Vol. 825
No. 74

Monday
21 November 2022

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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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
Non-afl	Non-affiliated
PC	Plaid Cymru
UUP	Ulster Unionist Party

No party affiliation is given for Members serving the House in a formal capacity or for the Lords spiritual.

House of Lords

Monday 21 November 2022

2.30 pm

Prayers—read by the Lord Bishop of London.

Republic of Ireland and Northern Ireland: Energy Supply Shortfalls

Question

2.36 pm

Asked by ***Baroness Ritchie of Downpatrick***

To ask His Majesty's Government what assessment they have made, if any, of the progress of discussions with the Government of the Republic of Ireland and the Northern Ireland Executive regarding energy supply shortfalls, particularly gas, in this coming winter.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, the UK and Ireland have a mature vehicle for co-operation to ensure that their gas emergency operational plans work together. There are protocols between the transmission system operators and modifications to emergency plans have been identified following joint emergency exercises. Additionally, a tripartite interconnector agreement is in place, which includes provisions on emergencies. A gas and electricity emergency group, comprising representatives from the three jurisdictions, complements these arrangements and the regional approach to emergency planning.

Baroness Ritchie of Downpatrick (Lab): My Lords, I thank the Minister for his detailed Answer. Given the strengthening nature of British-Irish relations and all the problems that have been indicated with energy supplies, can the Minister guarantee that, no matter what pressures there are on the supply of natural gas in Britain, there will be no cut in supply of natural gas to Ireland—both north and south?

Lord Callanan (Con): I cannot give the noble Baroness an absolute guarantee but it will not happen unless there is a national emergency. We have made agreements with the operators that, in the unlikely event of a supply shortage to the United Kingdom as a whole, that pain will need to be shared equally but, of course, it is not our intention for this to happen.

Lord Empey (UUP): My Lords, the Minister will be aware that the subject of energy is devolved to Northern Ireland. There is currently no Energy Minister; I held that role for some time. What powers of intervention does the Minister have in the event of an interruption to supply or another emergency in the absence of a Northern Ireland Executive?

Lord Callanan (Con): The noble Lord asks a very good question, given his experience. We keep these matters under constant review, but both Northern Ireland and the Republic depend on Great Britain for supply of gas and certain amounts of electricity. All the transmission system operators and civil servants on both sides of the border are working very closely together to make sure we plan for any operational difficulties.

Lord Howell of Guildford (Con): My Lords, some parts of the energy supply of Northern Ireland are part of a larger energy entity for the whole of the island of Ireland. Can the Minister explain what role it might play? Given that there is plenty of gas on the high seas waiting for destinations and the Republic of Ireland has some terminals to receive it, there ought to be no problem sharing that in a constructive way.

Lord Callanan (Con): I will check but I do not think my noble friend is exactly right; I do not think the Republic of Ireland has any LNG terminals. It relies on the ample supply Great Britain has. We supply them through our interconnector pipelines. He is also right that there is a single electricity market in Ireland with power stations, many of them gas-fired, on both sides of the border. We will ensure that they continue to receive supplies.

Lord Teverson (LD): My Lords, Germany has 89 days, France 103 days and the Netherlands 123 days of gas storage. I believe we have nine days. Could the Minister inform us what is happening with the Islandmagee facility in County Antrim, Northern Ireland? I understand that the Rough facility in the North Sea was commissioned last month. Is that now full?

Lord Callanan (Con): The Rough facility is working again, which was a commercial decision taken by the operators. The noble Lord is right about the overall quantity of supply but, of course, the countries he mentioned have no indigenous supplies of their own. We are very fortunate that some 40% of our supplies come from the North Sea.

Lord Lennie (Lab): My Lords, with the uncertainties that exist around gas supply and demand this winter and, given that 84% of supply to Northern Ireland comes through the Moffat pipeline from Scotland, can the Minister assure the House that sufficient contingencies are in place between the UK and Irish Governments to meet any significant variations in demand or supply?

Lord Callanan (Con): I refer the noble Lord back to the Answer that I gave to the noble Baroness, Lady Ritchie. We are of course extremely concerned about the upcoming winter. Many emergency drills have been held and we are in close contact with operators both in Northern Ireland and in the Republic of Ireland. I am pleased to say that co-operation is very good.

Lord Watts (Lab): My Lords, is it not a failure of the Government not to make sure that there is sufficient supply for energy, both in the UK and in Ireland? Is this not a failure of government policy?

Lord Callanan (Con): I do not agree with the noble Lord: it is not a failure of policy. The whole world has been hit by a massive supply shock due to Putin's war in Ukraine. If the noble Lord were correct and it was a

[LORD CALLANAN]
failure of this Government's policy, why is there a failure in France, Germany and the Netherlands? These countries are on the continent as well and are also suffering from a lack of gas supplies. In fact, the UK has been helping them out by using our LNG terminals to offload gas, piping it through the interconnectors and helping our European friends to rebuild their supplies.

Lord Lexden (Con): Are my noble friend and the Secretary of State for Northern Ireland receiving regular and detailed reports from Northern Ireland civil servants about energy supply issues there in the absence of a devolved Executive?

Lord Callanan (Con): Yes, co-operation is ongoing and all Ministers are receiving regular updates. Actually, the island of Ireland as a whole is less dependent on gas for heating than the UK: about one-third of its heating depends on natural gas, but about 80% of ours does. There is a much higher reliance on both electricity and fuel oil for heating in Northern Ireland and southern Ireland.

Baroness Brinton (LD): My Lords, in the light of the answer that the Minister has just given, I will ask him a question about England that I have asked in the past and that he will be familiar with. In the event of electricity supply cuts, what arrangements are available in Northern Ireland for people who have to rely on ventilators and other life-critical kit at home? Whom do they go to?

Lord Callanan (Con): I had an exchange with the noble Baroness a few weeks ago about this vital matter, which is of course of great concern to us. Established provisions are in place in England, Scotland, Wales and Northern Ireland for vulnerable customers to be supplied temporarily.

Health: Pancreatic Cancer

Question

2.44 pm

Asked by ***Lord Black of Brentwood***

To ask His Majesty's Government what steps they are taking to improve survival rates for pancreatic cancer.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Markham) (Con): Improving early diagnosis is incredibly important to help boost cancer survival, and the Government are committed to the *NHS Long Term Plan* ambition of diagnosing 75% of cancers at stage 1 or 2 by 2028. Pancreatic cancer is difficult to diagnose due its unspecific symptoms. To help diagnose these cancers, we have opened 91 community diagnostic centres and 96 non-specific symptoms pathways which are transforming the way those with symptoms not specific to one cancer are diagnosed.

Lord Black of Brentwood (Con): My Lords, this is Pancreatic Cancer Awareness Month, a time to remember those who have died prematurely of this cruel and unforgiving disease, but also a time angrily to reflect on the shocking statistics that surround this least-survivable and quickest-killing cancer: three in five pancreatic cancers are diagnosed at a late stage—worse than any other cancer; half of those diagnosed die within three months—worse than any other cancer; almost 60% of people are diagnosed in A&E—worse than any other cancer. These statistics are shameful. Would my noble friend tell us what has happened to the 10-year cancer plan, which is so vital in this area, and commit to a strategy within it to ensure early diagnosis of pancreatic cancer patients within 21 days of presenting with symptoms? Will he explain why there is so little investment in research in this area—just 3% of the total UK cancer research budget—when we vitally need a test to stop this horrible disease in its tracks?

Lord Markham (Con): My noble friend is correct: pancreatic is probably one of the cruellest of cancers. We have a 10-year cancer plan; to answer his question, we are going through 5,000 responses, and we are analysing them and will report back shortly. On research, we are performing over 70 different pancreatic cancer studies. Key to all of this is not just early diagnosis; more important than ever, in this awareness month, is making sure that people are aware and go to their doctors early if they have any concerns at all.

Lord Turnberg (Lab): My Lords, one of the problems of this nasty cancer is that, by the time any symptoms occur, it is often too late. We desperately need some sort of screening test. Recent research has suggested that we may be able to pick it up in the bloodstream using a so-called liquid biopsy. What research is being done on this now?

