investment going into the north-west. It is only now, when the tsunami is, I hope, permanently retreating, that we will see the differential impact that the pandemic has had.

On the role of experts, the department is continually engaging with stakeholder groups and teachers, including the unions, school leaders, SEND experts and others, to get their views on what is needed to help children catch up.

On teacher training, there was in fact consideration of delaying the introduction of the early career framework in September, but there was a call from the teaching workforce that it should come in then. The early career framework is important, which is why we are investing in it and guaranteeing that, in the first two years, 10% of time is not in teaching and can be used for mentoring. In the first year, 5% of teaching time will not be in the classroom, so can be for mentoring. There was a desire for that to come in, as it is important.

With what has happened during the pandemic, the professional development of our teaching workforce may, in certain circumstances, have taken a back seat, with all the emergency provision that schools have had to make, such as standing up testing and so on. So it is time to invest in the workforce. The NPQs that we are suggesting are being seriously ramped up; the plan was 1,500 a year, but we are going to 30,000 next year and then to 60,000, so we are really investing in the workforce. In relation, for instance, to the demands made on designated safeguarding leads in our schools at the moment, the NPQ for middle and senior leaders is a very important part of supporting teachers. The evidence is there—it can make a difference of about half a grade at GCSE—that it is one of the single most important things that we can provide for high-quality teaching. Professional development generally, but not always, enhances the quality of teaching.

On pay, the noble Baroness is aware that, in September 2020, there was an average pay rise of 3.1% and a 5.5% uplift to the starting salary. We are still committed

[Baroness Berridge]
to introducing a starting salary of £30,000 but, as I said yesterday, we are in a fiscal situation that none of us would want, having had to borrow the amount that we did during the pandemic. Unfortunately, difficult decisions on funding have had to be made.

I am sure that this will not be the last time that I come to the Dispatch Box to answer questions on recovery funding. I pay tribute to the schools, most of which have just gone back, and all that is going on to help children recover from the effects of the pandemic, not just educationally but socially, emotionally and psychologically.

The Deputy Speaker (Baroness Fookes) (Con): We now come to the 30 minutes allocated for Back-Bench questions. I ask that questions and answers are brief, so that I can call the maximum number of speakers.

7.59 pm

Baroness Bull (CB): My Lords, as the Statement makes clear, the educational impact has been felt most keenly by pupils from disadvantaged backgrounds and in areas hardest hit by Covid, further entrenching the attainment gap between private and state-educated students. I know that the Minister is engaging regularly with the Independent Schools Council about the role its members can play in supporting state sector students to catch up. However, does she agree that, while many excellent partnerships are in place between private schools and their local state school, the urgent need to address the geographical inequality we have heard about will not be resolved through partnerships based on colocation, given that state schools in the vicinity of fee-paying schools are often already among the better resourced? Will her department take the lead in brokering a strategic programme of digitally based partnerships between the independent and state sectors that would target support on those communities most in need and see the charitable status of independent schools put to good use?

Baroness Berridge (Con): The noble Baroness is indeed correct that getting these partnerships right is important. We often see that the engagement is more strategic when it is between secondary independent schools and their local primary schools, where they can add enormous value. I am about to host a partnerships round table to see where they are successful and where we can spread that best practice. I am keen that we think outside the box. I thank her very much for that suggestion, because this is a time when there is such good will from the independent sector, but we have not managed to plug that into the right place, for various reasons. I will take back the suggestion to the round table.

The Deputy Speaker (Baroness Fookes) (Con): I understand that the noble Baroness, Lady Wyld, has withdrawn, so I call the noble Baroness, Lady Donaghy.

Baroness Donaghy (Lab) [V]: The Secretary of State has laid great emphasis on a tutoring revolution. He seemed to link the review of school hours with the spending round, almost as though he was planning a battle with teachers instead of working with them. I hope the Minister can assure us that that is not the case. Surely it would be more productive to concentrate on core funding of a whole school environment, including exercise, extra tutoring and socialisation, instead of the current unhealthy relationship, where limited conditional funding is doled out as if in a master/servant relationship. How will we know what success looks like in the tutoring programme? What measure of independence will there be in that judgment?

Baroness Berridge (Con): I assure the noble Baroness that there is absolutely no intention to have a battle with teachers at all. It is children first and foremost who we all need to focus on at the moment, as well as the well-being of the workforce in schools. As I outlined, much of the money has been given to schools so that it is part of their core schools budget, such as the £650 million we have given and the second tranche of £302 million, which was recovery premium money. They have the flexibility to spend on the array of activities.

On the tutoring programme, through the Renaissance Learning work we are monitoring where students are at in their learning. The contract was properly procured, and it is a sign of good management that we put it out to the market and have saved substantial money on that section of the contract. As the noble Baroness will be aware, there will be no school performance data, but that data will be available to the department and to Ofsted. We will of course track very carefully what the outcome of the tutoring programme is in relation to how much schools buy and the impact it has. I will ensure that the noble Baroness is aware of any publicly distributed data in that regard.

Lord Storey (LD) [V]: The tutoring programme is really important to the recovery programme. The best tutoring is where the pupil has a relationship with and an understanding of the tutor. In many cases that is not happening; it is a virtual stranger. Has the Minister thought about how we could improve the tutoring arrangements? I am fascinated by her comment in the Statement that we have the best tutoring system in the world. What empirical evidence do we have to make such a statement?

Baroness Berridge (Con): I am pleased to assure the noble Lord that this third chunk of money for tutoring is being distributed in a different way. One reason is as he outlined. Some £579 million will go to schools for what we are now calling school-led provision. Schools may want to use their existing staff, make part-time staff such as TAs more full-time and use local tutoring, such as retired teachers and so on, in their workforce. The noble Lord is right to say, particularly in the case of many SEN students and vulnerable children, that the existing relationship with a TA, for example, might be the best provision for a student.

Therefore, this £579 million, which is separate from academic mentors and tuition partners through the NTP, will now go to schools. As I said to the noble Lord yesterday, that will provide even greater flexibility to schools that might want to fund other subjects that the tuition partners are not providing in support. More of the arts subjects, for example, could therefore

be covered, so there will be flexibility. Around £1 billion is going into tutoring, which is a large sum. I would not want to say precisely in relation to each jurisdiction that it is the top amount, although we are spending a considerable amount on tutoring because the evidence tells us that it will help children to catch up.

Baroness Falkner of Margravine (CB): My Lords, I applaud the noble Baroness for her defence of a policy that I think she recognises is entirely indefensible. She calls for more evidence but have the Government thought of looking at the US, which is spending £1,600 per child, or the Netherlands, which is spending £2,500 per pupil? When she talks about fiscal consolidation, has she thought about the competing pressures on a global Britain, the future of work and the technological changes that will happen? They will require a little bit more spending than £50 per pupil per year.

Baroness Berridge (Con): On technological advance, I will be in front of noble Lords next week talking about schools and post-16 education, which is part of the Government's skills policy. As I previously outlined, I am nervous about international comparisons. It is appropriate in relation to some of the money distributed, such as the £650 million, which, from memory, is £80 per pupil, and £240 for SEND or AP pupils, because it relates to general schools money. However, one cannot look at the £200 million on a per-pupil basis because it is for summer schools and available only to year 7.

The £1 billion for tutoring is targeted at disadvantaged students and we do not know whether the figures that the noble Baroness outlined include the £400 million that has gone into technology and remote learning for the 1.3 million laptops. Per-pupil funding is not always comparing apples with apples. That is a key part of our strategy. I agree that the pandemic has affected all children and there is a case for amounts such as the £650 million to go to all schools but the evidence that we are getting from different areas of the country on disadvantaged students is why a huge proportion of the money is targeted at them through the tutoring programme.

Lord Triesman (Lab) [V]: My Lords, the noble Baroness, Lady Garden, said that the Government could do better. Speaking candidly, I think that they could hardly do worse. I was horrified by the derisory per-capita recovery funding that is to be spent on all children, as the noble Baroness, Lady Falkner, has just said, if they are to recover from the body blows to their education and future prospects. I have little doubt that that provoked the principled resignation of Sir Kevan. I imagine that that is also painful for the Minister, who is an honourable person. It is still worse in the aftermath of Marcus Rashford's great campaign against childhood hunger, where the Government's response was so poor.

It is true that the international comparisons stand up; it is fair to compare such things in these circumstances, and the facts cannot be obscured. The United States is going to spend 32 times as much on its recovery for kids as we are, while the Government here spend vast amounts on their friends and donors in this pandemic, rather than on the United Kingdom's kids. The figures are well documented. What urgent plans does the Minister have in place to review and repair this miserly approach? She has mentioned a contingency plan that the Prime Minister may inaugurate. Is she committing to the money that that contingency plan may demand in the circumstances? Can she say more about the money for further education, where so many 16 to 18 year-olds are now educated?

Baroness Berridge (Con): We will have to beg to differ on international comparisons; I believe I have comprehensively explained our view of those comparisons. As I said, there will be a review of the extension to the school day. In the forthcoming spending review, we will look at the ongoing need for recovery during this Parliament. We have been clear that recovery is for the length of this Parliament, and this will not be the last word on recovery, I am sure.

I turn to provision for 16 to 19 year-olds. Some 75% of colleges are reporting that their students are between one and five months behind. The tuition fund has been bolstered by a further £222 million, in addition to increased revenue funding, bringing the total over those three years to £324 million to enable these students to catch up. We have also made clear that, where appropriate, students in year 13 or the equivalent can repeat the school year, but that is up to school leaders to fund. Importantly, there has been an additional £8 million for vulnerable students who are transitioning to 16 to 19 from alternative provision, to make sure that they get to the right post-16 destination. We had very strong feedback from stakeholders that the first tranche of transition money was useful in being able to secure the correct 16 to 19 provision for those vulnerable young people.

Baroness Prashar (CB) [V]: Can the Minister assure the House that early years recovery will be a specific focus and that the amount of pupil premium will be increased in the early years sector to reflect more accurately the influence on children's lives during this critical stage? Furthermore, will the focus on learning through play, communication skills, literacy and numeracy, and the retention and professional development of early years teachers, be prioritised? Does the Minister also agree that early learning and valuing early education teachers is a much needed, necessary long-term investment and should not be seen as a short-term catch-up?

Baroness Berridge: The noble Baroness is correct. There is evidence of loss, particularly for reception and year 1 and in the early years before that. Within the teaching section of this education recovery package, there is £153 million of funding to provide the opportunity of professional development for early years practitioners. That is investment in the workforce. Previously, in the first recovery tranche, £18 million was invested in initiatives such as the Nuffield Early Language Intervention, colloquially known as NELI. We have seen other initiatives, including considerable use of Hungry Little Minds, the department's campaign to help raise communication skills in that part of our population. There is also BBC Bitesize and other facilities for the early years. Those early years pupils in reception classes within the school system have been part of the main recovery package.

The Deputy Speaker (Baroness Fookes) (Con): The noble Baroness, Lady Uddin, has withdrawn, so I call the noble Baroness, Lady Wilcox of Newport.

Baroness Wilcox of Newport (Lab): My Lords, I speak as a former teacher with over 30 years' front-line classroom experience. Kevan Collins' resignation is a damning indictment of the Conservatives' education catch-up plan. He is an expert who was brought in by the Prime Minister because of his experience and expertise, but the Government threw out his ideas as soon as they needed to stump up the money to deliver them.

Labour has a comprehensively detailed recovery plan for our children and young people. Our teachers have had one of the toughest years of their careers, and it is only by supporting them with training to stay on top of the latest knowledge and techniques that we can give children and young people a brilliant classroom experience in these most difficult times. So what more does the Minister plan to do to help teachers and their pupils?

Baroness Berridge (Con): I am grateful to the noble Baroness for her support for the fact that the training of teachers is important. We have outlined in this package considerable support for them, and that will be over the next two to three years. Obviously we are aware of the situation. That is why the review of the school day needs to listen to the views not just of teachers but of the workforce generally. We should not underestimate the strain that has been felt by school business professionals running the money and often overseeing the building with additional demands, and all the administrative and teaching assistant staff who there are in our schools. We will be looking carefully at the extension of the school day.

Unfortunately there have been difficult decisions to make in relation to funding. As I have mentioned to noble Lords, the one-year spending review did not bring any money to the department for any new free schools, including SEND free schools, which is a big indication of where we are. We are hoping for a spending review that will be a multiyear settlement.

The Deputy Speaker (Baroness Fookes) (Con): All Back-Bench speakers have now been called.

Advanced Research and Invention Agency Bill

First Reading

8.17 pm

The Bill was brought from the Commons, read a first time and ordered to be printed.

House adjourned at 8.17 pm.

Grand Committee

Tuesday 8 June 2021

The Grand Committee met in a hybrid proceeding.

2.30 pm

Arrangement of Business

Announcement

2.30 pm

The Deputy Chairman of Committees (Baroness Barker) (LD): My Lords, the hybrid Grand Committee will now begin. Some Members are here in person, others are participating remotely, but all Members will be treated equally. I ask Members in the Room to respect social distancing. 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 this debate is one hour.

UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (Consequential Provisions and Modifications) Order 2021

Considered in Grand Committee

2.31 pm

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

That the Grand Committee do consider the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (Consequential Provisions and Modifications) Order 2021.

Viscount Younger of Leckie (Con): My Lords, I beg to move that this draft order, laid before the House on 14 April 2021, be considered. I am grateful for the opportunity this afternoon to debate this important order, which allows the Scottish Government to fully implement their new environmental governance body, Environmental Standards Scotland, which I will now refer to as the ESS. This order is part of the Government's ongoing commitment to devolution and is made in consequence of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021, which I shall now refer to as the continuity Act.