Lord Markham (Con): I understand that the leader in this field is GRAIL. This blood screening is happening in America right now, and NICE is undertaking studies in this field to see whether it should be brought to the UK. We will have its findings. I agree that pancreatic cancer is an area where early detection is key. It is not just about the screening but about people going to their doctor if they have any concerns at all, as I say. We have non-specific symptoms pathways to help doctors to detect what is wrong.

Lord Aberdare (CB): My Lords, the UK ranks 29th of 33 countries for five-year pancreatic cancer survival rates. At the very least, we should ensure that pancreatic cancer patients get the best possible treatments in the short time usually available to them, with over half dying within three months. One such treatment is pancreatic enzyme replacement therapy—PERT—which helps them to eat and digest their food, but only about half of pancreatic cancer sufferers are offered this treatment. What are the Government doing to understand why this is the case and to ensure that all pancreatic cancer patients who need PERT are offered it?

Lord Markham (Con): I thank the noble Lord. This case has also been brought forward by the noble Lord, Lord Moynihan, who could not be here today, but he is very keen on this as well. We have now put PERT into NICE guidelines, so it should be offered. I am meeting my noble friend Lord Moynihan to make sure that these things are being taken up, and I would be happy to extend that invitation to the noble Lord.

Lord Forsyth of Drumlean (Con): My Lords, the Government's current campaign to encourage people to go and see their GP if they have symptoms is commendable, but how can this help when people are waiting months to get scans and then weeks to get the results of their scan? What can be done about this?

Lord Markham (Con): This is where we see the diagnostic centres being a key area in this. We have set up 91 community diagnostic centres. In addition, in 2020 we had only 12 non-specific symptoms pathways; we are now rolling those out to 96, so that 75% of the population will be covered by March 2023, with a target of 100% by March 2024.

Baroness Merron (Lab): My Lords, the UK is lagging behind comparative European nations on cancer survival rates. In the landmark *How Good is the NHS?* report, the UK came last on pancreatic cancer survival rates. Could the Minister give a view as to why the UK compares so unfavourably to elsewhere? How will the recent comments of the Health Secretary about changes to national targets affect waiting times and survival rates for patients with pancreatic cancer?

Lord Markham (Con): We are very clear on the need for speed in cancer treatment; that is one target that will not change, because we know its importance in all this. With pancreatic cancer, we are where we were with prostate cancer about 10 or 15 years ago, and I am glad to see that we have made great strides on that with initiatives such as the Movember campaign and the action on that. Candidly, we are not where we need to be on pancreatic cancer, and we need to adopt those sorts of awareness campaigns, as well as fast action on screening, to improve our performance.

Baroness Brinton (LD): My Lords, 30 years ago cervical screening was developed and introduced; prior to that, cancer of the cervix was as impossible to detect and to find as pancreatic cancer. Will the Minister say whether research will be provided to ensure that screening for pancreatic cancer can be introduced as soon as it is confirmed, because screening was the real game-changer for cervical cancer?

Lord Markham (Con): I agree that screening programmes are, without doubt, the way forward. I mentioned earlier the 73 different pancreatic cancer research studies, of which screening is a very important element, so I totally agree that that should be our top priority.

Lord Kakkar (CB): My Lords, I declare my interests in the register. Clinical research is fundamental to ensuring the evaluation and rapid adoption of new therapeutic interventions that could improve survival rates in diseases such as pancreatic cancer, but operational pressures in the NHS are having an impact on the ability to conduct that clinical research. Is the Minister content that there is sufficient emphasis and support to maintain the infrastructure for clinical research and the capacity to deliver translational, early-stage and later-stage trials in pancreatic cancer?

Lord Markham (Con): My understanding is that we do have the capacity for these research trials. Also, on workforce in the cancer space, we have invested £50 million, so we are actually 200 people over our target on that. This is part of the Chancellor's announcement about the long-term workforce study, which I know will be welcomed by many in this House, where we will be looking, area by area, at exactly what workforce needs we have—and we have a recruitment plan against that.

Lord Kamall (Con): My Lords, in response to an earlier question, my noble friend the Minister talked about the need for more awareness in advance of identifying appropriate screening methods. Given that it is now Pancreatic Cancer Awareness Month, what else are the Government and the NHS doing outside that to ensure there is more awareness for patients to come forward for potential pancreatic cancer?

Lord Markham (Con): I thank my noble friend. Key to this is the Help Us to Help You campaign, which reaches out to lots of different communities, including a number of minority communities. At the same time, we have rolled out the early cancer diagnosis service to GPs, where they are looking out for some of those warning signs, even when people are there for a regular appointment. Clearly, as has been said by other speakers today, a lot more needs to be done; it is a journey, but awareness is the vital first part of that journey. On that point, I thank the Pancreatic Cancer UK charity, which has been excellent in this field.

Baroness McIntosh of Hudnall (Lab): My Lords, the Minister has just referred to awareness, to which he has referred many times in the course of this Question. Would he accept that, for some people, it is difficult to understand what you need to be aware of—particularly with a disease which is, as far as I am hearing today, largely asymptomatic for a good part of its early progression? Can he tell the House where people, who perhaps need to be aware, should look for the things that they need to be aware of?

Lord Markham (Con): The noble Baroness is correct: the problem about the so-called invisible diseases—of which cervical cancer is another example—is that you do not know quite what you should be looking for. That is why I mentioned earlier the non-specific symptoms pathways, which are exactly designed for those sorts of things, whereby general checks are included in the area so that, although people do not even go along with a specific symptom, they are starting to be screened. That needs to be rolled out further. As I mentioned before, this would cover 75% of the population by March 2023; clearly, we need to be at 100%, with the target of March 2024 for that.

Social Care Sector: Staff Shortages

Question

2.55 pm

Asked by ***Viscount Stansgate***

To ask His Majesty's Government what assessment they have made of the impact of staff shortages in the social care sector.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Markham) (Con): As acknowledged by the Chancellor, pressures in the social care sector are a serious issue. We are taking steps to boost the social care workforce, investing up to £2.8 billion of additional funding in 2023-24 and £4.7 billion in 2024-25 for adult social care, raising the national living wage to £10.42 and launching our national recruitment campaign. We will also be publishing a staffing plan for regulated professionals, including nurses and allied health professionals in health and social care.

Viscount Stansgate (Lab): My Lords, I thank the Minister for that Answer. Last Thursday, the Chancellor said that there were 13,500 beds occupied by people who should be at home. When are the Government going to ensure that there are enough staff to look after them in the adult social care sector, given that you can earn more money in a supermarket than in a care home? How much money are the Government intending to save by postponing the Dilnot reforms? Does the Minister agree with Sir Andrew that this delay is "inhumane"? Will it not mean that many more people are going to have to sell their homes in order to pay for the large care costs? In short, does the Minister agree that the longer this Government remain in office, the more people are having to wait for decent, affordable, proper social care?

Lord Markham (Con): The noble Viscount mentioned funding. Clearly, it was a difficult choice, but our priority was to make sure that the funding went into the supply of places over the next two years, because of the impact that has across the system. Noble Lords will have heard me mention many times how that affects the whole flow, which backs up into ambulance wait times and everything else. That is why I am delighted to say that we have secured £2.8 billion of extra funding in 2023-24 and £4.7 billion in 2024-25. That will obviously flow through the whole system, including into staff wages and recruitment.

Baroness Altmann (Con): My Lords, I welcome the announcement of the health and social care visa, but the Government have no separate figures for the number of workers who have come here under the new health and care special visa rules, separately for health staff and social care staff. So can my noble friend tell the House what are the median and top quartile pay rates for social care staff? I am happy for him to write to me if he does not have those figures. Do the new visa's minimum salary requirements mean there is little hope of immigration filling the 165,000 or more vacancies, leaving 2.6 million older people without the care they need, as estimated by Age UK?

Lord Markham (Con): I will need to write on the detail of the median and upper quartiles, as mentioned. What I can say right now, though, is that the national living wage increase will put them over the current visa levels required, which I think will be a big boost, allowing us to increase our recruitment from overseas. We have already seen month-on-month increases and the national living wage increase will help grow that further.

Lord Harris of Haringey (Lab): My Lords, is it not the case that if the national minimum wage has gone up, therefore affecting the social care sector, it will also have gone up affecting those who stack shelves in supermarkets?