I will begin by providing some background to this order, which is to be made under the Scotland Act 1998. The 1998 Act devolved powers to Scotland and legislated for the establishment of a Scottish Parliament. Scotland Act orders are a form of secondary legislation made under the 1998 Act, which are used to adjust Scotland's devolution settlement. The order before your Lordships today is a Section 104 order, which allows for necessary or expedient legislative provision in consequence of an Act of the Scottish Parliament. In this case, provision is required in consequence of the aforementioned continuity Act.

The continuity Act, which received Royal Assent on 29 January 2021, enables Scottish law to continue to keep pace with future EU developments, following the UK's exit from the EU. It also establishes a new regime of environmental governance in Scotland, including the new governance body, the ESS. The ESS will enforce compliance by the Scottish Ministers and public authorities in Scotland with environmental law, and it will assume statutory powers and functions once fully vested. The ESS will also provide scrutiny of the effectiveness of environmental law and of its implementation and application. Reserved bodies in Scotland will naturally be excluded from its oversight.

It must be emphasised that the purpose of the debate is not to consider the content of the continuity Act or the powers of the ESS; rather, the amendments to reserved legislation that the order seeks to implement. The Scottish Parliament has already legislated to create the ESS, but consequential amendments are required to reserved legislation to give full effect to the ESS and allow it to carry out its functions.

I will now turn to the instrument itself and explain what it does. Its consequential purpose is twofold. First, it will make the ESS part of the Scottish Administration. This will provide for its designation as a non-ministerial office that is independent from Scottish Ministers but accountable to the Scottish Parliament. It also provides that the Crown Suits (Scotland) Act 1857 does not apply to the ESS, with the effect that the Lord Advocate cannot sue or be sued in place of the ESS. Secondly, it amends the House of Commons Disqualification Act 1975 by adding the ESS to the list of bodies whose members are disqualified from being Members of the House of Commons. This is required to ensure the independent basis of the body's work.

The Scottish Government are unable to make these amendments to reserved law, so, without the order and the small changes it makes to UK legislation, the Scottish Government could not confirm the ESS as a body of the Scottish Administration. It would also mean that members of the ESS could stand in the House of Commons, which would undermine its purpose as an independent body.

Your Lordships may wish to note that equivalent provisions for environmental governance in England are contained in the UK Government's Environment Bill. This Bill completed its Second Reading in this House yesterday, 7 June, and is now preparing for the Committee stage. Like the continuity Act, the Bill sets a new and ambitious domestic framework for environmental governance. The Government are aiming for the Environment Bill to have Royal Assent by the autumn.

This Bill will set up the office for environmental protection, which I will subsequently refer to as the OEP. The OEP is a similar organisation to the ESS and will hold the Government to account on their environmental commitments. Both the ESS and the OEP are still being set up. However, I can confirm that the ESS has been operating on a shadow, non-statutory basis since 1 January 2021. A transition team has been appointed to help to establish the ESS and to ensure that it is prepared to take on its statutory functions once vested. Similarly, work establishing the OEP is

[Viscount Younger of Leckie]
continuing at pace. From July 2021, the new interim office for environmental protection will be set up in non-statutory form to provide independent oversight of the Government's environmental progress and to build a strong foundation for the OEP delivering its full statutory functions.

There will naturally be scenarios where governance bodies in different parts of the UK will have to co-operate on issues where there is an overlap or joint exercise of reserved and devolved powers. As independent bodies, it will be for these bodies to determine how best to work on these issues. However, we can be sure that good communication and co-operation will be key, and it is expected that both bodies will collaborate to maintain environmental standards across the UK.

One example here is standards for waste disposal, for which guidance documents have been produced for similar, but separate, regulatory systems in Scotland and England. Should any concerns be raised to either the OEP or the ESS with respect to the application of the guidance, it would make sense to work together to address concerns. Another example is producer responsibility, a UK-wide regime where co-operation would be needed for the regulation of compliance schemes registered in one nation but operating across the UK. Indeed, through their respective legislation, each body will be required to consult other environmental governance bodies where a particular exercise of its functions may be relevant to the exercise of the other's.

In summary, this instrument facilitates the implementation of the ESS by adding the body to the Scottish Administration, and ensuring that its members are disqualified from becoming Members of the House of Commons. It demonstrates the commitment of the UK Government to strengthening the devolution settlement and the partnership working between the two Governments to deliver for Scotland. I commend the order to the House, and I beg to move.

2.29 pm

Baroness McIntosh of Pickering (Con): My Lords, I am pleased to have this opportunity to discuss the statutory instrument before us this afternoon. I thank my noble friend Lord Younger of Leckie for introducing it and for the brief conversation we had earlier in this regard.

I want to focus on some of the issues that my noble friend highlighted in his introduction: primarily, what the relationship will be between the ESS and the OEP, and what remedies will be at the disposal of each respectively. I should perhaps also declare that I am a non-practising member of the Faculty of Advocates.

With regard to the role of the ESS, I take the opportunity to explore and perhaps understand better what powers, and in particular what resources, will be available to the ESS and, more specifically, what the comparative remedies will be and whether they will be sufficient. My noble friend referred to the debate yesterday on Second Reading of the Environment Bill. We are tasking both these bodies with major jurisdiction and enforcing not just new targets that may be set under the Environment Bill but our existing international responsibilities.

I understand that each will have their role set out in their respective jurisdictions in implementing our current international commitments. I am thinking of the Berne convention, which looks at some of our international obligations in habitats and environmental protections, as well as the whole raft of retained EU law. In particular, what will cause great interest in the context of the Environment Bill is the EU habitats directive and the extent to which we may stray from what was originally intended and which in any event has been gold plated.

My further understanding is that the trade and co-operation agreement provides for a level playing field, which commits the UK—I therefore understand that the ESS will apply this in Scotland and the OEP will apply it in England—to maintain the broad common standards on environmental regulations to which we have agreed. I understand also that the trade and co-operation agreement, which we have concluded as part of our agreement with the EU, although that seems a long time ago now, includes a commitment for the EU and the UK to co-operate effectively in maintaining and enforcing the law on climate.

It is intended that regular meetings will be held between the EU and relevant supervisory bodies in the UK. I understand, if the *Scotsman* is correct, that the ESS has already undertaken almost a courtship with, or a reaching-out to, its EU counterparts in the EU Commission. Can my noble friend follow up in writing, if not today, on the extent to which that is the case and, if it is the case, whether it is intended that there will be separate overtures from the ESS representing Scotland in this regard and the OEP representing England in a similar regard? That would be very helpful to know.

It is not just the domestic issue of environmental enforcement to which I refer but our current and future international commitments, to which my noble friend referred in passing. That is the main thrust of my interest today, along with the degree of independence which the ESS will enjoy from the Scottish Administration and the OEP will enjoy from the English Administration. I understand that the order before us today says that the ESS will become part of the Scottish Administration. I have great difficulty understanding that expression if it is actually to operate independently. That is referred to in paragraph 2.1 of the Explanatory Memorandum. It would be helpful to understand the extent to which it is intended that the ESS will operate independently.

It is very clear in paragraphs 16 and 17 of the relevant schedule to the Environment Bill—I cannot remember which one it is—that the English Secretary of State will have regard to the independence of the Organisation for Environmental Protection. However, Clause 24 of the Bill clearly says that the Secretary of State will issue guidance, which it is expected the OEP will follow. That is highly regrettable, and I am tabling an amendment to explore that further in Committee, because it goes to the heart of independence that the OEP should be operationally independent. I hope my noble friend will be able to confirm that, perhaps in writing subsequent to this meeting. I certainly hope that he will be able to confirm this afternoon that it is expected that the ESS will operate independently of the Scottish Government.

Perhaps particularly vexatious are the remedies that will be available to each body. It does not seem to be set out in any great detail what the remedies would be, should there be what used to be called an infraction proceeding. In the Commission, you used to be able to refer this to the European Court of Justice, which would uphold any of the effective remedies—not just fines but demands to desist that could be laid down by the European Commission. Paragraph 6.3, on page 2 of the Explanatory Memorandum, simply tells us:

"ESS has the power to investigate whether a public authority is failing (or has failed) to comply with environmental law, as well as any question about the effectiveness of environmental law or whether it is (or has been) implemented or applied effectively."

This is obviously only a cursory reading. The EM goes on to say:

"ESS has the power to take appropriate action to secure a public authority's compliance with environmental law, and to secure improvement in the effectiveness of environmental law or how it is implemented or applied."

My concern in regard to that part of the statutory instrument before us today was reflected in the words of the noble Lord, Lord Anderson of Ipswich, in yesterday's proceedings on the Environment Bill. The OEP does not seem to be empowered to issue fines or any demands to desist. The noble Lord said:

"Of course, the OEP, resources permitting, can apply to a court for an environmental review, but that procedure is itself fatally limited for two interlocking reasons"—[*Official Report,* 7/6/21; col. 1231.]

which the noble Lord went on to highlight.

Say, for example, that there was a huge chemical spill and it was the fault of a chemicals company, or there was sewage in a major river. My main concern, having sat as an MEP for 10 years, is that we are stepping back from the powers that the European Commission had, and it was made very clear at the time we were leaving the European Union that we would have similar powers in UK legislation. So I would be grateful if my noble friend could point to the ESS's specific powers, and ideally also the OEP's.

I will conclude by saying that it is very good to have had the opportunity to discuss these issues. What is as yet unclear is how the relationship between the OEP and the ESS will unfold and who will have the responsibility for ensuring that the two co-operate and collaborate as intended under the instrument before us this afternoon.

2.48 pm

Lord Bruce of Bennachie (LD) [V]: My Lords, as the Minister said, this order is needed to enable Environmental Standards Scotland to become fully operational. As he also said, the board has been appointed, it has been meeting monthly since January, and it is laying the foundations for its work once it is vested later in the year. Of course, this order is necessary to enable it to be vested.

The objective is for it to be independent of the Scottish Government and transparent in its working. However, it is worth noting that its board members are appointed by Scottish Ministers, who also control its budget. So time will tell how effective its teeth as a watchdog will prove to be.

It is a matter for the Scottish Government how divergent environmental standards in Scotland will be from those in the EU or in the rest of the UK. However, the Scottish Government have stated their objective of staying close to the EU in pretty well every aspect. This is primarily to sustain the fantasy promoted by Scottish Government Ministers that there will be a quick and easy route back into the EU for an independent Scotland. Close—or even cursory—examination of the facts would suggest otherwise. Nevertheless, the fantasy is maintained.

In those circumstances, I would presume that Ministers would want minimal divergence from EU rules. The question is whether the ESS, an independent body, would be able to take a different view if it felt that it was in the interests of the Scottish environment. If England or other parts of the UK pursue different environmental standards over time—I accept that there is an agreement to try to maintain the same standards at the moment, but this could change—that too could present a tension that tested the independence and the powers of the ESS.

It is asserted in the Explanatory Memorandum that the ESS does not affect small businesses as it applies to public bodies, but might there be an indirect effect for businesses; for example, businesses supplying goods or services to public agencies that may be required to comply with environmental standards? Indeed, they should be required to comply with such standards, but it is difficult to see the case for saying that it has no impact on small businesses.

The Minister said specifically that reserved agencies were exempt from the ESS's jurisdiction. Are the UK Government relaxed about the direction the ESS may take as a fully devolved body? Will engagement on shared or common issues that may arise be pursued on a constructive basis of mutual respect and compromise? I speak as a member of the Common Frameworks Scrutiny Committee, which met this morning and had an extremely useful evidence session with the noble Lord, Lord Dunlop. One point that is being made is to try to create a climate of co-operation across the United Kingdom rather than one of megaphone confrontation. Of course, these new agencies will not be subject to common frameworks because they did not exist when that process was set in motion, but will the very useful principles being developed by common frameworks be applied to any divergence, difference of opinion or potential dispute between the emerging new agencies in different parts of the UK?

The Minister mentioned the UK internal market Act. Might that impinge on the work and operation of the ESS? Under the Act, would UK Ministers be able to overrule the ESS? Will the ESS be consulted on or informed of likely impacts on environmental standards during any trade negotiations? From utterances from Ministers and other government officials at this stage, the answer would appear to be no, their argument being that it is a reserved matter that devolved Administrations should not be part of, which the devolved Administrations of course strongly challenge.

If the UK Government negotiated a trade agreement that changed, for better or worse, environmental standards in England, would they be able to say that, under the terms of the trade agreement, those standards would

[Lord Bruce of Bennachie]
have to be accepted by the ESS, with the ESS therefore effectively finding itself independent of Scottish Ministers but subject to direct jurisdiction of UK Ministers? I would be grateful if the Minister could clarify whether that is likely to be the case. I hope the Minister will at least agree that any divergence of approach on environmental standards needs to be handled with extreme sensitivity.

In conclusion, does the statutory instrument effectively guarantee the independence of the ESS from Scottish Ministers, given that they appoint and control the budget, and does it have the same effect for UK Ministers? Clearly, that will be a matter of some concern in the future. We have operated under the umbrella of the European Union for more than 40 years. That has been the testing framework to ensure that tensions were minimised. There is no immediate desire to diverge from that, but, over time, there may well be differences and changes that could create tensions. One would like to think that there will be mechanisms and a will to ensure that those tensions are resolved. I must make it clear that that will needs to come both from the UK Government and from the devolved Administrations. I accept and understand the purpose of this order, but I hope that the Minister will in turn accept that it raises some pretty interesting questions which we would like to hear answers to.

2.55 pm

Lord Falconer of Thoroton (Lab) [V]: My Lords, I am grateful to the noble Viscount, Lord Younger, for his clear explanation of what this order does. We on these Benches broadly support the purpose of the order, which I understand to be to make Environmental Standards Scotland a part of the Scottish Administration as a non-ministerial office accountable to the Scottish Parliament. I echo the concerns of the noble Lord, Lord Bruce of Bennachie, and the questions asked by the noble Baroness, Lady McIntosh of Pickering.

I shall frame my concerns about the ESS, if I may call it that, under six headings. The first is independence. The noble Lord, Lord Bruce of Bennachie, made the point that all the board members are appointed by Ministers and the budget comes, in effect, from Holyrood Ministers. The independence of the ESS is important, because one of the major bodies it will be acting as a guardian of and watchdog over will be the Scottish Administration. Will the Minister explain how the independence of the ESS is to be ensured?

The second is the differences between the ESS and the OEP. We on this side of the House are concerned to see that environmental standards are kept up in Scotland and right across the United Kingdom. That will necessarily require co-operation between the ESS and the OEP. What steps are being taken to ensure that there is proper co-ordination between the activities of the two bodies and, separately, co-operation between the ESS and the enforcement of European Union standards?

The third is enforcement power. We on this side of the House are disappointed that in Holyrood the Tories and the SNP worked together to defeat a Labour amendment that would have empowered the ESS to take enforcement action on individual decisions. That would have provided continuity for the existing European Union arrangements under which anyone in Scotland could have raised a complaint if they thought that a decision taken by a public body contravened environmental law and could have expected action to be taken if that complaint turned out to be justified. If the ESS does not have the power to take that sort of action, how will complaints that public bodies are contravening environmental standards be enforced in the courts after the setting up of the ESS?

The fourth is the overall relationship between the devolved Parliaments and the United Kingdom Parliament. The noble Lord, Lord Bruce of Bennachie, referred to a megaphone relationship between the two. I agree. I noted that the Prime Minister of the United Kingdom indicated that there was going to be a summit which he invited the First Minister of Scotland, the First Minister of Wales and the First Minister of Northern Ireland to attend. That has now been postponed while there is haggling over the agenda. Will the Minister explain what has happened about that summit? Could he give us some indication of what steps the United Kingdom Government are taking to move on from a megaphone relationship to a proper relationship between the two?

My fifth point is a more technical question. Section 19 of the 2021 Scottish Act establishes Environmental Standards Scotland, the ESS. On what date is Section 19, and therefore this order, coming into force?

My sixth and final point echoes a point made by the noble Lord, Lord Bruce of Bennachie. What is the relationship between the internal market Act and the powers of the ESS? Can the UK Government in effect put a stop to an the ESS enforcement action, if they want to, with their powers under the internal market Act?

3 pm

Viscount Younger of Leckie (Con): I thank noble Lords for their valuable contributions to this short debate. Let me start by saying that I appreciate the broad support for this order from all concerned. Let me also say, particularly in relation to the six points made just now by the noble and learned Lord, Lord Falconer, that if I do not answer all the points today, I will most certainly study *Hansard* and write to him.

The Government are absolutely committed to working collaboratively with the Scottish Government to ensure a functioning settlement for Scotland, and I hope that this instrument and my remarks today demonstrate that commitment. However, important questions have been asked both recently and this afternoon, querying the relationship between the ESS, the OEP and other devolved environmental governance bodies. I hope that I can attempt to answer them.

My noble friend Lady McIntosh of Pickering asked how the ESS and the OEP will work together near the borders. I will answer that in a moment. She also asked about the funding aspect. Again, I have an answer for that.

Clearly, there was a mood in this debate—particularly from the noble Lord, Lord Bruce, the noble and learned Lord, Lord Falconer, and my noble friend Lady McIntosh—regarding independence. The Scottish Government have designed the ESS as they see fit,

which is consistent with the devolution settlement. Similarly, the UK Government have carefully designed the OEP for it to deliver its functions effectively in England and over reserved matters.

My noble friend Lady McIntosh asked about the ESS and its engagement. I can confirm for her that the ESS has already undertaken early engagement with the OEP and the UK Government. The trade and co-operation agreement—the so-called TCA—is a complex matter. I will need to write to my noble friend, as I think she expected.

My noble friend also asked about the powers of the OEP. As she might expect me to say, I realise that this matter was raised during yesterday's debate on the Environment Bill. I do not believe that this is the place to debate it, but I understand the gist of her question; I know that she will have time to debate it before too long during the upcoming Committee stage of the Environment Bill.

Moving on to the details of the ESS, my noble friend Lady McIntosh raised the matter of how the ESS deals with Scottish public authorities that breach environmental standards and environmental law. This is really more a question of remedies. Once the relevant provisions of the continuity Act have been commenced, the ESS will have a range of formal powers at its disposal to ensure that public authorities comply with environmental law, including powers to prepare compliance notices and improvement reports. I am aware that the organisation's principles state that it will seek to resolve issues through agreement, where possible, with recourse to its formal powers where the ESS considers it necessary to deliver the expected outcomes. The ESS has powers to issue compliance notices to public authorities where an authority is failing to comply with environmental law and that failure is causing, or has caused, environmental harm or a risk of such harm. The ESS will also have the power to report public authorities to the Court of Session where they fail, without reasonable excuse, to adhere to the compliance notice.

On the ESS and the OEP working together within a common or similar framework, I assure the Committee that, as both bodies are independent of Ministers, it would be inappropriate for a common framework to be agreed. However, environmental bodies across the UK will need to co-operate to ensure that shared environmental objectives continue to be achieved through effective delivery. Where devolved Ministers or public bodies are also responsible for delivery through devolved functions, it would be for the relevant governance body, such as the ESS in Scotland, to agree how to co-ordinate any subsequent action, depending on the specifics of the particular issue.

As I said earlier, the Scottish and UK Governments have started discussions on co-ordination in UK governance as part of wider discussions on the implementation of the trade and co-operation agreement. In particular, there will need to be agreement on how our arrangements will meet aspects of that agreement covering good regulatory practice and co-operation on effective performance.

To come to my noble friend Lady McIntosh's question about the ESS and the OEP working together on the border, as independent bodies it is for them to determine their approach to collaboration and co-operation. The legislation that establishes these bodies ensures clarity for parties when dealing with matters of mutual interest. The UK Government anticipate that this network of bodies will deliver effective governance across the UK.

In terms of matters European, which a couple of speakers raised, I was asked whether the ESS will look to apply policies to Scotland that are being developed in Europe. That is a key question. In exercising its functions, the ESS may keep under review developments in international environmental protection legislation to inform advice on whether changes should be made to Scottish environmental law. The power to make provision corresponding to EU law in devolved areas rests with the Scottish Parliament. Part 1 of the continuity Act gives Scottish Ministers the discretionary power to make regulations to achieve alignment with EU law where no specific powers are available.

Moving on to independence, which was raised, I may need to write more on this matter. Perhaps I may reiterate to my noble friend Lady McIntosh, and particularly to the noble Lord, Lord Bruce, and the noble and learned Lord, Lord Falconer, that the ESS, as a non-ministerial body, is accountable to the Scottish Parliament but has operational independence from both the Scottish Parliament and Government. The appointment of board members must be approved by the Scottish Parliament, and Scottish Ministers must seek parliamentary approval to remove members on the grounds of impairment or unsuitability. I feel that I may need to write further on a point raised by the noble and learned Lord on the appointment of board members. I hope that I have given some reassurance, but I may need to go slightly further.

I was asked how the ESS will be funded. The ESS will receive a budget allocation from the Scottish Government and will publish its own annual reports and accounts. Under the continuity Act, Scottish Ministers are required to ensure that the amount of resources allocated for use by the ESS is reasonably sufficient to enable it to perform its functions. In its annual report, the ESS must include an assessment of whether the resources allocated for its use in the financial year to which the report relates were sufficient to enable it to carry out its functions, so I hope that gives some reassurance.

The noble Lord, Lord Bruce, asked whether the OEP will be extended to Northern Ireland. I know that the answer is that it is very much for the Northern Ireland Assembly to decide whether to extend the OEP to cover Northern Ireland. If the OEP is to operate in Northern Ireland, it will clearly be beneficial to ensure that any gap between it becoming operational in England and Northern Ireland is minimised. I think he will know that DAERA and Defra officials are working closely with the chair-designate of the OEP to ensure that as much preparatory work as possible can be completed in advance of the Environment Bill receiving Royal Assent, thereby allowing the Northern Ireland Assembly to consider commencement at the earliest opportunity.

I believe that I have covered the majority of questions raised. However, other questions were raised, and judging by my notes I will need to read *Hansard* tomorrow.

[Viscount Younger of Leckie]
I think I shall have to write, as there are some questions that I still need to address, but I hope that has covered the bulk of it.

I conclude by saying that the UK's new approach to environmental governance, which we have discussed today in relation to this order, is testament to our leadership on environmental issues. I am very aware of COP 26, which is being hosted in Glasgow. I believe the ESS will make a valuable contribution to this cause. With that, I commend the order to the committee.

Motion agreed.

3.09 pm

Sitting suspended.

Arrangement of Business

Announcement

3.16 pm

The Deputy Chairman of Committees (Baroness Barker) (LD): My Lords, the hybrid Grand Committee will now resume. Some Members are here in person, others are participating remotely, but all will be treated equally. I ask Members in the Room to respect social distancing. If the capacity of the Room is exceeded, 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 this debate is one hour.

Justice and Security (Northern Ireland) Act 2007 (Extension of Duration of Non-jury Trial Provisions) Order 2021

Considered in Grand Committee

3.17 pm

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

That the Grand Committee do consider the Justice and Security (Northern Ireland) Act 2007 (Extension of Duration of Non-jury Trial Provisions) Order 2021.

Relevant document: 1st Report from the Secondary Legislation Scrutiny Committee

Viscount Younger of Leckie (Con): My Lords, I beg to move that the draft Justice and Security (Northern Ireland) Act 2007 (Extension of Duration of Non-jury Trial Provisions) Order 2021, which was laid before this House on 26 April 2021, be approved. Under this order, trials without a jury can take place in Northern Ireland for a further two years from 1 August 2021. The current provisions expire on 31 July. This is the seventh such extension of these provisions, but I hope to leave noble Lords in no doubt of the continued necessity of these provisions for another two years.

I will start by providing some background. The presence of violent terrorist and paramilitary groups, which continue to exert coercive control over the communities in which they operate, poses specific risks to Northern Ireland's criminal justice system. Regrettably, this makes the non-jury trial provisions necessary for a small number of exceptional cases.

We must recognise that the security situation in Northern Ireland remains unique and volatile. There is a small number of people who continue to try to destabilise the political settlement through acts of terrorism. Their activity causes harm to individuals and communities across Northern Ireland. Violent dissident republican terrorist groups continue to plan and carry out attacks against the police, prison officers and members of the Armed Forces. The threat from Northern Ireland-related terrorism remains at "severe" in Northern Ireland, meaning that an attack is highly likely.

I must also mention paramilitarism. Members of paramilitary groups are still lining their own pockets and using brutal violence, intimidation and fear to exert influence and control in their communities. They hold their own communities back, deterring investment and jobs and preventing people from moving forward with their lives. Statistics from the Northern Ireland Housing Executive indicate that 2,773 people have been driven out of their homes since 2014 due to paramilitary and sectarian intimidation. In addition, a report published by the Department of Justice, Northern Ireland, in 2019, found that 15.4% of respondents agreed that paramilitaries create fear and intimidation in their area. This kind of activity can never be justified.

Real fear and intimidation are caused by terrorists and paramilitary groups across and within communities in Northern Ireland. Where the defendant or the crime is suspected of being associated with a proscribed organisation, this fear and intimidation has the real potential to impact the administration of justice in two ways: either via a direct threat to jurors from members or supporters of that organisation, or via the perceived threat that the jurors feel in participating in such a case. Either could lead to a perverse verdict.

It is important to note that non-jury trial provisions are available only in exceptional circumstances in Northern Ireland, where a risk to the administration of justice is suspected by the Director of Public Prosecutions. This could, for example, be through jury tampering, whereby intimidation, violence or the threat of violence against members of a jury could result in a perverse conviction or acquittal. It could also be due to jury bias; there is the potential for jury bias as a result of the defendant's alleged association with a proscribed organisation, or if the offence being tried is in connection with religious or political hostility. Such cases are high profile and continue to provoke strong public opinion on both sides of the community in Northern Ireland.

Decisions for non-jury trials are made on a case-by-case basis, taking into account the circumstances of both the offence and the defendant. The Director of Public Prosecutions for Northern Ireland must suspect that one or more of four conditions is met. The conditions are specified in the Justice and Security (Northern Ireland) Act 2007 and relate to association with proscribed organisations or offences connected with religious or political hostility.

A case that falls within one of the four conditions will not automatically be tried without a jury. The DPP must also be satisfied that there is a risk that the administration of justice might be impaired if a jury trial were to be held. In Northern Ireland today, there

is a presumption of jury trial in all cases. In 2020, only 1% of all Crown Court cases in Northern Ireland were conducted without a jury. To reiterate, this is not like the old Diplock system. Non-jury trials are now the exception, and there is a presumption of jury trial in all cases before the Crown Court. This is in stark contrast to the old Diplock system where the default was a non-jury trial for certain offences. Non-jury trials are not Diplock courts.