Lord Markham (Con): I was referring in that answer to the visa scheme. That will allow us to recruit more people from overseas who will be eligible for a visa, in the fine traditions of the NHS. We have always recruited from around the world and I am pleased to say that we are recruiting in this space. This is a consequence of a full-employment economy, which I think we would all accept is a very good thing. But, clearly, that sometimes means we need help, in areas such as the NHS, to recruit from overseas.

The Lord Bishop of London: My Lords, Enabled Living in Newham has become the first London-based social care provider to pay its workers the real living wage—the first such employer to do so. We have heard that social care workers are among the lowest paid, with one in five residential care workers living in poverty before the cost of living crisis, according to the Health Foundation. What assessment have the Government made of the real living wage and the impact that it could have on retaining valuable social care workers?

Lord Markham (Con): I thank the right reverend Prelate for the passion that she clearly displays in this field. As I mentioned in my Answer to the Question, we have a national recruitment campaign, and looking at the staffing plan for allied health professionals and what needs to be paid to recruit people in the right areas will be part of that. The national living wage is a start, but clearly we need to make sure that this is an attractive career that people want to join and stay in.

Baroness Watkins of Tavistock (CB): My Lords, I draw attention to my interests in the register. Recently, the coroner in Cornwall ruled that some deaths in the county are probably attributable to delays in ambulance services, which are in turn associated with delays in transfers of care from acute services to care homes. There has been a reduction of more than 600 care bed places in Cornwall in the past four years. This is an example of the challenge that we face. Does the Minister accept that the Government's objectives for the NHS will never be effectively achieved without resolving the social care challenges, and that the difficulty of recruiting from overseas, particularly in rural areas, should be acknowledged?

Lord Markham (Con): I agree and have often made the point that solving this part is key to the flow and to getting people through discharge quickly, which has a knock-on impact on A&E and ambulance wait times. That is why I was delighted to hear the Chancellor recognise this specifically and mention £2.8 billion of funding in 2023-24, which will account for 200,000 new care packages in this space, as well as £4.7 billion in 2024-25 to resolve the exact problems that the noble Baroness brings up.

Baroness Brinton (LD): My Lords, the Minister has now referred three times to the money that the Chancellor has said he will invest in social care from April next

year. But the crisis is now and the Government's own plan for patients says this must be resolved and there must be more social care workers immediately to help with the pressure on hospitals. What will the Government do over the next six months to ensure that there are more workers and help to relieve the problems with both discharges and A&E?

Lord Markham (Con): I thank the noble Baroness. In the past few days, local authorities have been notified of the £500 million discharge fund. That funding will go out in December and January, so it is very much going out there. It is very much designed to address the issues of discharge, creating new places and helping to recruit.

Lord Naseby (Con): My Lords, is there not a case for formally involving the Commonwealth in this aspect? There is already a trial going on with Sri Lanka for nursing. I suggest to my noble friend the Minister that there are other Commonwealth countries that would be more than willing to have a two-way flow and help reduce the huge shortage that we have.

Lord Markham (Con): I agree with my noble friend. Overseas and Commonwealth recruitment is a key area here, which is why I am delighted that we have addressed the visa restrictions and entered social care on an essential workers list. We have already seen 15,000 people come in this space, and that figure is increasing month on month. My noble friend is correct that this is a critical area for recruitment for us.

Baroness Pitkeathley (Lab): My Lords, does the Minister agree that the more problems there are with paid workers in social care, the more difficulties fall on the nearly 10 million unpaid carers. Of those who are receiving the carer's allowance, 40% say that they are already in debt and not sure how they will manage through the winter. Does he also agree that, in view of the myriad problems in social care, it is time to listen to what the noble Lord, Lord Forsyth, asked the House last Thursday, and think about a proper review of the whole of social care?

Lord Markham (Con): My Lords, I thank the noble Baroness. The new funds mentioned recognise that this is critical to the health of our National Health Service and the flow. As part of that, as I mentioned in my Answer, we are looking at staffing plans across allied health professions in the health and social care space, and it is vital that we get the recruitment to this area to solve the overall issue of flow and NHS wait times.

Public Duty Costs Allowance

Question

3.05 pm

Asked by ***Lord Rennard***

To ask His Majesty's Government what plans they have to revise the Public Duty Costs Allowance for former Prime Ministers.

The Minister of State, Cabinet Office (Baroness Neville-Rolfe) (Con): My Lords, the public duty costs allowance assists former Prime Ministers who remain active in public life. The allowance is not paid directly to former Prime Ministers; rather, claims may be made from the allowance to reimburse incurred expenses that arise from the fulfilment of public duties, such as office and secretarial costs. The allowance has been frozen at an annual limit of £115,000 since 2011. The Government keep these matters under review.

Lord Rennard (LD): My Lords, we have a rapidly increasing number of ex-Prime Ministers. Three of them continue to sit as MPs. While Theresa May claims only a part of the ex-Prime Minister's allowance, Boris Johnson and Liz Truss are entitled to claim up to £115,000 a year for as long as they say they are doing public duties, which may be for the rest of their lives. This is in addition to MPs' office costs allowance, which is subject to some public scrutiny, unlike the ex-Prime Ministers' allowance. They are also able to earn from speeches, books and newspaper articles. Is it not time that we had a proper review of these allowances, reduced it for sitting MPs and made it for a fixed period only?

Baroness Neville-Rolfe (Con): My Lords, hitherto this allowance has been the subject of cross-party consensus. Of course, it was introduced by the Conservative Government to update the arrangements at the time of the late Baroness Thatcher's retirement and has been claimed since 2013 by several former Prime Ministers. However, no claims have been received from Boris Johnson or Liz Truss in relation to the PDCA; nor has any indication been given that claims will be made.

Lord Butler of Brockwell (CB): My Lords, I was Cabinet Secretary and Mr Major was Prime Minister when this allowance was introduced. Is not the noble Lord, Lord Rennard, being a little ungenerous? Former Prime Ministers do incur extra costs as a result of the public office that they have held. The allowance need be claimed only to the extent that they incur those extra costs.

Baroness Neville-Rolfe (Con): I very much agree with the noble Lord, Ex-Prime Ministers still have a special position in public life and need to pay office and staff costs in support of that. Sometimes, things change. The arrangements referred to were extended to a colleague of the noble Lord, Lord Rennard, Sir Nick Clegg, who was Deputy Prime Minister from 2010 to 2015, a unique status at that time. He claimed £444,000 before he left to become a highly paid Silicon Valley executive and lobbyist.

Lord Collins of Highbury (Lab): My Lords, the Minister is right that there was a consensus on the introduction of this allowance, and no one disputes the need for it. However, she is also right that the Government should keep this under review, because after the retirements of the late Baroness Thatcher and Tony Blair, both long-serving Prime Ministers, we now have a situation where a Prime Minister has served the shortest period in history. Does that not indicate the need for a review and perhaps the introduction of a pro rata allowance?

Baroness Neville-Rolfe (Con): I assure the noble Lord that the Government keep these matters under review and that the level of the limit is reviewed by the Prime Minister, at the start of a Parliament and annually. However, as I said, we have no plans to revise the limit at this time.

Baroness Jones of Moulsecoomb (GP): My Lords, I deeply regret that there has not been a Green Prime Minister at whom the Minister can take pot-shots. It is ludicrous and inappropriate, if the Conservative Party is going to change its Prime Minister every seven weeks, to give them that sort of allowance. What about having a limit on the amount of time that they have served as Prime Minister; for example, two and a half years?

Baroness Neville-Rolfe (Con): It is very much my hope that the current Prime Minister serves for a long time and that this problem passes.

Lord Wallace of Saltaire (LD): My Lords, when we have Ministers cracking jokes about how many people have occupied their post in the last six months, we recognise that the rate of ministerial and prime ministerial turnover needs to decrease. When she was Prime Minister, Prime Minister Truss made it very clear that she was in favour of a smaller state, with fewer subsidies to individuals. May we therefore take it as given that she is highly unlikely to claim what would be, in effect, a state subsidy now that she has resigned?

Baroness Neville-Rolfe (Con): Whether to waive such payments is entirely a matter for the ex-Prime Minister involved, as the noble Lord knows only too well. But I applaud Prime Minister Truss for some of the points she made about efficiency. These are important issues and we should not decry her for making such points.

Lord Porter of Spalding (Con): Does my noble friend agree that, given the performance of some sitting Prime Ministers over the last 25 years, paying ex-Prime Ministers could sometimes be seen as better value for the taxpayer than paying serving Prime Ministers?

Baroness Neville-Rolfe (Con): My Lords, I do not know how to answer that question. I return to the point I made at the beginning: ex-Prime Ministers have a special position in public life. This is not as it is in other countries, where ex-Prime Ministers often have substantial salaries, houses and things. I have been around the world and noticed that. We have a public duty costs allowance, which is incurred only when the former Prime Minister fulfils public duties linked to their former office. That is carefully reimbursed by the Cabinet Office, when it has evidence that the money has been properly spent.

Lord Bird (CB): Is it possible that we could get back some of the cost of running a Prime Minister when we realise that they can make millions of pounds after they leave office? Mr Blair and Mr Cameron are worth a few bob, and I know Mr Johnson will be. We could try to get 10% or 20% of that money back in the public coffers.

Baroness Neville-Rolfe (Con): I do not agree with that, although I am a big reader of the *Big Issue*.

Lord Forsyth of Drumlean (Con): My Lords, could my noble friend assure me that none of the money from the allowance will be used by Mr Gordon Brown and Sir Keir Starmer to plot the abolition of this House?

Baroness Neville-Rolfe (Con): It is up to past Prime Ministers, including Gordon Brown, to submit invoices in accordance with the rules of this scheme. I am sure they will continue to do that.

Baroness Prosser (Lab): My Lords, noble Lords should bear in mind that questions and answers should be about the principles being posed. Finger-pointing at individuals, from whichever side of the Chamber, is deeply unhelpful and does nothing to enhance the status of this House.

Baroness Neville-Rolfe (Con): I agree with the noble Baroness. That was exactly what I have been saying, in slightly different language. This allowance has been the subject of cross-party consensus. It is important to maintain the special position of former Prime Ministers in public life. I started with my mentor, Baroness Thatcher, who certainly needed this allowance in her latter days.

Mobile Homes (Pitch Fees) Bill

First Reading

3.15 pm

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

Energy Bill Relief Scheme Regulations 2022

Energy Bill Relief Scheme (Northern Ireland) Regulations 2022

Energy Prices (Domestic Supply) (Northern Ireland) Regulations 2022

Motions to Approve

3.15 pm

Moved by ***Lord Callanan***

That the Regulations laid before the House on 31 October be approved.

Relevant document: 17th Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 16 November.

Motions agreed.

Russia (Sanctions) (EU Exit) (Amendment) (No. 15) Regulations 2022

Motion to Approve

3.15 pm

Moved by ***Lord Ahmad of Wimbledon***

That the Regulations laid before the House on 28 October be approved.

Relevant document: 17th and 18th Report from the Secondary Legislation Scrutiny Committee

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, I shall speak also to the Russia (Sanctions) (EU Exit) (Amendment) (No. 16) Regulations 2022.

The instruments before us were laid on 28 October and 2 November respectively under powers provided by the Sanctions and Anti-Money Laundering Act 2018. They make amendments to the Russia (Sanctions) (EU Exit) Regulations 2019. With these amendments, the UK continues to put immense pressure on Mr Putin and Russia with our international partners. This is part of the largest and most severe economic sanctions package that Russia has ever faced.

I will first talk about the No. 15 regulations. Through this legislation, we are banning exports of hundreds of items that are critical to the functioning of Russia's economy, particularly in the manufacturing sector. This includes items such as machinery, electrical appliances, metalworking tools, precision instruments, and other products that are of critical importance to Russia's industrial and technological capabilities. They will be added to an extended list of items that we have already sanctioned.

This legislation also bans further imports from Russia, including gold jewellery, and Russian gold processed in third countries. This strengthens the ban on Russian gold that we first introduced in July. The United Kingdom has received only one shipment of Russian liquefied natural gas since the Ukraine invasion. The legislation prohibits these imports to the UK entirely from 1 January 2023. The instrument also bans the import of other goods that generate revenue for Russia, including vodka, vinegar, beverages, and food waste products, and it prohibits the provision of services in the technical assistance, financial services and expertise, and brokering sectors.

In total, the United Kingdom has wholly or partially sanctioned £20 billion-worth of goods per year, which is 96% of the goods that we used to trade before the invasion took place. As with all our sanctions, this package has been developed in co-ordination with our international partners. I assure noble Lords that we will continue to work with them to identify further potential measures to bear down on Russia.

I will make one final point on SI 15. Owing to the unprecedented pace of our sanctions work, we identified a minor mistake which occurred during drafting and corrected associated documents to reflect this on 11 November. This correction means that the export prohibitions of the products in new Schedule 3I, "Russia's vulnerable goods", will now come into force on 1 January 2023, at the same time as the ban on the import of liquefied natural gas. We expect the change to have minimal impact on the effectiveness of the measure.

I turn to the No. 16 regulations. Again, working with our partners across the world, the UK has imposed a range of sanctions on Russia and continues to do so. This legislation is a further important step in undermining Mr Putin's ability to fund his illegal war on Ukraine. We are now further targeting oil, one of his most significant sources of funding. This builds on bans already introduced on the import of oil into the United Kingdom.

Oil is a key sector for the Russian economy and plays a vital role in funding the Russian war effort in Ukraine. Crude oil and oil products are Russia's most lucrative export, around 75% of which are transported by sea. They accounted for 10% of GDP in 2021. These new powers allow the UK to move in lockstep with our allies, limiting the revenues that Russia can derive from the sale of oil transported by sea.

It is important to protect vulnerable countries for which energy security is critical. While this measure targets Russia specifically, it also aims to maintain the flow of oil at a stable price in order to manage inflated global energy prices—prices that are a direct result of Mr Putin's actions. This legislation implements a core part of the policy that will prevent countries using the UK's services to transport seaborne Russian oil and refined oil products unless they are purchased at or below the oil price cap, set and agreed by the price cap coalition of the G7, the European Union and Australia.

Importantly, the UK and our coalition partners will not ourselves be purchasing Russian oil. We and our partners have introduced our own domestic import bans on Russian oil from 5 December. Instead, this is about ensuring that UK, European, and G7 services cannot be used to facilitate the trade of Russian oil.

The ban on services, including insurance, brokerage and shipping, implemented through this legislation, will be coupled with a general licence providing the basis for an oil price cap exception. This will allow third countries to continue accessing services only if they purchase Russian oil at or below the cap. This measure will restrict Mr Putin's ability to fund his illegal war in Ukraine, while allowing oil to flow in a tight market that will enable all countries—particularly those with lower incomes—to purchase affordable oil.

A key element of this measure is the UK's world-class insurance sector. It provides key services that enable the movement of oil by sea, particularly protection and indemnity insurance. Here, our reach is significant: the United Kingdom is a global leader in the provision of third-party liability insurance, writing 60% of global cover provided by the 13 protection and indemnity clubs. Together with our G7 partners, we collectively write around 90% of this cover.

The potential impact of this measure, and the central role of the UK, cannot be overstated. The ban on providing services for Russian seaborne oil will come into force on 5 December. A further ban on providing services for Russian seaborne refined oil products comes into force on 5 February, in alignment with our international partners. This important measure will be

[Lord Ahmad of Wimbledon]
enforced by the Office of Financial Sanctions Implementation, working closely with the industry. This robust enforcement regime will be backed up by prosecutions if necessary.

Together with the actions taken by our partners in the G7, the European Union and Australia, this measure represents one of the single biggest sanctions placed on Russia, one which targets their largest source of revenue. These new amendments demonstrate our continued determination and commitment to target those who participate in, or facilitate, Mr Putin's illegal war of choice on Ukraine. I assure noble Lords that we will remain steadfast and will continue to bring forward further sanctions. I beg to move.

Lord Berkeley (Lab): My Lords, will the Minister comment on a report in the *Sunday Times* yesterday about the export of oil from Russia in a Russian ship from the Black Sea? It tied up against another ship somewhere in the Mediterranean and that oil was transferred over several days; the oil subsequently was delivered to Immingham. That, to me, is importing Russian oil. Are these regulations going to stop this, and how are they going to check it?