I now touch on the public consultation. The Secretary of State held a full public consultation on whether or not the non-jury trial provisions should be extended. The consultation ran for 12 weeks and concluded in February this year. It received a total of 13 responses from interested stakeholders and organisations, many of whom have in-depth specialist knowledge of this issue. The contents of all consultation responses, whether in the majority or not, were considered in detail by the Secretary of State when reaching a decision. In addition to the consultation responses, the Secretary of State receives regular briefings on the security situation in Northern Ireland, and it was his knowledge in the round that informed the conclusion reached by him.

In light of all the evidence and views before him, the Secretary of State has decided to renew the non-jury trial provisions for a further two years and to keep them under regular independent review. This decision reflects the fact that the number of consultation responses that supported an extension of the provisions far outweighed those that opposed the extension. The ongoing review of non-jury trials has been included in the remit of the Independent Reviewer of the Justice and Security (Northern Ireland) Act 2007 since 2017.

As I said earlier, I am aware that this will be the seventh extension of the non-jury trial provisions under the 2007 Act and that these were designed to be temporary. However, I trust that noble Lords will agree that the safety of the people of Northern Ireland is paramount and that the administration of justice cannot risk impairment. The Government are, of course, committed to working strategically with security partners to tackle the threat from Northern Ireland-related terrorism and to support the Northern Ireland Executive's programme to tackle paramilitarism. However, we are not prepared to put individuals' safety or the administration of justice at risk and believe that further progress on the Northern Ireland security situation is required before we can be confident that these non-jury trial provisions are no longer required.

In order to work towards this, the Northern Ireland Office will establish a working group, as recommended by the Independent Reviewer of the Justice and Security (Northern Ireland) Act. The intention is that this group will identify practical measures that can reduce the number of non-jury trials and examine the indicators that would assist in determining when the provisions could be brought to an end. The working group will comprise a mixture of security, legal, academic and other independent bodies. The consultation responses were highly supportive of the formation of this group, with respondents expressing a clear wish to participate.

Over the past 10 years, non-jury trials have consistently accounted for less than 2% of all Crown Court cases. This figure reflects the small but consistent need for non-jury trials in Northern Ireland. In the light of all the evidence before him, the Secretary of State has decided to seek to renew non-jury trial provisions for a further two years and to continue to keep them under regular independent review. Noble Lords can rest assured that the Secretary of State has not taken this decision lightly.

I beg to move.

3.26 pm

Lord Browne of Belmont (DUP) [V]: My Lords, I thank the Minister for his clarity on this issue. I am pleased to support the order before us.

Young people in Northern Ireland now live in a different climate to that of their parents and grandparents. We still have some distance to travel, but it is important to acknowledge that good progress has been made to date. We have a responsibility to ensure that peace, stability and justice are protected and long lasting.

In relation to the matter before the Committee, David Seymour, the Independent Reviewer of the Justice and Security (Northern Ireland) Act, suggested in his annual report that

"the time has now come for a serious assessment of whether NJTs remain necessary."

I contend that the security and integrity of our justice system is paramount and must continue to be protected.

Today, there are only a small number of cases where a non-jury trial is necessary. In those very exceptional circumstances, it remains my view and the view of my party that the current provisions, although far from perfect, should continue to serve Northern Ireland as a necessary function in supporting the effective delivery of the criminal justice process.

Naturally, there is a certain reluctance to renew such exceptional provisions. I, too, wish that such measures were a thing of the past. Nobody wishes to have trials without a jury but, given Northern Ireland's exceptional security complexities and the spectre of threats of intimidation from dissident, paramilitary and other criminal elements, the renewal of non-jury trial provisions must be welcomed.

It is my hope that a day will come where measures such as those before us will be unnecessary. Regrettably, we are not quite at that stage yet. The onus is on all of us to continue to work together maturely to work out practical ways forward towards a more normalised society in Northern Ireland: that is, a society that no longer requires such measures. Hopefully, there will be even fewer non-jury trials in the next few years, making such legislation redundant.

I am pleased to support this legislation today.

3.29 pm

Lord Hay of Ballyore (DUP) [V]: My Lords, I speak in support of extending the measures before us. They certainly remain an important tool in specific circumstances to protect Northern Ireland's criminal justice system. I wish we were in a place in 2021 where specifically designed Northern Ireland-only provisions such as this were a thing of the past. But it is always worth saying that we have come a long way, even if we are not quite where we want to be yet in Northern Ireland.

[Lord Hay of Ballyore]
We have relative peace, our political institutions remain in place, and businesses and tourists from around the globe continue to see Northern Ireland as an attractive place both to do business and to visit as a tourist.

However, we still live in a divided society, with a lingering legacy and the huge, complex challenge before us all of the severe threat from terrorists and paramilitary activity in Northern Ireland. Non-jury trials need to continue in order to combat those who wish to use fear and intimidation to undermine Northern Ireland's peace, and indeed the criminal justice process itself. It is vital in Northern Ireland that we protect the justice system. The Minister alluded to the number of non-jury trials. They have accounted for less than 5% of all Crown cases in Northern Ireland over the past five years. Of course, we know the important role that the PPS plays in identifying cases for non-jury trials in Northern Ireland. I welcome the commitment from the Government to see an end to non-jury trials in Northern Ireland when it is safe to do so.

I support these measures at this time and, as the noble Lord, Lord Browne, indicated, it is my hope too that the day will come when such measures, and other similar measures, will not be necessary.

3.31 pm

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, I would like to take this opportunity to thank the Minister for his explanation of this order, the main purpose of which is to extend for a further two years the provision that certain offences in Northern Ireland can be tried without a jury. I note what the Minister said: that this is the seventh such extension. Like other noble Lords, I hope that, in the fullness of time, there will be no necessity for these non-jury trials, although they are small in number.

At the very outset of this debate, I will say that I have always been and will remain, along with my party, totally opposed to violence, terrorism, mayhem and murder in Northern Ireland. I totally repudiate those acts of violence and terrorism to pursue political ends. Nothing can replace political dialogue, discourse and democratic means of accountability. So it is important that the institutions—the Northern Ireland Assembly, the Executive, the North/South Ministerial Council and the British-Irish Council, along with other necessary means of discourse infrastructure such as the joint intergovernmental conference involving both the British and the Irish Governments—are sustained and underpinned, because political stability is the key here to our future stability as a region within the island of Ireland and within these islands. That is the key, and we all have a role in this, as politicians and members of the wider community, and as two Governments.

I have been opposed to the indiscriminate and unfair system of trials without a jury, going back to the days of the Diplock courts. I know that these are not Diplock courts, but they do breed a lack of confidence and trust in the judicial system. The Diplock courts system was associated with emergency legislation during a period of heightened paramilitary violence against the police, prison officers and the security forces. It also impacted on the wider community. However, I understand the reasons and the necessity for this legislation, particularly with the prevalence of dissidence, but I hope that this will be the last such extension and we can move to a totally normal society, because that is what the local population wants to see.

For me, the judicial system needs to be jury based at all levels. I realise that those involved in policing and justice issues will state that the threat from terrorism remains severe. There are threats from dissident republicans and loyalists, which have been heightened in the past few months because of opposition by some to the Northern Ireland protocol. There have also been attacks on security forces, but this should not mean that there is a need for a continuation of such non-jury trials into perpetuity.

I should also say that the days have long gone of the hegemony and domination by paramilitaries in communities. They should no longer be allowed to imperil communities. One message that I would give to them is: "So long, goodbye". We, as communities, have had to tolerate the existence of paramilitarism for far too long. It is 23 years since the Good Friday agreement, and it is time that they hung up their boots.

There is a need to ensure that we have a full judicial system that does not restrict the right of defendants to trial by jury of their peers, whether in the interests of administrative speed or for some other policing and political reasons. Maybe the Minister could advise us today on the future intentions of the Government and what discussions are taking place with the Minister for Justice in the Northern Ireland Executive to do just that.

I noted that the powers in the 2007 Act allowed the DPP to issue a certificate for a non-jury trial that is subject to renewal every two years, and that is what we are doing today. We are in a relatively peacetime situation. The Minister has indicated instances where this has been used, with a very small number in the past year. Given that, can he give us the assurance today that this will be the last extension? I noted that the Lords Secondary Legislation Scrutiny Committee stated:

> "Whilst acknowledging the reasons for trial without jury, we have concerns about their potential impact on trust in the judicial system and expect this option to be used only sparingly."

I have concern about the impact on the trust of the people in the judicial system. Issues to do with human rights compliance, fairness and the quality of justice come into play in this respect.

For my part, I do not rest easy with the contents of the legislation, as it does not lend itself to a fair and just judicial system. However, at the same time, I recognise their necessity. I hope that it is the last extension. The bottom line is that we want to see an end to paramilitarism, and to see the building up of a sound political system full of political and economic stability, giving hope to our population throughout Northern Ireland.

The Deputy Chairman of Committees (Baroness Barker) (LD): Before calling the next speaker, I remind the Grand Committee that, if there is a Division in the Chamber, we will adjourn this Committee for five minutes for a vote. That may very well happen in the next few minutes.

3.38 pm

Baroness Hoey (Non-Afl) [V]: My Lords, as the Minister and others have said, this is the seventh time that we are renewing these regulations—

The Deputy Chairman of Committees (Baroness Barker) (LD): The vote has been called, so we will move to the vote and, after five minutes, come back to the noble Baroness, Lady Hoey, for her full speech.

3.39 pm

Sitting suspended for a Division in the House.

3.54 pm

The Deputy Chairman of Committees (Baroness Barker) (LD): My Lords, the Divisions in the House have been deferred because of the technical problems and we will therefore resume our debate. I invite the noble Baroness, Lady Hoey, to begin her speech again.

Baroness Hoey (Non-Afl) [V]: My Lords, I repeat that this is the seventh time that we are renewing these regulations. I am very pleased that the Government say that they want to see an end to the use of non-jury trials when it is safe to do so and compatible with the interests of justice. Now is clearly not that time, so I support the renewal today, but I believe that this an opportunity to look at some of the conditions in the regulations. I welcome the Independent Reviewer David Seymour having said that

"the time has come for serious assessment"

of whether non-jury trials "remain necessary". I also welcome the working party that the Secretary of State has set up and would be interested to know whether the Minister has any idea of its timescale.

David Seymour's report also said that in marginal cases the DPP

"should consider not issuing a certificate"

but putting in more jury-protection measures. Is this also being considered?

As a non-lawyer I get the feeling that, sometimes, going for a non-jury trial could be seen as a softer option. We do need to look at some of these conditions. On one of the tests, the Director of Public Prosecutions can certify only if he suspects that any of the conditions prescribed in the subsection are met and if he also suspects that, because such conditions are met, there is a risk that the administration of justice might be impaired with a jury. However, the threshold for "suspicion" is low—suspicion is a lesser state of mind than belief. While suspicion might be entertained in good faith and is not therefore to be regarded as synonymous with a pretext, it surely follows that suspicion may be shown subsequently to be entirely unfounded; a suspicion must be capable of rational justification.

One of the conditions is that the defendant is, or is an associate of, a member of a proscribed organisation, or has at any time been a member of an organisation that was at that time proscribed. But Section 1(9) gives a very broad definition of an associate, which includes a friend. As we know, there are persons who have publicly renounced their own former terrorist feelings and affiliations, and some have a wide circle of friends—some, for example, have friends even here in Parliament. This could be construed as meaning that, if an MP or Peer is charged with an ordinary common-law offence such as misconduct in public office, and is, or has been, a friend of Mr Y, who is a former and now repentant member of a terrorist group, the MP or Peer will satisfy the condition in the Act.

The regulation also explains that religious or political hostility can be based, to any extent, on a supposed religious belief or political opinion. Suppose, for example, two members of the same party in Northern Ireland disagree, perhaps on abortion, and get very angry and one punches the other and causes a severe injury to his jaw. He will be charged with inflicting grievous bodily harm with intent. Now Mr A, the person who has caused the grievous bodily harm, will satisfy the condition in Section 1(6). It is surely absurd that the funnel for non-jury trials should be so wide as to permit so many persons to potentially satisfy the enabling set of conditions in Section 1(2). So I believe that these conditions must become more tightly drawn; that is something that the working party and others must look at over the next two years.

The test in Section 1(2)(b) is also too low. The DPP has only to be satisfied of a possible risk to the administration of justice. Surely, at the very least, this test should require a likelihood that the administration of justice would be impaired. Does the Minister not think that it would be a good idea to require the director to satisfy a High Court judge unconnected with the trial that the test was properly met? This would arguably enable the protection provided by Section 7 of the 2007 Act to be revoked, as the decision of the director would have been validated by a High Court judge.

Although this is about security and threats to jurors, it must also be about the public interest, which must always be about the transparency of the law and our justice system. Non-jury trials must never be used, particularly in cases of corruption. I worry slightly about the word "exceptional" because it does not always seem that the trials are being used in what I would class as exceptional cases.

A worrying example is the National Asset Management Agency, a body created by the Government of Ireland in 2009 in response to the Irish financial crisis and the property bubble bursting. Corruption has been alleged in the scheme, and some people have been charged with fraud. One of the young activists in Northern Ireland, whom the High Court in Northern Ireland has described as a journalist, gave evidence to a statutory scrutiny committee investigating political corruption. He has now been charged with conspiracy to commit misconduct in public office. Out of the blue, a non-jury certificate has been issued in this case.

To me, non-jury trials should be for where terrorism is involved and there is clearly a threat to individuals. I believe that this has been an overreaction by the DPP and a gross overinterpretation of the regulations. So all I am really saying is: let us use the next two years to look at this much more carefully and make sure that we are not back in another two years, simply renewing the same regulations, without realising that maybe, just sometimes, they are being abused.