Lord Purvis of Tweed (LD): My Lords, I have been in Ukraine in the winter, and that, combined with the indiscriminate barbarity of the Putin regime towards the people of Ukraine in what will be a very punishing season, means that we need to redouble our efforts to make sure that there is no impunity for the Russian regime. We therefore support these sanctions and, as the Minister knows, we have, from these Benches, been consistent supporters. However, with the news that was reported just last week by the *Financial Times* that Russia's gross domestic product has fallen by only 4%—far less than had been anticipated—does the Minister agree that we need to consider further areas where there can be damage to the regime's economy and how it operates it?

Notwithstanding the information that the Minister has provided in the past regarding the impact of these sanctions, the impact on the Russian economy is less than we had anticipated. One of the reasons for that is that Russia has been able to circumvent some of the sanctions, with trade increasing in energy especially. It is therefore welcome that there has been a shift of tone in the G20 from India and China, in addition to the other G20 countries, regarding their position on the Putin regime. Could the Minister outline areas where there are discussions on expanding the type of financial instruments that could be inflicted on the regime? If the Russian economy is falling by only 4%, which is only 1.5% more than the UK economy is anticipated to fall in this coming year, then this is not likely to bring about significant change in the type of aggression that Russia is waging on the people of Ukraine.

The Minister said that these regulations have been developed in co-ordination with our allies, but they come into effect after the EU sanctions. The Government themselves state that these have been brought forward

"to further align with the EU's existing prohibitions

on

"oil refining technology and manufacturing products".

On the expansion of the list of revenue-generating goods, which the Minister outlined, the Explanatory Memorandum says:

"The aim of this measure is to align with the EU to include two Russian product groups".

Although we support the regulations, why has there been a delay in the UK bringing forward measures when they have already been put in place by the EU? If they are developed in co-ordination, surely it would be better to implement at the same time as our allies.

Have the Government assessed the effect of the prohibition on the import of gold with regard to trade with our allies in the Gulf? I have seen at first hand, on a visit to Africa, the illicit trade in gold, which is funnelled through our Gulf allies and then makes its way to Russia. What action are we taking with our allies and trading partners on the gold trade in the Gulf?

Could the Minister explain a minor point that is curious to me? Although we support the measures on those importing and acquiring gold jewellery that originates in Russia, the Explanatory Memorandum has, in brackets,

"(with an exception for personal use, which will also apply to the export of gold jewellery)".

I cannot afford much gold jewellery but I think that quite a lot of gold jewellery is for personal use, so why are we putting in place measures to prohibit gold jewellery with an exception for "personal use"? That does not make much sense to me, so if the Minister could explain it, I would be grateful.

On the No. 16 regulations, I very much support prohibitions on the supply and delivery of certain ships, notwithstanding the very valid question asked of the Minister regarding circumventing these prohibitions. We also welcome the shift in tone from our friends in Delhi. But what further work is being done regarding the rupee-rouble swap arrangements for India's purchasing of oil? I have raised this with the Minister on a number of occasions. He knows that there have been ways in which Russia has profited out of the sanctions on energy and oil. Can the Minister outline clearly that Russia is not profiting from our allies through its purchasing arrangements? What discussions are we having with India in particular regarding its purchase of Russian oil?

3.30 pm

I move to the Government's enforcement. As the Minister said, and as was reported by the Office of Financial Sanctions Implementation and the Treasury, assets worth £18 billion have been frozen, which is welcome. I read the annual review and what struck me was that the frozen assets of the Russian regime and individuals connected with it have grown from £44.5 million in September 2021 to more than £18 billion now. If any evidence was needed about how exposed London was to kleptocratic finance, this is surely it. How much of that is now actively being considered for seizure? We have £18 billion frozen at the same time as we are taking away the budget for developing countries to pay for the Ukrainian resettlement scheme at home. Would it not be better that we use seized money from the Russian regime to pay for the resettlement of

Ukrainian refugees, rather than taking that money from developing nations, which is the Government's policy?

Finally, will the Minister explain why, although the OFSI has reported that it has received 236 reports about those in the UK breaching sanctions, only two monetary penalties have been issued? How many warning letters have been issued? Why have there been so many breach reports but so few prosecutions? Ultimately we are to wait for the Economic Crime and Corporate Transparency Bill, which is slowly progressing through Parliament. When are we likely to see it in this House? When will we get an update on the resources for Companies House and others to make sure we can start seizing some of those assets and putting them to good use?

Lord Howell of Guildford (Con): My Lords, these measures are admirable, but can we have an analysis of how we are helping other countries around the world follow the same standards of capping or prohibiting Russian fossil fuel imports? There is evidence that a great deal of Russian oil—possibly not gas—is simply going to other markets in Asia, perhaps at a discount but in some cases at full market price, and that Russian coal is still being fairly widely exported. We would like to hear more about the full diplomatic effort that we are deploying with other like-minded countries in Asia, Europe and across the Atlantic to ensure that Russian oil and gas sales really are minimised and that the heat is being felt in Russian finances. I know that that is our intention, but the facts and figures, some of which have been touched on, do not seem to reflect that very much impact has so far been made.

Lord Empey (UUP): The noble Lord, Lord Purvis, referred to £18 billion-worth of assets that have been seized. The noble Lord will be well aware of the billions that have been frozen under a United Nations resolution with regard to Libya, which have been untouched and from which victims in this country have not received any support. Is it the case that we could be seeing a repeat of that performance and that those assets will have to be managed? Perhaps investment should be improved by people in our system and then given back again whenever the conflict ends.

Lord Collins of Highbury (Lab): I am just waiting to see whether anyone else wishes to comment—every time someone says something, it provokes a point. I hope I am not going to be too provocative. I want to start by being very clear that the Opposition are at one with the Government on these sanctions. We will do whatever we can to support their speedy reduction. If there is one message from this House, it is that this country is absolutely united against Putin's illegal war and, in particular, as we have seen, the recent indiscriminate attacks on civilian infrastructure, designed to do one thing, which is to damage the homes and the heating of families and children. So I start by saying that we are absolutely at one with the Government.

The No. 15 regulations rightly extend the prohibitions on goods critical to Russian industries. I am particularly pleased about that instrument ending the importation of liquefied natural gas—LNG—originating from Russia. Western allies, including the EU, have made real progress this year, as the noble Lord, Lord Purvis, said, in obtaining liquefied natural gas from appropriate sources, such as the United States. Prohibiting this Russian source is a good step towards energy security.

There is one thing about the speed of the introduction. The Minister highlighted an error that occurred, but another thing that struck me was that the import ban will not come in until January 2023. He explained that the error would mean that certain prohibitions will not come in until January, but why will that ban not come into force until January 2023?

I want to pick up the point made by the noble Lord, Lord Howell, because he is absolutely right. It is not just about working with allies to impose sanctions. What are we doing to support countries which need these energy supplies? What are we doing to advise them on and provide help with alternative sources? It is not easy for countries to suddenly switch if they have become reliant over the years, so it is not just a question of offering sticks. It is also about encouragement and support, so I hope the Minister can tell us a bit about that.

The ban on liquefied natural gas also prohibits loans to firms that support Russian interests, even if they are based outside Russia. To what extent are the Government already monitoring which companies are providing finance for these purposes? The Minister has said on many occasions that whatever sanctions we may introduce, there will be someone trying to circumvent them. That means enforcement is critical—the noble Lord, Lord Purvis, made this point. The United States appears to have quite strong enforcement measures. Are we examining not just how we act in concert when introducing legislation, but exactly how we can more effectively act in concert on enforcement, which will ensure that people do not easily circumvent it?

My noble friend's question on circumvention was a good one. If this is being done so explicitly, I hope we can take more direct action on it. However, the regulations also have exceptions—I want the Minister to highlight some of these—which will allow oil products to be provided to third countries. Can he explain a little more about the circumstances where this would be permissible? In particular, we have heard about other countries' roles in importing and then exporting. We need to be reassured that we are taking that into account.

The noble Lord, Lord Purvis, made the broader point about international co-operation and co-ordination on sanctions. In our consideration of each statutory instrument as it has come in, we have certainly raised with the Minister the fact that the United States and Canada seem able to introduce sanctions faster, or well before our own. There may be good reasons for that—it is an incremental build.

As we move into a longer period of these sanctions, I wonder whether the FCDO has done a general assessment of where and why there may be gaps, and how we can hit Russia with one big hit, rather than taking an incremental approach. It would be really good if Parliament could be given such an assessment. How are we building up allies and persuading others

[Lord Collins of Highbury]
to join, even if they are unable to match our speed of implementation? Are they at least coming on board in some of the other areas?