4.02 pm

Lord Marks of Henley-on-Thames (LD): My Lords, our commitment to trial by jury has never been in doubt. In the United Kingdom, jury trial has always been rightly seen as a cornerstone of citizens' involvement in democracy. The derogation for jury trial in Northern Ireland therefore has to be justified as a necessary and temporary emergency measure.

The question that this House is considering today is whether the case has been made for a two-year extension—for the seventh time, as we have heard—of the exceptional system that permits non-jury trials on indictment in Northern Ireland under the Justice and Security (Northern Ireland) Act 2007 if the statutory conditions, which are stringent, are met.

We reluctantly accept that the case has been made for this extension, but we have heard it stressed that non-jury trials take place in only a very limited number of cases and in exceptional circumstances. In 2019, there were only 14 non-jury trials in the Crown Court, out of a total of nearly 1,300.

However, sadly, as has been recognised by all who have spoken, violence in Northern Ireland continues. In 2020, there were 13 casualties as a result of paramilitary-style shootings and 42 casualties of such assaults. In April of this year, there were a number of violent incidents aimed at members of the Northern Ireland police service, including that near Dungiven, where an explosive device was left at an officer's home.

We are therefore forced to the conclusion that, although we would prefer criminal offences to be tried and proved before juries without exception, there is a continuing danger of violence associated with paramilitary groups, which carries with it the risk of jury intimidation. The intimidation with which we are concerned is not just the intimidation of individual jurors but sometimes involves whole sections of communities being put in fear, so that jury selection, the trial process, the taking of evidence, jury deliberations and jury decision-making are all put at risk in extreme cases.

However, there are two important sets of safeguards—one specific and one more general. Specifically, the 2007 Act gives the DPP a discretionary power to certify for a non-jury trial only if he suspects that one of four conditions is met, relating to the offender or the offence, which establishes a link to a proscribed organisation or religious or political hostility as a motivating factor.

Secondly, the DPP must consider that there is a risk that the administration of justice might be impaired if there were a jury trial. I interpose that the noble Baroness, Lady Hoey, is right to say that suspicion is not itself a high threshold, even though such suspicion has to be rationally held.

The more general safeguard arises from the involvement of the independent reviewer of the 2007 Act, a post held by David Seymour. In his annual reports, the independent reviewer keeps under review the issue of non-jury trials. In his 10th report, published in 2018, Mr Seymour reported that the existing arrangements were working reasonably well; he did not suggest any changes to the legislation. Prior to the publication of his 13th report in April of this year, the Northern Ireland Office, as we have heard, held a public consultation on a further extension of the provision for exceptional non-jury trials. The majority of respondents were in favour of such an extension, expressing concerns for continued paramilitary activity, including forcing people from their homes—a horrible kind of violence, mentioned by the noble Viscount in opening—a continued risk of jury tampering and possible jury bias. Nevertheless, most respondents wanted to see a return to universal jury trials as soon as the removal of non-jury trials could be safely achieved without risk to the interests of justice.

In his 13th report, the independent reviewer said that the time for a serious assessment of whether non-jury trials should continue had arrived. He expressed the view that there appeared

"to have been no meaningful dialogue … in recent years"

on this issue and said that

"after 14 years, a robust examination of the need for these provisions is now required."

Along with Jonathan Hall QC, the UK Independent Reviewer of Terrorist Legislation, we agree with that recommendation.

As the noble Viscount said, the Northern Ireland Office has now announced that it will establish a multidisciplinary working group to identify practical measures to reduce the number of non-jury trials, while leaving the provisions of the 2007 Act in place. That is very welcome. However, we profoundly hope that we will soon find a way of bringing an end to non-jury trials in Northern Ireland.

To that end, can the Minister provide more detail to Parliament about the remit of the working party? What questions will be asked and how wide-ranging will the permitted inquiry be? Will it be possible for it to recommend an end to the provisions? I join the noble Baroness, Lady Hoey, in asking: what will be the timescale for this working party's work? When will the working party be selected and what will be the criteria for selecting members? What powers will it have in relation to evidence gathering and when will it report? Can the Minister also commit to publishing its recommendations as soon as they are ready, along with the government response? We urgently need to reach a safe but just solution to this issue.

4.08 pm

Lord Murphy of Torfaen (Lab) [V]: My Lords, the noble Lord, Lord Hay, mentioned in his contribution that the world has changed a lot in Northern Ireland with regard to this matter over the past 20-odd years. Certainly, my memory of when I started as a junior opposition spokesman on Northern Ireland 26 years ago is that it was a different world with regard to how juries were intimidated—and, of course, how judges, both Catholic and Protestant, were assassinated. The criminal justice system was hugely compromised by the Troubles and all that went with them.

Of course, that was exacerbated by the fact that Northern Ireland is a small place. Although it could be argued that juries can be intimidated in London and other great cities in Great Britain, it is not quite the same because of the small size of Northern Ireland and the fact that people know each other in a very

special way. So we understand the reason for it, but the world has changed. As the Labour Opposition, we reluctantly support the extension but agree with the Minister that only a tiny number of cases are now dealt with in this way—I think he said it was currently 2% of criminal cases. In 2017, for example, out of 1,640 criminal cases, only nine were non-jury ones. However, that is still nine too many in a liberal democracy.

I welcome the Government's review of this, as other members of the Committee have, and the setting up of a working party. Yes, we would like to know its terms—who goes on it and when it will report, and so on—but the idea of a working party to look at when this will end is excellent. I would particularly like the Minister to take up the important issues referred to by the noble Baroness, Lady Hoey.

I will make another couple of points before I conclude. First, this measure comes against a background of a backlog of thousands of criminal cases in Northern Ireland which have not been heard yet, particularly because of Covid. That has an impact on the need to deal not just with those who perpetrated the crimes but with the victims. We do not want the victims to fall out of any criminal justice system because of that backlog. Perhaps the Minister could say a few words about how the Government propose to deal with that.

Finally, this is about security. We do not have the paramilitary threats that we used to have, but there is a paramilitary threat—linked most of the time to criminality—right across Northern Ireland. Although it is not huge, a number of Members of the Committee have indicated that political instability can lead to security problems, and there is no doubt that things are unsettled in Northern Ireland at the moment. The DUP is currently in crisis because of what happened to the First Minister. Clearly the unionist community is unsettled by the Northern Ireland protocol. Let us remember that the Good Friday agreement was there to satisfy both nationalists and unionists, so these things have to be addressed. We are almost in the marching season, and there could be difficulties unless we try to address that political instability.

I say for the umpteenth time that the noble Lord, Lord Frost, and the Government should now concentrate on engagement with the European Union—which itself should stop talking about legal writs and start talking. The Government should pay less attention to articles in newspapers and more to proper diplomacy and negotiation, and try to resolve at least the most difficult issues surrounding the protocol so that at least there is an attempt to engage Northern Ireland political leaders, the Irish Government and the European Union in ensuring that things settle down. If there is not a settlement politically, there will still be insecurity, and if there is still insecurity, because there are still nasty people about, there will still be a need for non-jury trials. Hopefully that will not happen, but let us hear what the Minister has to say in response.

4.13 pm

Viscount Younger of Leckie (Con): I start by thanking all noble Lords who have contributed to this short debate. I appreciate the support that has come from all quarters, starting with the noble Lords, Lord Browne of Belmont and Lord Hay, and the noble Baronesses, Lady Ritchie and Lady Hoey. I also thank the noble Lord, Lord Marks, for his support—although I noted that he made the point that it was with some reluctance that he supported the case in this order for a two-year extension.

As I said at the outset, this is an exceptional system—as the noble Lord, Lord Browne, mentioned too—used in only very limited circumstances. There is rightly a presumption for jury trial in all cases. As I have already said, non-jury trials account for less than 2% of all Crown Court cases in Northern Ireland.

The threat from terrorism in Northern Ireland remains severe—the noble Lord, Lord Hay, spoke eloquently about this, as did the noble Baroness, Lady Ritchie—and it has been at the same level for more than 10 years. However, the Government remain committed to tackling the threat from Northern Ireland-related terrorism and to supporting the Northern Ireland Executive's programme to tackle paramilitarism. But we believe that further progress on the security situation is required before we can be confident that these non-jury trial provisions are no longer required. As I said earlier, I think that here I am echoing the views from this debate.

I thank the noble Baroness, Lady Ritchie, for her eloquent views on this matter. She is right that the way forward in Northern Ireland is strong political dialogue and discourse to provide political stability. That is so necessary, and I know that she is working very hard on that, as are many others involved in politics in Northern Ireland.

Having listened to this debate, I shall focus my remarks on the working group. I hope that I will be able to answer questions on it, as I think it is an open door for the way forward. Before I start, I want to pick up on something that the noble Lord, Lord Marks, said. He was right that there were 13 responses to the consultation, down by two on the previous occasion in 2019, and the vast majority were in favour of what the Government have decided to do. It is right to point out that the Bar of Northern Ireland was not wholly in favour and produced some points—which I shall not go through today—but David Mulholland, who produced the response, said he was supportive of the working group, would welcome dialogue with stakeholders and would like clarification from the Northern Ireland Office on the timeframe. I shall give a short response on that in a moment.

As I have said, the UK Government continue to be committed to bringing an end to these provisions. As indicated by the majority of consultation responses, the time is not right for this now. However, the working group will assist in pursuing this aim. Following this consultation, the Secretary of State decided, as we know, that a working group should be convened to identify practical measures that could be taken to reduce the number of non-jury trials. During the renewal debate in 2019, noble Lords asked what criteria the Government would use to determine when the non-jury trial provisions were no longer needed, so the working group will also examine what indicators would assist in determining when it would be safe and compatible with the interests of justice to allow the provisions to expire.

[Viscount Younger of Leckie]

The noble Baroness, Lady Ritchie, asked about future intentions in working with the Justice Minister. I hope I can reassure her that the Northern Ireland Department of Justice will be invited to participate in the working group. She also expressed concerns about fair trial. I will allude that in a moment. As the noble Baroness said, the seventh extension is here. However, we hope that it will be the last, and I want to say a little more about that.

The provisions were designed to be temporary and the Government remain fully committed to bringing them to an end when it is safe to do so and when it is compatible with the interests of justice. In order to work towards this, the Northern Ireland Office will establish a working group. The intention is that this group will identify practical measures that can reduce the number of non-jury trials. The responses to the consultation were highly supportive of the formation of this group.

The noble Baronesses, Lady Ritchie and Lady Hoey, and the noble Lord, Lord Marks, asked about a date. None of us wants to see the system in place for longer than is needed, but much depends on the security situation. The Government will keep the provisions under constant review. We introduced a further safeguard in 2017 requesting that the then independent reviewer of the JSA, David Seymour, review non-jury trials in his annual work. As was mentioned by other speakers in this debate, the new independent reviewer of the JSA, Marie Breen-Smyth, will keep the annual review of non-jury trial provisions in her remit.

Whether non-jury trials are fair was raised by the noble Baroness, Lady Ritchie. We believe they are. The European Court of Human Rights guarantees fair trial; it does not guarantee jury trial. Every defendant facing a criminal charge is entitled to a fair trial. This principle remains where the trial is by judge alone. All defendants who are convicted of a crime have the right to seek an appeal. Under this system, only the mode of trial is changed. Non-jury trials deliver an equivalent quality of justice to jury trials. Where there is a risk of paramilitary or community-based pressures on a jury, they could actually be fairer.

The noble Baroness, Lady Hoey, and the noble Lord, Lord Murphy, asked further questions about the working group. On the timescale, again, if the Motion passes through both Houses, the NIO will write to the proposed membership to convene the first meeting of the working group as soon as possible—hopefully this summer.

I want to clarify the term "associate". The DPP is independent and makes a decision on meeting one of the conditions and on the suspicion of a risk to the administration of justice.

The noble Baroness, Lady Hoey, asked whether a judge can help with decisions and why a judge cannot decide whether a non-jury trial is needed. If a judicial process were adopted, it would take longer for decisions on the non-jury trial to be reached, delaying the administration of justice. We believe that the DPP is in the best position to make the assessment of risk that the decision will require. The decision is similar to that on whether to prosecute. The DPP already makes decisions about mode of trial in Northern Ireland—that is, whether certain offences should be tried before a jury in the Crown Court or without a jury in the magistrates' court.

The noble Baroness also asked about the decision to issue a non-jury trial certificate. Perhaps I can reassure her by saying that a non-jury trial is possible only when the DPP issues a certificate for a specific case in relation to a trial on indictment, as tried in the Crown Court. As I said earlier, decisions for non-jury trials are made on a case-by-case basis, taking into account the circumstances of both the offence and the defendant. Further, the decision for issuing a certificate is based on a two-stage test set out in Section 1(2) of the JSA. The DPP must, first, suspect that one or more of the four conditions is met and, secondly, be

"satisfied that … there is a risk that the administration of justice might be impaired if the trial were to be conducted with a jury".

The noble Baroness, Lady Hoey, asked about a particular case. She will know that I cannot comment on any particular case, I am afraid. She also made points about transparency. Again, let me provide some reassurance. Since the provisions have been in place, the DPP has shown that he applies the statutory test stringently. Statistics provided by the PPS show that the DPP regularly rejects applications for non-jury trial certificates, evidencing the thorough consideration given before a certificate is granted. We can be confident that only exceptional cases are certified for non-jury trials.

I realise that time is running out. I conclude by thanking all noble Lords again for contributing to this short debate. I will of course study *Hansard* with my usual scrutiny, and will be pleased to write to noble Lords where I have not managed to answer any questions.

Motion agreed.

The Deputy Chairman of Committees (Lord McNicol of West Kilbride) (Lab): My Lords, the Grand Committee stands adjourned until 4.27 pm, when we will move on to the next item of business. I remind Members to sanitise their desks and chairs.