In conclusion, I reiterate the Opposition's full support for the Government's actions here, and we look forward to further clarification.

Lord Ahmad of Wimbledon (Con): I thank all noble Lords who participated in this short but important debate. I again put on record the Government's thanks for the strong sense of co-operation that has been extended by all noble Lords. In particular, I acknowledge the role played by the Front Benches of His Majesty's Opposition and the Liberal Democrats; I will continue to share information and work with noble Lords in this respect.

On the point raised by the noble Lord, Lord Berkeley, I will certainly look into it. On circumventing, referred to by the noble Lord, Lord Collins, there will always be ways and means of doing that, and this comes back to effective enforcement, a point made by all noble Lords. That is why we need co-ordination, and not just in the imposition of sanctions. I take on board the point made by the noble Lord, Lord Collins, about ensuring effective imposition, and what the noble Lord, Lord Purvis, said about the impact on the Russian economy. I say again—I know all noble Lords agree on this—that our intention, ultimately, is not to hit the Russian people; it is about ensuring that Mr Putin and his Government feel the full force of international action and collaboration. In this regard, I will certainly come back to the noble Lord, Lord Berkeley, if I have more detail specific to the issue he raised.

My noble friend Lord Howell raised the issues of implementation and circumvention, particularly in respect of oil, and the noble Lord, Lord Purvis, raised working with our international partners. We are strengthening our engagement in this respect and have done so particularly recently. This subject was discussed in the G20, not just the G7. The fact that we are now fully aligned with our partners in the US, Australia and, importantly, across the European Union, allows us to make those points consistently across the piece and in a unified fashion.

The noble Lord, Lord Collins, raised the issue of oil and vulnerable countries. We are not seeking totally to disable economies, particularly of vulnerable countries that are already feeling the real impact. Here, the test will be in the application. We have seen this with energy in Europe, and I have seen it directly in my visits to north Africa in the context of food security. We have implemented these sanctions—I come back to that crucial word, "co-ordination"—in a co-ordinated way, and we are aligned with our partners across the EU, Australia and the US. Coming back to the point made by the noble Lord, Lord Berkeley, there is the question of how we strengthen our maritime co-operation to ensure that any illicit practices can be stamped out.

As I have said, I have always been alive to any issue that has arisen, but particularly when it comes to the impact and application of sanctions, there will undoubtedly be organisations and individuals looking to circumvent them, and it is important that we stay aligned.

Turning to some of the specific questions raised, the noble Lord, Lord Purvis, referred to the delay in bringing measures into force when the EU has already done so. The SI represents the earliest opportunity to match the prohibitions in this area announced by the EU, and I assure noble Lords that we speak to our allies constantly. There are differences in application of the system but, as I said, I take on board the question of how we can close the gap.

I assure the noble Lord, Lord Collins, that there is an analysis. Again, I will check with officials and seek to share what I can. I have had analysis done across the UK, the EU, the United States, Canada and Japan. When it comes to individuals, we are marginally ahead of the EU. When it comes to oligarchs, again, we and Canada seem to be ahead. There are other areas—for example, on entities—where Canada and the United States are ahead. Where systems are fluid, such as here, we are aligned, but we have a running tally to ensure that the entities or individuals that we are sanctioning are fully aligned with our key partners. I will certainly seek to see how much of that I can share at headline level with noble Lords.

3.45 pm

Lord Purvis of Tweed (LD): I am grateful for that. One area that the EU is looking at is effectively a punitive exit tax: those who have assets in one area and seek to dispose of them in another will be penalised through taxation. Effectively, if the sanction does not get them at the start, it will get them at the end. That would be an absolutely critical area where there must be no difference across our allies. Will the Minister please consider that? It is an area where there cannot be any difference at all.

Lord Ahmad of Wimbledon (Con): My Lords, I certainly take that on board. On this issue we are absolutely at one, and the real benefit of your Lordships' House is that, where there are areas that are identified, I of course welcome practical suggestions for how we can target quite specifically—and, as I said, we will certainly take those forward with the EU and our other allies.

I turn very briefly to asset seizures. My noble friend Lord Empey raised the issue of previous situations that arose on Libyan assets. I assure the noble Lords, Lord Purvis and Lord Empey, that we are considering all options for seizing Russian-linked assets that could be used to support the people of Ukraine, including to fund humanitarian efforts and reconstruction. Law enforcement agencies are currently able to seize UK-based foreign assets with links to criminality or unlawful conduct by making use of powers under the Proceeds of Crime Act 2002. My department is working closely with other government departments and law enforcement agencies to identify all possible options for seizing Russian-linked assets in the UK that could also be used to pay for reconstruction in Ukraine. Our international partners that we are co-ordinating with have also frozen a significant volume of assets but, like the UK, are yet to fully test the lawfulness of the asset-seizure regime. I assure noble Lords that we will continue to explore all possible options for seizing Russian-linked assets to pay for reconstruction costs

in Ukraine. Of course, we have to respect our legal obligations and responsibilities. As the details emerge, I will of course be happy to share them with noble Lords.

The noble Lord, Lord Collins, raised the important issue of export bans coming into force from January 2023. That is when the import ban on Russian liquefied natural gas takes effect, and the legislation will mean that the export bans take place at the same time. That is purely to ensure that we get everything in place so that the application of those sanctions can have full impact. As I said in my opening remarks, we believe that the delay caused by that will not have a major impact in any shape or form. I might add that, earlier this year, the Government pledged to ban Russian oil this year, and liquefied natural gas as soon as possible thereafter. That is why we set the date on 1 January.

The noble Lord, Lord Purvis, raised the issue of gold. He mentioned that it is not something that he is normally adorned with. As someone with heritage from south Asia, I assure him that gold is a significant area of interest to many people across the world, particularly in the heritage that I have. Our intention is to look at organisations but not necessarily to penalise individuals with the impact of this measure. We have imported minimal gold jewellery from Russia, and Russian gold imports to the UK have already been prohibited by the initial measure. This measure seeks to reinforce the existing ban, aligns its scope with the bans that our allies have also imposed and prevents a potential loophole from being exploited. I will look further into the specifics of what the noble Lord raised, but I will share with him the statistic that in 2021 imports of Russian gold to the UK were worth £11.1 billion and accounted for 61% of our total exports from Russia. As a result of the Government's actions and the decision of the London Bullion Market Association, that trade has already ceased, depriving Russia of that specific amount of export revenue.

Also on the issue of gold, we are trying to target Russian businesses trading in gold, as I said earlier, not individuals who possess gold. I will take away the noble Lord's earlier point about selling an asset in another area or sector, but, on this aspect, I come back to the earlier point I made; we are seeking to target businesses while minimising the impact on ordinary Russian citizens.

The noble Lord, Lord Purvis, also raised the issue of Russian revenues. I assure noble Lords that, while I am not going to go into specific figures, within the G7 and in the G20 recently we have been working through solutions that can apply universally with partners and also to lessen the impact on particular vulnerable countries and economies. That is the right way to approach our sanctions policy, beyond just the immediate area we have looked at on ensuring that humanitarian causes, and channels, remain open.

These measures continue our wave of sanctions that is having damaging consequences on Mr Putin's regime. I assure noble Lords that we are committed to going further. I welcome practical suggestions and insights that can be brought to this debate and discussion. In doing so, we work very much with our key allies. We stand firm and resolute with the people of Ukraine, and we will continue to support them and the Ukrainian Government until, ultimately, we see Russia withdraw from Ukraine. The sanctions are but one example of the UK's continued support. Therefore, I am proud to say that we continue in a very unified sense in ensuring, ultimately, that Ukraine can prevail.

Motion agreed.

Russia (Sanctions) (EU Exit) (Amendment) (No. 16) Regulations 2022

Motion to Approve

3.52 pm

Moved by ***Lord Ahmad of Wimbledon***

That the Regulations laid before the House on 3 November be approved.

Relevant document: 18th Report from the Secondary Legislation Scrutiny Committee

Motion agreed.

Counsellors of State Bill [HL]

Second Reading

3.52 pm

Moved by ***Lord True***

That the Bill be now read a second time.

The Lord Privy Seal (Lord True) (Con): My Lords, I know that all noble Lords will be aware of His Majesty the King's message to both Houses of Parliament and I am confident that there is a strong desire across your Lordships' House to support His Majesty to undertake his ceremonial and constitutional duties at home and overseas.

As your Lordships will be aware, the sovereign performs a significant number of functions which form a key part of the machinery of government of the United Kingdom, including indicating assent to legislation. The sovereign also performs a similar role in relation to the Crown dependencies and the British Overseas Territories. It is essential that these functions, which are a core part of our constitutional arrangements, can continue to be performed if the sovereign is unable to perform them personally by reason of absence or otherwise. This Bill will add that necessary resilience by modifying the Regency Acts 1937 to 1953.

Therefore, I am sure that this Bill will commend itself to your Lordships as being an effective and simple provision supporting His Majesty's Government to continue as required, and that noble Lords will share my belief that it is our honour and duty to be of service to His Majesty in this matter, which will enable him to give the fullest service to the nation.

Section 6 of the Regency Acts 1937 to 1953 provides for Counsellors of State, to whom royal functions can be delegated where the sovereign is absent from the UK or is ill. It has always been important to ensure that government business can continue in these circumstances. As Section 6(1) of the 1937 Act explains, this is

"to prevent delay or difficulty in the despatch of public business".

[LORD TRUE]

I will briefly set out the functioning of the Acts specifically with regard to Counsellors of State. The delegation of royal functions is made by the sovereign through Letters Patent for the period of the illness or absence. The sovereign may revoke or vary the delegation by Letters Patent, which set out the statutory limitations of the delegation. The sovereign will also usually specify in them which functions are and are not delegated. In practice, the Letters Patent create a pool of all the Counsellors of State to whom functions can be delegated. Counsellors of State exercise royal functions jointly or by such number of them as may be specified in the Letters Patent.

Generally, Counsellors of State have acted in pairs. Those who are absent from the United Kingdom during the period of delegation may be excepted, as per Section 6(2) of the 1937 Act. The Counsellors of State are currently the spouse of the sovereign, if applicable, and the four persons who are next in the line of succession to the Crown, excluding those who are disqualified under the Act. Counsellors of State were routinely appointed when Her Majesty Queen Elizabeth travelled abroad. In fact, they have been appointed over 30 times in the last few decades, and of course, as we recall, during the State Opening of Parliament earlier this year.

The functions Counsellors of State undertake can include, for example, indicating assent to legislation, formally approving appointments, and providing authority for the affixing of the Great Seal to documents, such as royal proclamations. The role can also include convening Privy Council meetings where necessary. The Bill represents a practical solution and safeguard to ensure that the machinery of government can continue. The Royal Household has confirmed that, in practice, working members—I repeat that—of the Royal Family will be called upon to act as Counsellors of State, and that diaries will be arranged to make this practicable.

The Bill proposes a very precise and limited modification to the provisions in the Regency Acts in respect of Counsellors of State. In line with the King's message to both Houses of Parliament, the Bill will add His Royal Highness the Earl of Wessex and Her Royal Highness the Princess Royal to the list of Counsellors of State. They will undertake those roles for their lifetimes. By doing so, the Bill will provide greater resilience in our constitutional arrangements by widening the pool of Counsellors of State. As His Majesty undertakes engagements abroad, this is an expedient step, helping His Majesty's Government plan for contingencies. Furthermore, Her Royal Highness the Princess Royal and His Royal Highness the Earl of Wessex have extensive experience—over 50 years between them, I believe—of supporting the sovereign with their official duties, having previously served as Counsellors of State during the reign of Her late Majesty.

The Bill follows the precedent set by Her Majesty Queen Elizabeth when, shortly after her accession in 1953, she asked Parliament to consider legislating for Her Majesty Queen Elizabeth the Queen Mother to be a Counsellor of State. The Queen Mother had previously acted as a Counsellor of State but had ceased to be one following the death of her husband King George VI in 1952. Seven decades ago, Parliament passed the Regency Act 1953 to deliver on Her late Majesty's wishes. Today, as we bring the Bill before this House, reflecting His Majesty's wishes, we are guided by precedent in the substantive approach and procedure.

I trust, therefore, that your Lordships will agree with me that this is a prudent and expedient modification to the long-tested provisions for Counsellors of State that will offer the necessary resilience to our constitutional arrangements and be of great support to His Majesty. I am confident that the Bill will command considerable support, and I know that this House and this Parliament will wish to be of assistance and support to our sovereign as he undertakes his vital duties. I beg to move.

3.59 pm

Lord Janvrin (CB): My Lords, I strongly support the Bill. It will ensure that the constitutional business of the Government can proceed without delay when the sovereign is unavailable. I declare an interest as a former member of the late Queen's household.

The daily workload of the sovereign as Head of State contains much that is of an essentially formal legal nature, requiring, for example, a presence, a formal approval or a signature to process state business according to law. As we have heard, this covers such things as Privy Council meetings, receiving ambassadors' credentials or the formal approval of appointments. It has long been the working practice of the Palace to ensure that such formal business is carried out without delay—hence, for example, the discipline of the daily red boxes and the regular appointment, certainly in my time, of Counsellors of State when the Queen was overseas. The present pool of working members of the Royal Family who are eligible and available to be Counsellors of State is, for reasons which are well known, very small. The addition of the Earl of Wessex and the Princess Royal makes very good practical sense. If I may say, when many minds are on football, it will give much-needed strength and depth to the bench.

I have three brief points to add. First, some might question whether in the age of Teams, Zoom and electronic signatures the business of the Head of State could be updated—as indeed some of it had to be during Covid—but I am not sure that this is the right way to go in normal times. Some of the activities performed by Counsellors of State, such as the receipt of credentials from ambassadors, are better done face to face, especially when a little ceremonial adds to the occasion. I am no expert on the legal technicalities of how, where and when electronic signatures are valid, but I would need to be persuaded that an electronic royal sign manual is either practical or historically desirable, especially when the alternative of Counsellors of State is on the statute book.

Secondly, the Bill is about process and good administrative practice; namely, the expeditious execution of formal government business. It is not about policy matters or wider royal matters such as finances, programmes, major speeches or other royal activities which are the subject of continuous formal and informal discussion between the Government and the Palace.

Thirdly, this is a very limited administrative measure but one which could be of great importance in the event of unforeseen developments that come out of nowhere; I think, for example, of accident or illness.

The fast-tracking of the Bill though Parliament therefore seems entirely sensible. It is a very simple Bill which does not affect the underlying Regency Act, and it is entirely non-political. For this reason, it surely does not merit extensive use of scarce parliamentary time. I support the Bill and the Government's handling of it.

4.03 pm

Viscount Stansgate (Lab): My Lords, this is a necessary Bill, and it should pass. It is also the case that we know why it is necessary. It is a pleasure to follow the noble Lord, who speaks with such experience and authority in this area.

The monarch cannot always be available to perform his or her duties, and by long tradition over centuries, enshrined most recently in statute, others have been appointed from within the Royal Household to assist the sovereign. The duties cover things such as those listed by the noble Lord, including Privy Council meetings, signing relevant documents, receiving ambassadorial credentials and so on, but they do not include appointing Prime Ministers, dissolving Parliament or conferring peerages.

Under the existing Regency Act 1937, as the Leader of the House outlined, there are currently five who hold the position of Counsellor of State: the Queen Consort, the Prince of Wales, the Duke of York, the Duke of Sussex and Princess Beatrice. I think that there are many people in this country who would find this current list a curious mixture. Many would say, "Well, why isn't Princess Anne and Prince Edward on it?", which of course is why we are here today. That is because the current list, under the formula of the 1937 Act, bases Counsellors of State on the next four adults in the line of succession. It is clear that neither the King nor the Government want to change the definition of the line of succession to the Crown, or its relationship to those who are eligible to serve as a Counsellor of State. Yet, for reasons that we know, the current system is untenable, which is why we have this Bill.

When I first raised the issue at the beginning of the year, it was already clear that there were elements of Her late Majesty's reign that had a regency about it. Her Majesty had reached a great age and was increasingly unable to fulfil some of the constitutional functions that she had performed with such distinction for decades. Earlier this year, the Government announced that they had no intention to change the Act, but events unfolded—the Leader of the House referred to the single most decisive occasion, which was the opening of this current Session of Parliament—which were only made possible by virtue of the operation of the Regency Act. We know that Her Majesty's final constitutional act was to appoint a new Prime Minister, something that only a monarch can do. I am one of those of the opinion that she deliberately held on because she knew that that duty lay ahead of her.