4.23 pm

Sitting suspended.

Arrangement of Business

Announcement

4.28 pm

The Deputy Chairman of Committees (Lord McNicol of West Kilbride) (Lab): My Lords, the hybrid Grand Committee will now resume. All Members will be treated equally. I ask Members in the Room to respect social distancing. If there is a Division in the House, the Committee will be adjourned for five minutes. The time allocated for the following debate is one hour.

Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2021

Considered in Grand Committee

4.28 pm

Moved by ***Lord Callanan***

That the Grand Committee do consider the Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2021.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, I beg to move that these regulations, which were laid before the House on 21 April 2021, be approved. I will refer to them as the fees regulations.

As the environmental regulator of the offshore oil and gas industry, which I shall refer to as the offshore industry, BEIS's Offshore Petroleum Regulator for Environment and Decommissioning, OPRED, recoups the cost of its regulatory functions from the industry, rather than the taxpayer footing the bill. OPRED's role is to minimise the impact of the offshore industry on the environment by, for example, controlling air emissions and discharges to sea and minimising disturbance over the lifecycle of operations, from seismic surveys through to post-decommissioning monitoring. Regulatory activities for which OPRED can recover costs are covered in two ways: within a suite of regulations that are covered by the fees regulations and by four fees schemes that are not, because they do not require legislative change and will be amended administratively.

OPRED's annual fees income is on average £6.2 million, which is recovered from around 130 companies. These are billed quarterly. OPRED recovers its costs via fees based on hourly rates. The fees regulations will increase the hourly rates used to calculate fees payable by the offshore industry. The fees relate to the provision of regulatory functions for the environmental management of offshore operations. Currently, the fees that OPRED charges for providing its regulatory services are based on hourly rates of £190 for environmental specialists and £101 for non-specialists. Environmental specialists are qualified technical staff who carry out the legislative functions of the Secretary of State and non-specialists are administrative staff who support them.

The current hourly rates have been in place since April 2020. OPRED has reviewed the cost base and concluded that the existing hourly rates need to be increased to fully recover the costs of providing specific regulatory services. The fees regulations will therefore amend the charging provisions by increasing the hourly rates for environmental specialists and non-specialists to £197 and £108 respectively. As the increases relate to cost recovery, they do not represent monetary changes linked to inflation.

OPRED's fees are determined by adding together the recorded number of hours worked by environmental specialists and non-specialists on cost-recoverable activities, multiplied by the hourly rates. The new hourly rates were approved by Her Majesty's Treasury in November last year. They were calculated in line with the Treasury's *Managing Public Money* guidance and cover the expenditure on all resources used by OPRED to support cost-recoverable activities: for example, staff salaries, accommodation, IT and office services and corporate services such as human resources, senior management, legal, finance and learning and development.

Guidance on OPRED's fee-charging regimes is published and clearly explains the scope of the cost-recoverable functions undertaken by OPRED and how the costs are to be calculated and recovered. The cost-recoverable functions undertaken by OPRED include: the evaluation of applications and issuing of consents for seismic surveys and the conducting of appropriate assessments on the likely significant environmental effects of proposed projects; assessing and approving operators' oil pollution emergency plans; and compliance monitoring activities, including offshore environmental inspections.

The revised fees to be paid will increase by a small amount, sufficient only to allow OPRED to recover its eligible costs. In this regard, the additional total cost resulting from the increase in hourly rates will be around £300,000 per year. OPRED's guidance on its fees-charging regime will be revised to reflect the new hourly rates. Those charged by OPRED are aware that it reviews its hourly rates annually and, although there was no statutory requirement to consult on the fees regulations, in February OPRED informed the offshore industry of the planned increase to the hourly rates. No representations were received.

I conclude by emphasising the importance of the increase to the hourly rates being introduced by the fees regulations. The increase will enable OPRED to recover the costs of providing regulatory services from those who benefit from them, instead of those costs being passed on to the taxpayer. The fees regulations were debated and approved by the House of Commons on 26 May. I therefore hope that noble Lords will support the measure and I commend the regulations to the Committee.

4.33 pm

Lord Bourne of Aberystwyth (Con) [V]: My Lords, I thank my noble friend the Minister for setting out so clearly the background to these regulations and their effect, as he always does. I support the regulations, which represent the annual review of the hourly rates used to determine the fees payable by the offshore oil and gas industry to BEIS's Offshore Petroleum Regulator for Environment and Decommissioning, for activities engaged in by OPRED in relation to environmental management of the offshore hydrocarbons industry. These activities include the conservation of habitats and species, as well as matters relating to the storage of gases and some of the seismic changes on the continental shelf. As the Minister rightly said, the last review of fees was conducted in April 2020 and the industry, when asked about the increases, had no comment to offer.

The regulations appear reasonable and unexceptional, but I would like to explore with my noble friend the Minister the current position on carbon capture and storage. It has long been recognised that carbon capture and storage can play a key role in economic terms for the United Kingdom and, crucially, in achieving net zero. Indeed, its deployment could lead to the UK offshore oil and gas sector actually becoming carbon negative.

[Lord Bourne of Aberystwyth]

The Government committed to CCS deployment at scale happening during the 2030s, subject to the costs coming down. For that to happen, clearly there needs to be commissioning from the fast approaching mid-2020s. We have massive potential for this as the United Kingdom's continental shelf, because of oil and gas drilling, is absolutely the area to develop it in. Of course, we have staff and personnel who could be deployed from the UK oil and gas industry to help with speedy deployment of CCS—staff who have the relevant expertise. I would be most grateful if my noble friend could update the Committee on progress in that area.

I recall the noble Lord, Lord Oxburgh, who of course has massive knowledge and expertise in this area from his commitment to it and his time in the energy industry, doing a brief report for the Government on this area when Amber Rudd was Secretary of State. The only downside then apparent was the cost; that was some five to six years ago, and I believe that the cost may now have come down and that the attitude of government to the cost may have changed, in any event—along, indeed, with the attitude of the world. Perhaps governmental and world attitudes have changed, as they need to, as we approach the time when action is absolutely vital. We need to do this at speed and at scale, looking at experience elsewhere: in the United States, Canada and, I think, in Australia. Can my noble friend give some update on progress in this area, ahead of the important COP 26 in Glasgow and the fast-approaching need for immediate action?

4.37 pm

Baroness Jones of Moulsecoomb (GP): My Lords, this looks like a fairly simple instrument, and I congratulate the Minister on laying it out with what appeared to be great transparency—so I thank him for that. We seem to be looking at some incredibly paltry rises in administration fees to deliver a government service to the oil and gas industries at cost price. Why are we selling at cost price? I do not understand. This is a subsidy for a government service, and yet another example of the oil and gas industries being massively undercharged, in spite of their negative impact on the environment and highly polluting practices.

I salute the noble Lord, Lord Bourne, too, for his enthusiasm and optimism about carbon capture and storage. He is absolutely right that it would be a fantastic thing if we had it, and action is vital now—but we do not have it. So why not take another route, which is to make the oil and gas industries pay their fair share, not only of what we allow them to have but for the pollution that they cause? I can well imagine that no representations were received from the industry. If my fees were being increased from £190 to £197 I would probably not complain either, because the increase is negligible. Why are the Government doing this? Quite honestly, I think that this is a ridiculous SI. What we should have in front of us is something that actually reflects what is happening in the world in terms of the climate crisis.

I have a question here that I would like an answer to. Can the Minister outline what changes the Government will seek at COP 26 to make sure that fossil fuel companies stop getting a free ride, so that their financial costs reflect their true environmental and social costs? We heard an Oral Question today about a government guidance document, *Aligning UK International Support for the Clean Energy Transition*. We have some cheek talking about this sort of thing and proselytising about it when we are actually subsidising polluting oil and gas industries. What I would very much like to know is: how on earth are this Government ever going to live up to the sort of standards that we expect to see from a responsible Government?

4.40 pm

Baroness Altmann (Con) [V]: My Lords, I thank my noble friend the Minister for his clear explanation of this SI, which, on the face of it, seems pretty uncontroversial. Given that his department is responsible for the environmental regulator—OPRED—and aims to recoup the costs of its regulatory activity from the industry rather than from taxpayers, which I wholly support, it seems as if the increases in cost that we are being asked to approve today fit with that aim.

Protecting the environment and controlling our emissions and discharges into the sea are hugely important for the future of the planet, the future of our country, the future of our children and future generations. However, I wonder whether I could follow on from the noble Baroness, Lady Jones, and ask one or two questions about the rationale for the pricing structure that is being applied to what are, in effect, qualified technical specialists in environmental matters. Rather low fee rates seem to be being applied here. Even with the increases, we are talking about something like £1,400 a day. Daily rates for lawyers or specialist consultants are more like double that, or even more. Even for the non-specialists, we are talking about perhaps £700 to £750 a day.

I understand that we do not want to destroy or damage an industry that literally keeps the lights on in our country, but I want to ask my noble friend the Minister something particular; I do not expect him to have the answer to hand, but I would be grateful if he could write to me. To what extent are the employees—I assume they are public employees—who are doing this very important work members of public sector pension schemes? Have the true costs to the taxpayer of those pension contributions and ultimate pension payments been factored in to the costs being charged to these oil and gas companies?

Clearly, we must control air and sea pollution. The industry itself has accepted this regime. Again, I understand that the department may not wish to rock the boat—if noble Lords will excuse the expression—but it is important that taxpayers do not subsidise the cost of regulation for this industry in any way. In the current environment, the costs of a public sector pension scheme are more like 40% to 50% of salary on top of actual earnings. I would be interested to know whether this has been reflected in the new charges or the old charges.

I have one final question. I believe that the Government are doing marvellous work, and I commend my noble friend the Minister, his department and Defra for what they are aiming to do to control environmental damage. However, it is important, and I would be grateful if my noble friend could give the Committee

some idea of the measures being taken to encourage the offshore oil and gas industry to rapidly diversify away from fossil fuels, abandon new developments because there is risk of stranded assets down the line and invest in alternative energies, such as offshore wind and solar power. That could replace some of the activity and jobs that are otherwise potentially at risk in areas that have become so dependent on our very successful oil and gas industry.

I support the measures but have some further questions and concerns, and I would be grateful to hear my noble friend's response.

4.45 pm

Baroness McIntosh of Pickering (Con): I am delighted to welcome the regulations before us this afternoon—certainly as far as they go. I thank my noble friend for his clear introduction to them.

My concern follows directly from the plea of my noble friend Lady Altmann to look more to offshore wind farms—that is what concerns me. Paragraph 13.2, on page 6 of the Explanatory Memorandum, says:

> "It is crucial that all businesses operating offshore, regardless of size, are subject to the same regulatory regime to ensure that they continue to provide a high level of protection for the marine environment."

If my understanding is correct and the regulations before us this afternoon refer only to the offshore hydrocarbons industry, which regulations from his department, which I understand will be the regulatory authority, actually apply to offshore wind farms?

I mention this because we did a piece of work before the EU Sub-Committee was disbanded at the end of the period of its supervisory authority. I quote what one of the witnesses said about how we mitigate the offshore wind pollution of our shores:

> "It is fair to say that offshore wind is still a very new sector. It has been around for only the last 10 years. It has, throughout that period, innovated and continues to do so. It is probably fair to say that the focus for that has been more on construction impacts, and potentially pre-construction impacts, and less on the overall operation. Moving forward, we need to bring together the cumulative and ongoing impacts from servicing of the wind farms, for example, and the additional disturbance from vessels that are regularly attending."

It concerns me that we are seeing a 10-gigawatt increase in one year alone—so we are literally upping the renewable source of offshore wind farms. Yet it is staggering to think that, as I understand it, no research at all has been done into the effects of not just, as the lady witness said, the construction phase and the ships going out to deliver materials but the operational phase and, for the purposes of these regulations, decommissioning. I presume that each wind turbine will have a life of some 10 or 15 years. This urbanisation of the sea, as the witnesses in that hearing called it, has specific ecological impacts on the maritime environment.

If my further understanding is correct, the maritime environment and marine ecology are not included in the Environment Bill, so we have two omissions: no research on the ecological and environmental impacts, in terms of not just noise but disruption to marine life. We have to ask ourselves: why are dolphins, porpoises and whales beaching in increasing numbers on our shores? I would like to think that it is not because of offshore wind farms, but we honestly do not know. I take this opportunity to ask why hydrocarbons, a very important part of the economy, have been singled out for this particular type of regulation? Which regulation covers offshore wind farms? Is there a similar regulation to what is before us this afternoon in relation to the recovery of the charges?

So how do offshore wind farms relate to the comparative structure and fee structure in the regulations before us relating to hydrocarbons? Also, mindful that there will be a rising degree—10 gigawatts in one year—of noise pollution in both the construction and operational phases, will my noble friend put my mind at rest that some research has been done over the period and that the regulatory regime is akin to that before us this afternoon?

With those concerns, I endorse the regulations before us. I am absolutely concerned that any regulatory regime should apply to all protections for the marine environment, whether in relation to hydrocarbons or to offshore wind farms.

4.50 pm

Lord Bhatia (Non-Afl) [V]: My Lords, this SI has been prepared by BEIS, which explains that its purpose is to increase the hourly rates used to determine the fees payable by the offshore oil and gas industry and the Oil and Gas Authority to BEIS's Offshore Petroleum Regulator for Environment and Decommissioning—OPRED—for certain activities undertaken by OPRED in relation to the environmental management of the offshore hydrocarbons industry.

We are told that the instrument is subject to the affirmative resolution procedure. It contains enabling powers that are both negative and affirmative. The European Union (Withdrawal) Act 2018 makes provision for the affirmative procedure to take precedence over the negative procedure where there is a combination of instruments. To enable OPRED's new hourly rates to be introduced from 1 July 2021, the instrument will enter into force on the day after it is made, which will be beyond the common commencement date of 6 April 2021.

As the Explanatory Memorandum says, the increases in eligible costs to be charged to the offshore hydrocarbons industry and the Oil and Gas Authority were identified following a review of the cost base for the current OPRED fee schemes. The increases, which will allow OPRED to recoup the costs for the provision of regulatory services, are not alterations to reflect changes in the value of money. The territorial extent of this instrument is the United Kingdom.

I support this SI and particularly support what the noble Baroness, Lady Altmann, said about bringing in wind and solar energy procedures to replace those for the current sources of energy.

4.53 pm

Lord Oates (LD): My Lords, I thank the Minister for introducing this statutory instrument with his customary clarity. My starting point is a certain scepticism about this SI similar to that expressed by the noble Baroness, Lady Jones of Moulsecoomb. Personally, I think the SI should be unnecessary, because the industry

[Lord Oates]
should be paying all the costs of the Offshore Petroleum Regulator for Environment and Decommissioning. If it were not for the activity of the industry, that regulator would not need to exist, and given the profits which the companies concerned have made over the years it is unclear to me why the taxpayer is picking up any of the cost. I note that the description of the role of OPRED on the GOV.UK website includes

"protecting the taxpayer from bearing the full cost of decommissioning".

Can the Minister tell us why we are paying any of this cost?

I also note the contrast between the way in which the oil and gas companies are treated, paying only part of the cost, and the way in which, for example, people who wish to become British citizens are treated; they pay not only the full cost of processing their application but many multiples of it, because for some reason they alone of British citizens are regarded as an easy touch to pay a supercharge for the cost of our border and immigration system as a whole. The oil and gas companies must have some very important friends to have achieved an outcome where they not only do not pay the full cost of decommissioning but they continue to receive huge subsidies to exploit fossil fuels that imperil the future of our planet.

On the increase in fees to which this statutory instrument gives effect, can the Minister clear up some issues? First, can he clarify the total amount of revenue raised by the fees which the SI relates to? The Minister gave us a figure of 1,243 hours as the figure representing an average of hours per annum spent on potentially cost-recoverable activity. If we take the average of the specialist and non-specialist hourly rates, it comes out at £152.50 per hour. If that was multiplied by the number of hours, it would come to—if my maths is correct—about £189,557. Is that the correct figure raised by the fees levied under this SI? If it is not the correct figure, can the Minister tell us what it is and how it is calculated between specialist and non-specialist hours, because the Explanatory Memorandum and the SI do not give the breakdown?

The Explanatory Memorandum tells us that the calculation of the costs charged to the industry

"removes the hours spent on leave, bank holidays, staff management etc."

Why are those excluded given that they are clearly staffing costs?

Can the Minister also tell us the total cost of running the Offshore Petroleum Regulator for Environment and Decommissioning? I think he told us in his introductory remarks that the fees and other charges outside the ones we are discussing in this SI raised £6.2 million. Does this cover the entire cost of running the regulator? If not, what is the deficit?

Can the Minister remind us of the total level of subsidies provided by Her Majesty's Government to the oil and gas industry in the last year for which figures are available? I hope that the noble Lord will not try to tell us that the Government do not provide any subsidies, because that sort of dissembling is exactly what has got the UK ranked joint bottom for transparency on these issues among the G20 nations.

The noble Baroness, Lady Altmann, raised some important issues about how we get the industry moving towards transition rather than the existing policy of maximum economic recovery, which makes no sense in the context of our climate goals. The noble Baroness, Lady McIntosh of Pickering, raised some interesting issues about wind farms and the marine environment.

I await with interest the Minister's response on those and his response to my questions. I do not oppose the increase in charges set out in this SI, but I strongly object to the continued subsidies that are pumped annually to an industry that poses an existential threat to life on this planet.

4.59 pm

Lord Grantchester (Lab): I, too, thank the Minister for his introduction to the regulations before the Committee. It was necessarily detailed. The Explanatory Memorandum was fulsome in listing all the various regulations under various Acts of legislation where cost recovery is now embraced as part of government policy and fee schemes are introduced. His department is to be commended for the coherent analysis of fees payable by the offshore hydrocarbon industry and Ofgem to the Offshore Petroleum Regulator for Environment and Decommissioning—OPRED—for certain activities. I now understand better the Treasury's *Managing Public Money* guidance on the methodology of cost-recoverable activities.

I have very few questions about these regulations. However, to start with, can the Minister confirm whether OPRED is entirely cost neutral to the taxpayer and that all its costs are recoverable? I thought I heard him say that its full budget of £6.2 million was recovered from industry. I think that is correct and that OPRED prevents a lot of possible pollution occurring.

The cost recovery system appears entirely non-judgmental—that is to say, there appears to be no analysis of the cost increases against any parameter. The noble Baroness, Lady Jones, called the increase negligible. However, I note that the cost increase of £7 per hour for both specialist and non-specialist staff in tandem is slightly above the rate of inflation. As the increase is in tandem to two different rates, it is not by any defined percentage consistently. Will the cost recovery system in the department in this instance be reviewed on any regular basis? I would not expect the policy to be changed into a profit centre.

From this, it can be asked whether and by what means costs are controlled. No doubt it is by the wages policy undertaken by public bodies such as OPRED and under the influence of HM Treasury. I am sure that any validation of cost increases across any organisation is not necessarily a smooth process. As the noble Lord, Lord Bourne, expressed, the future of the infrastructure on the continental shelf will become very important for the urgent development of CCUS and hydrogen. With that, I am happy to approve the regulations today.

5.01 pm

Lord Callanan (Con): First, I thank all noble Lords for their valuable contributions to this debate. It is not often that I come along with charging instruments to

have people complain that we are not increasing the fees enough but, as always, the noble Baroness, Lady Jones, provides a contrary view to established practice in this House. Nevertheless, it was an interesting debate.

As I said during my opening remarks, the fees regulations will enable OPRED to recover its costs for the provision of regulatory services under the offshore oil and gas environmental legislative regime, as opposed to such costs being passed on to the taxpayer. In response to the noble Lords, Lord Oates and Lord Grantchester, let me set out the position on OPRED's budget and fees income. As they both said, OPRED's annual fees income is £6.2 million on average. This represents around 65% of the cost of running its environmental operations unit. The total costs of around £10.6 million a year include that of the office in Aberdeen and corporate support provided from London.

On chargeable activities, OPRED considers the environmental implications of all offshore oil and gas operations before issuing permits and consents covering areas as diverse as seismic surveys, marine licences, oil pollution emergency plans, chemical permits, oil discharge permits and consent to locate permissions for offshore installations. To this end, OPRED reviews around 5,000 applications for permits and consents annually. In addition, there is a regular programme of monitoring and inspection to ensure compliance with the environmental regulations.

As the noble Lord, Lord Grantchester, said, in line with Her Majesty's Treasury's *Managing Public Money* guidance, OPRED does not charge for policy work—for example, the enacting of new, or revisions to existing, offshore environmental legislation. Nor is OPRED able to charge for enforcement activity, such as prosecutions. Let me also point out that OPRED had originally planned to implement the changes to its hourly rates through the Oil & Gas Authority (Levy and Fees) Regulations 2021, which were laid before Parliament under the negative resolution procedure and entered into force on 1 April 2021.

However, OPRED is relying on a power that requires an affirmative procedure. This is because the increases allowing it to recoup the costs for the provision of regulatory services are not alterations to reflect changes in the value of money. The OPRED provisions were therefore not suitable for the Oil and Gas Authority's regulations, hence the proposal to introduce these fees regulations.

In response to my noble friend Lord Bourne, who asked about UK progress on the deployment of carbon capture and storage, let me highlight the following. CCS will be essential for meeting the UK's 2050 net-zero target, playing a vital role in levelling up the economy, supporting the low-carbon economic transformation of our industrial regions and creating many new, high-value jobs. In November 2020, we announced a £1 billion CCS infrastructure fund, which will provide industry with the certainty required to deploy CCS at scale.

In addition, CCS will play an important role in the Government's industrial clusters mission, which sets out the ambition to establish the world's first net-zero carbon industrial cluster by 2040, backed by £170 million from the Industrial Strategy Challenge Fund, with the spend profile running between January 2021 and March 2024. In February this year, BEIS published a consultation seeking stakeholder input on a potential approach to determining a natural sequence for locations to deploy CCS. Close to 100 responses to the consultation were received and BEIS recently published guidance for organisations wanting to take part in phase 1 of the CCS cluster sequencing process, which helps to meet the Government's commitment to capture 10 million tonnes of CO_2 per annum and have 5 gigawatts of low-carbon hydrogen capacity by 2030.

In response to the noble Baroness, Lady Jones, who asked why the costs were rising by such a very small sum and appear, as she said, to be subsidising the industry for government service, I remind her that, as I said earlier, the fees are calculated in accordance with Her Majesty's Treasury's *Managing Public Money* guidance, of which I am sure the noble Baroness is a great supporter, and any revisions to OPRED's charges that result from annual reviews can cover only the actual cost of providing its regulatory services. OPRED is not permitted to make a profit under Treasury rules. I know that the noble Baroness will be a strong supporter of Treasury rules, so our hands are tied in this regard.

When conducting future annual reviews of the fees-charging regime plus associated functions, OPRED will ensure that the fees being charged fully reflect its regulatory activity and, in turn, the level of offshore operations in any given year. It is important to emphasise that, while the offshore oil and gas industry transitions to a net-zero basin, a comprehensive environment regulatory regime will be applied to its operations to ensure that a high level of protection for the marine environment is maintained. As we move towards net zero, the noble Baroness, Lady Jones, will also no doubt be delighted to hear that oil and gas will play a smaller role in meeting UK energy demand; however, it will still continue to play a role.

In response to my noble friend Lady Altmann, OPRED is an integral part of the Department for Business, Energy and Industrial Strategy. It is based in Aberdeen and currently has 97 staff. Those staff are civil servants. The calculation of the fees includes the full economic costs of the staff, including superannuation costs, which are also taken into account.

Questions were asked by, I think, the noble Lord, Lord Oates, about decommissioning costs. They are recovered through separate fees regulations. Currently, about 50% of the cost of running this unit is recovered through fees, and a consultation opened on 24 May on a proposal to increase fees recovery to around 80%.

My noble friend Lady Altmann also asked about transition. I would like to mention the North Sea transition deal, which will help significantly to reduce emissions, ensuring a net-zero basin by 2050 and supporting our goal of decarbonising the wider economy. Commitments in the deal will help to achieve a reduction in UK greenhouse gas emissions of 60 million tonnes, including 15 million tonnes through the progressive decarbonisation of UK production over the period to 2030. If the UK stopped producing gas, we would then need to import it and would therefore have little control over the carbon intensity of those inputs while losing the benefits of a domestic natural resource.

[Lord Callanan]

In response to the points made by my noble friend Lady McIntosh, I am sure that she is well aware that the wind farm fee regime is not part of these regulations. I will write to her on the main points she asked about. The North Sea transition deal will harness the existing skills of the offshore oil and gas sector supply chain to help to deliver our new low-carbon technologies, such as hydrogen and carbon capture usage and storage, helping the UK to meet its net-zero targets.

I think I answered the questions asked by the noble Lord, Lord Oates, in the early part of my speech.

On the question from the noble Baroness, Lady Altmann, the fee increase mainly comprises two elements: an increase in staff costs as a result of a pay award and an increase in corporate costs relating to IT, HR, finance et cetera, which is allocated on a per head basis. As I explained earlier, it is all in line with the Treasury's *Managing Public Money* guidance, which does not allow OPRED to make a profit on its activities.

In response to the points made by the noble Lord, Lord Grantchester, although it might be helpful to the industry to have a form of indexing, again, this would fall foul of the favourite document of the noble Baroness, Lady Jones: Her Majesty's Treasury's *Managing Public Money* guidance regime, which provides that charges should be set to recover the full costs of the service being provided. This approach is intended to ensure that the Government neither profit at the expense of the industry nor make a loss for taxpayers to subsidise. OPRED's fees are reviewed annually to ensure that, year on year, the full costs of the service are recovered. If costs were to reduce, the fees would also reduce; however, if the costs increase, the fees will also increase so that the burden does not fall on the taxpayer but remains on those benefiting from the service.

I think I have dealt with most of the questions asked by noble Lords and I therefore commend the regulations to the Committee.

Motion agreed.

The Deputy Chairman of Committees (Lord McNicol of West Kilbride) (Lab): My Lords, the Grand Committee stands adjourned until 5.15 pm. I ask anyone leaving the Room to please sanitise their desk.

5.11 pm

Sitting suspended.

Arrangement of Business

Announcement

5.15 pm

The Deputy Chairman of Committees (Lord McNicol of West Kilbride) (Lab): My Lords, the hybrid Grand Committee will now resume. The time limit for the following debate is one hour.

Ecodesign for Energy-Related Products and Energy Information Regulations 2021

Considered in Grand Committee

5.16 pm

Moved by ***Lord Callanan***

That the Grand Committee do consider the Ecodesign for Energy-Related Products and Energy Information Regulations 2021.

Relevant document: 1st 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, I beg to move that these regulations, which were laid before the House on 28 April 2021, be approved.

Before I begin, let me provide a brief overview of ecodesign and energy labelling and what these policies are attempting to achieve. Ecodesign policies regulate products that consume energy when in use, such as household white goods, by setting minimum energy performance standards to increase their energy efficiency. More recently, ecodesign policies have also included resource efficiency measures, which seek to make products more repairable and recyclable, thereby reducing their use of material resources. In effect, ecodesign policies make the products we use in our homes and businesses more environmentally friendly, and also support long-term product innovation.

Energy labelling policies are intended to make clear and consistent information on a product's energy usage readily available to consumers at the point of purchase, to help them make more informed purchasing decisions. In effect, energy labelling encourages the uptake of more energy-efficient products, thereby reducing energy usage and saving consumers and businesses money on their energy bills.

Taken together, these policies make an important contribution to reducing energy use, improving environmental outcomes and cutting energy bills. It is estimated that the suite of ecodesign and energy labelling policies in force in Great Britain will save consumers £75 on their energy bills and save 8 megatonnes of carbon dioxide in 2021—the equivalent of the average yearly carbon emissions from electricity use of something like 12 million homes.

This statutory instrument seeks to enact commitments made by the UK in 2018 and 2019 when it was an EU member state in support of a package of new product-specific ecodesign and energy labelling measures. New ecodesign requirements are introduced by this statutory instrument for welding equipment, electric motors, household washing machines and dishwashers, domestic and commercial fridges, and televisions placed on the market in Great Britain. These requirements will raise the minimum energy efficiency of products on the market. In effect, this will phase out the least energy-efficient products—in other words, the most costly and environmentally damaging products to run.

New obligations on manufacturers to make these products easier to recycle and repair will also be introduced. When buying a new washing machine or

television, consumers will now be entitled to access spare parts with which to repair their appliances. This will help consumers keep appliances in use for longer, thereby reducing electrical waste. A wider range of spare parts and helpful information will be made available to professional repairers, which will facilitate even more complex repairs to be carried out by people with the right skills to do it safely.

In addition, this statutory instrument will introduce an energy label for commercial refrigerating appliances for the first time. Underpinned by new minimum energy efficiency requirements, the energy label will provide information to businesses when buying a new refrigerated sales cabinet, for example, to help them to understand and compare the energy consumption of different products. This will encourage businesses to opt for more energy-efficient fridges for use in supermarkets and other commercial environments, helping to cut down on the energy use and associated carbon emissions of this product group. Furthermore, by setting ambitious boundaries for the A-G classes on the energy label, this policy will spur innovation in the design of commercial refrigerating appliances as manufacturers compete to achieve the highest energy efficiency ratings.

By introducing these more ambitious and environmentally friendly ecodesign and energy labelling requirements, we will ensure that we maintain high product standards in Great Britain and push the market to achieve ever greater carbon savings. The measures introduced by this SI will contribute savings of approximately 1.7 megatonnes of carbon dioxide between now and 2050. On top of this, the resultant reduction in energy use will improve air quality in Great Britain and cut many pounds from household and business energy bills. As I mentioned earlier, through greater repairability and recyclability of these electrical appliances, the measures introduced by this SI will help reduce the quantity of electrical waste reaching landfill each year. Lastly, introducing these requirements in Great Britain will ensure a common set of product standards with Northern Ireland, thereby facilitating trade across the Irish Sea.

A public consultation was conducted between September and November 2020. Feedback on the consultation proposals showed significant support among the respective manufacturing bases for the affected products and among environmental campaign groups for implementing these new requirements in Great Britain.

In conclusion, introducing these requirements is aligned with the Government's ambitions to achieve our carbon budget and net-zero targets; they will take us ever closer to reducing our energy use and environmental impact. Furthermore, the new measures will provide greener choices for consumers and businesses and will encourage product innovation. I therefore commend this statutory instrument to the Committee.

5.21 pm

Baroness Jones of Moulsecoomb (GP): My Lords, it is impossible for me as a Green to disagree with anything in the opening statement, because these are things that we have been saying for 30 or 40 years—so I am glad that the Government have finally caught up with all these concepts, such as lower power usage, longer life for all sorts of goods, repairing them, saving money for customers on their bills and having less waste to landfill. Those are all things that we have been arguing for for decades. However, in the statutory instrument, all I could really see is that it changes the flag on a label from an EU flag to a union flag. Please tell me if I am wrong; it is a very thick document, so presumably something else is in it, but that seemed to me the only pertinent point.

The rest of the instrument is all about ensuring that EU law continues to operate effectively in the UK. For me, it is another sad reflection of this Government's implementation of Brexit, because they made lots of promises about how we would be free from the shackles of the EU and how it would allow us to have the best environmental protections in the whole world—world-leading environmental protections, even. But the reality is that we are actually keeping 99% of EU laws, or weakening them, and then just sticking a union jack label on. Perhaps the Minister can point me to where I have gone wrong on this.

After reading this, I wonder what happened to creativity, ambition and even, as the Minister said, innovation. I know that the Government were carrying out a consultation on higher energy standards, and I am curious about that because, although I had only a quick search, I could not see the results. I do not know whether it is still ongoing, but it will be interesting if that says anything about improving on EU levels.

Of course, as any fool doth know, the cleanest, greenest and cheapest energy that you can have is the energy that you do not actually use. Our appliances and devices still use far more than they need to. The EU's headline energy efficiency target for appliances is for at least 32.5% by 2030. Are we going to improve on that or are we going to be left behind? The consultation to which I referred talked about the possibility of appliances being part of a smart grid—so, for example, a freezer could store the energy and might store electricity in the form of extra cold to be used when there was a bit more demand or energy is scarcer. That is an important advance in an entire rethinking of the energy system, relying on renewables and storage.

There is also talk of displaying lifetime energy costs at the point of purchase for a product, plus additional information on the cost of running it and, importantly, how easily it can be repaired, reused and recycled—namely, how durable it is. I have quite a lot of questions, but my main one is: what has happened to that consultation on higher energy standards, and has it encouraged the Government to raise their own standards?

5.25 pm

Lord Oates (LD): My Lords, I thank the Minister for his introductory comments and his explanation of this statutory instrument.

I note that the Explanatory Memorandum states:

"this legislation will protect the Great British market from the risk of 'dumping' of less efficient products which do not meet the minimum standards in the EU and in Northern Ireland ... For some products, without this SI suppliers may need to have two product lines—one for the GB market and one for the EU and Northern Ireland market ... Suppliers may also have to undertake

[Lord Oates]

dual conformity assessment procedures to ensure compliance with both sets of requirements. This legislation avoids this outcome and the associated costs to business."

I am sure that the Minister will agree with me that this is a powerful argument for regulatory alignment and, indeed, for membership of the single market and, in order to influence the single market, membership of the European Union—but that is perhaps for another day.

I wonder whether the Minister can answer a few questions about this SI. Paragraph 7.8 of the Explanatory Memorandum states:

"In order to demonstrate or measure conformity with the ... Labelling requirements introduced by these Regulations, designated standards must be used ... However, none of the standards for the requirements in these Regulations is available to be designated yet due to their ongoing development."

Is it usual to introduce legislation imposing labelling requirements where standards have not been designated? I understand that some of the products covered will be expected to use existing standards, but the Explanatory Memorandum states:

"For commercial refrigeration and welding equipment, for which there are no existing Regulations nor a transitional method of measurement, we expect suppliers to use the best available standards."

Can the Minister explain what that means and how conformity will be achieved between different manufacturers? Who will decide?

Could the Minister also explain why the regulations do not apply to appliances that are battery operated but can operate via a separately purchased AC/DC converter? Can the Minister also tell us what the practical difference is between the EU provision, referred to in paragraph 7.12, for a "product database" and the UK Government's proposal for a "publicly accessible website"? Can he explain how those two differ? Can he also tell us when the designated standards are likely to be available?

Finally, I note that, while the standards for the appliances under this regulation relate to energy efficiency, products covered here include dishwashers and washing machines. I wonder what plans the Government have—or whether there are different measures by which they can set standards for water usage. People who took part in the debate on the Environment Bill will know the difficulties and pressures that are caused by excess water usage, so I hope that the Government will consider how these may be brought in in future.

5.29 pm

Lord Grantchester (Lab): Once again, I thank the Minister for his introduction to the regulations. They seem to be simple, straightforward updating regulations to continue the in-built progress to consumer standards from increases in product developments. This raises energy performance and efficiency standards in electric motors, various household goods and now, for the first time, welding equipment and commercial refrigeration. Has welding equipment become an everyday item in the marketplace?

I am pleased to the see that the Government are being practical and sensible in resisting the temptation to insist that the UK undertakes its own post-Brexit consumer products standards. While these standards were agreed by the UK as a member state, I trust that the Government will continue with this alignment. Independent standards would be extremely tedious in relation to the Northern Ireland protocol and would add greatly to costs generally.

As these regulations continue with the updating practice that existed before Brexit, I presume that trading standards will be able to pick up the changes relatively smoothly. Since monitoring of regulations and post-implementation reviews will continue, does the Minister foresee any problem resulting from these regulations across any part of the United Kingdom? The full 29 schedules covering online labelling and internet selling would suggest that the department is following well-worn pathways and extending these to welding equipment with practised ease.

If I may, I will make one consumer observation on product development. I do not often stray into the market for vacuum cleaners but, when I have done so, I have seen that generally the most powerful machines become irreplaceable with powerful replacements no longer available. Does the insistence on energy-saving improvements necessarily rule out the continuation of more powerful machinery in the marketplace? The more power that is needed tends to lead to these more powerful machines being withdrawn. Do the minimum energy performance standards—MEPS—need to take account of the range of options available within the average energy efficiency of all products in a product category? There may be other cases in the household product marketplace. Does the Minister have any insights from the department on this aspect?

I am glad that repairability is now being recognised as important. As the noble Lord, Lord Oates, remarked, it does seem rather unusual under paragraph 7.8 in the Explanatory Memorandum to bring in regulations on ecodesign and energy labelling before any of the standards for the requirements are available to be designated, due to ongoing development work. While I appreciate that the GB market must be protected from the risk of the dumping of less efficient products, should these regulations not be implemented in tandem with the EU, can the Minister explain why this is happening in this case? With that, I am happy to approve the regulations today.

5.33 pm

Lord Callanan (Con): First, let me thank noble Lords for their contributions to this debate. As I said before, the Government are committed to delivering their carbon budget and net-zero targets. These regulations will help to achieve this by increasing resource efficiency and setting higher product standards, leading to 21.5 terawatt hours of electricity savings in the domestic sector by 2050, equivalent to around 1.7 megatonnes of carbon dioxide.

In response to the points made by the noble Baroness, Lady Jones, I thought for one brief moment that she was about to agree with something we were doing but, sadly, about two minutes into her speech, my hopes were dashed: she did not quite agree with everything we were doing, although perhaps she thought that we were on the right track.

On what the SI actually does, it will raise the minimum energy efficiency requirements of these products. Manufacturers will be obliged to make products easier to recycle and repair, including giving consumers access to spare parts to repair their appliances. An energy label for commercial refrigeration will be introduced to provide businesses with information to help them to understand and compare the energy consumption of different products, encouraging them to opt for more energy-efficient fridges. Furthermore, the measures will ensure a common set of product standards with Northern Ireland, helping to facilitate trade across the Irish Sea.

The regulations closely reflect the EU regulations, with the exception, as the noble Baroness pointed out, of the UK flag. We will be coming forward with our own proposals for how the UK can go further with ecodesign and energy labelling in future with our energy-related products framework. I am sure that the noble Baroness will be delighted to support us when we do so.

In response to the noble Baroness's question about consultation, the 2020 call for evidence will help to inform which products and policies to pursue as part of our energy-related products policy framework, which was announced in the Prime Minister's 10-point plan last November. To support building the UK evidence base for energy-related products, we have launched a study that will help to inform which products are high priority in terms of their overall environmental impact, considering their contribution to carbon emissions and resource depletion and the potential for improving their environmental performance. I am sure the noble Baroness and the Greens will welcome the Government's intention to launch a world-class product policy framework for energy-related products later this year, when more details will be set out on future policy and ambitions.

In response to the points raised by the noble Lord, Lord Oates, who asked about designated standards, it is not uncommon to introduce new requirements before standards have been officially designated here. The regulations and supporting test standards have been discussed at length with industry, and alternative methods are available to measure the technical parameters. The designation process will take place very shortly, and the designated standards will be made clear in guidance. I would be very happy to write to the noble Lord about battery-powered appliances. It is a fact that the UK no longer has access to the public part of the EU product database, so the same information will be available to consumers on a free-to-access website. In relation to water usage, as part of our world-class policy framework we will set out our ambition to maximise the energy, carbon and energy bill savings from these energy-related products.

The noble Lord, Lord Grantchester, asked about the Northern Ireland protocol. These regulations will apply to Great Britain only. Under the terms of the Northern Ireland protocol, equivalent eco-design and energy label requirements already apply in Northern Ireland in line with EU regulations. This will ensure that a consistent approach on product standards is followed across Great Britain, Northern Ireland and the EU. In all future policy we will need to uphold the terms of the protocol.

To close, let me underline once more the main purposes of the instrument. It will help raise the minimum energy efficiency of a range of electrical products sold in Great Britain, including many household goods, such as washing machines, dishwashers and televisions. It will involve new obligations on manufacturers to make products easier to recycle and repair through better access to spare parts, and it will introduce energy labelling for commercial refrigerating appliances for the first time, helping to make the fridges we see in our supermarkets and shops more energy efficient. These measures will help to spur innovation, maintain high product standards and give consumers the choice of more energy-efficient products on the market. I commend these regulations to the Committee.

Motion agreed.

Committee adjourned at 5.38 pm.