As the House knows, I raised the matter on the Floor of the House on 24 October, and my Question swiftly unearthed the news that the King—and, by all accounts, Her late Majesty as well—had also begun to realise that, in future, the existing arrangements would not work because they would not be publicly acceptable in the case of two of the existing Counsellors of State, one of whom has left public life and one of whom has left the country. So, when the King sent his message to your Lordships' House a week ago, I think it reflected his own recognition that the current position is untenable. He has shown an important sensitivity to public opinion and is to be commended for it.

Over the centuries, Parliament has passed Regency Acts to deal with all manner of circumstances, and the Leader of the House alluded to some of them. The regency Act 1811 provided that Prince George could act for his incapacitated father, King George III; the Regency Act 1830 provided for what would happen if the King died before Victoria had reached the age of 18; the Lords Justices Act 1837 provided for what would happen if Queen Victoria died without legitimate children succeeding her; the Regency Act 1840 provided for what would happen if Queen Victoria died so that Prince Albert would, in effect, take over until such time as their eldest child reached 18; the Regency Act 1910 provided that, in the event of the death of King George V, Queen Mary would rule as regent. In fact, the Regency Act 1937 broke this pattern, because it established, as it were, a mechanism for defining who Counsellors of State would be in relation to the line of succession to the Crown, which we know.

There is a long history of Parliament taking pragmatic action, and the Bill before us today, as has already been said, does the simplest possible thing to address the problem: it simply adds two names to those defined under the Act. I think that it will be widely supported; it is the easiest and most straightforward thing to do. It is, however, a quick fix, and it does not entirely provide a solution to what may happen in the future. If, for example, Princess Anne or Prince Edward were themselves to become unavailable, through circumstances such as illness or worse, the law would immediately need to be looked at again and we would have another Bill before the House. Would it not be better if the Bill provided a sort of updated formula for identifying who can become Counsellors of State depending on circumstances, which is, in effect, what the 1937 Act tried to do?

The Leader of the House said that the start of a new reign is an appropriate time to reconsider the resilience of our constitutional arrangements in support of the monarch, and he is right. But it may be possible that we can spend a short time in Committee exploring an alternative approach, especially in relation to what happens if something happens to the two Counsellors of State that the Bill proposes we add today. In the meantime, I hope the House will give the Bill a Second Reading.

4.10 pm

Lord Cormack (Con): My Lords, I am delighted to follow the noble Viscount, Lord Stansgate, who has delivered a very well-researched speech. I must say that, as he was speaking, I had a lovely mental image of his father in a celestial realm writing his diary. I am sure he would have approved of every word that the noble Viscount uttered. He is quite right, as is the

[Lord Cormack]
noble Lord, Lord Janvrin, and my noble friend Lord True: this is a very simple measure to deal with an immediate potential problem. It is right that it should be simple; it is right that it should add just two people to the list at the moment; and that does not mean that the noble Viscount, Lord Stansgate, is wrong in thinking that there may be a time when we look a little beyond that.

The fact is that we need to extend this list of people. There could be no better two members of the Royal Family than the Princess Royal and the Earl of Wessex to invite to join this list, and this just gives us all a brief opportunity to say how much we are indebted to the Royal Family for the wonderful service they have given, most gloriously personified by Her late Majesty's seven decades on the throne. I have great confidence that our present King will continue in that tradition, but he needs to have the peace of mind that this very simple measure gives him that, in the unfortunate event of his being unwell, or the necessary event of his being out of the country if some problem crops up, there will be no difficulty about finding two Counsellors of State to fulfil the necessary duties that the noble Lord, Lord Janvrin, described so very well. Therefore, it is with very great pleasure that I give my total support to this Bill and express my hope that Committee and any subsequent stage will be extremely brief and that Wednesday's other important business will not be held up as a result.

4.12 pm

Lord Berkeley (Lab): My Lords, I have intervened on previous occasions to discuss these issues. I welcome the Bill, as I have said before. As other noble Lords have said, it is very necessary to ensure that the machinery of government continues when the monarch is abroad or indisposed. Other noble Lords have mentioned the machinery of government, rather than opening fêtes and things. The machinery is vital. It is good that the Lord Privy Seal, in his opening remarks, talked about the working members of the Royal Family, because they work very hard, so this appointment is necessary. I had a chuckle when I read the Bill and saw that the Earl of Wessex took precedence over the Princess Royal. I would like to ask the Lord Privy Seal why. Is it because he is a man, or for some other reason? It does not really matter, because they are both equal anyway.

The most important thing for me is the question of whether the Duke of Sussex and the Duke of York will continue. I have questions for the Lord Privy Seal on both of them. The Duke of Sussex is abroad, as we all know, and Section 6 of the Regency Act 1937 appears to exclude those who are absent from the UK. I do not know whether that means absent for a short or a long time. We can form our own views on it, but it is pretty clear that he is away for quite a long time and I question whether he should still be on the list.

The Duke of York no longer undertakes royal duties, I understand, so I assume that he is excluded from being a Counsellor of State. However, it is not clear whether he is disqualified under Section 2 of the Regency Act 1953 because that applies only to people under 18, I think, which he clearly is not.

The Bill quite rightly adds two more members so, presumably, it can also exclude two members who, I suggest, are no longer working members. As several noble Lords have said, there is a need to bring the list up to date. I have tabled two amendments for us to debate in Committee to investigate and hear comments from noble Lords as to whether it would be a good idea, in addition to adding two people, as the Bill says, to remove two people.

Finally, in the interests of transparency, it would be useful for the Royal Household or the Government to produce a list of members every year or whenever there is a change so that everybody knows the role that people are taking, including whether they still do it or have stopped doing it, and what the criteria are. It is all a bit confusing; there might be some benefit to a bit more transparency.

4.16 pm

Baroness Jones of Moulsecoomb (GP): My Lords, I usually have strong opinions on almost everything but, I must say, I could not care less about this particular Bill.

We have a system of government that is ridiculous and crazy. It was originally based on the concept that "might is right", with which I fundamentally disagree. It just seems ridiculous that we still have that system here. We are not a democracy. We do not have any sort of sensible system; I include in that not having proportional representation and still having an appointed House of Lords, even though I am appointed myself.

Honestly, this Bill is so inconsequential to the lives of most people who are struggling to live and work at the moment. Of course the Royal Family works hard, but so do nurses and street cleaners. Please could we give those people some credit as well? I am sorry to strike a sour note, but we should be discussing things that matter, not things such as this that matter to a tiny number of people.

The third paragraph of the Library briefing states:

"There is no provision for making anyone else a counsellor of state."

I wonder whether we are breaking the law; I do not quite understand what that means. Perhaps the Leader of the House could explain why there is no such provision.

From my point of view, the sooner we have a Scandinavian-style monarchy, the better.

4.18 pm

Lord Balfe (Con): My Lords, I was moved to put my name down on the speakers' list by the same point that the noble Lord, Lord Berkeley, made. First, I commend the King on bringing this matter before us so speedily, because it is something that needs looking at.

What the Bill is doing, I think, is trying to deal with an Act that was conceived and passed before the idea of a working member of the Royal Family was invented. That makes for part of the difficulty because it clearly does not remove either the Duke of Sussex or the Duke of York from the list. It does, however, still apply to Princess Beatrice, of course, who will disappear from the list when Prince George is 18 years of age. So

it is a bit of an odd Bill. I wonder: what would happen if the Duke of Sussex decided to jet in? What if he saw the King's diary and saw that the King was going to be on a state visit going from X to Y in, let us say, Australia, so he got on a plane, got off at Heathrow and said, "Hi, I'm here. I'm on the succession list"?

We would get over all this if we had a system whereby the monarch just prescribed that "the Counsellors of State shall be as follows". That would be very adequate. The Princess Royal and the Earl of Wessex have in the past held the role, and dropped off because of the rules of primogeniture, which is what we are dealing with today. In my elected time, I met the Earl of Wessex and, on several occasions, the Princess Royal. I was always immensely impressed with her. Whenever she turned up to a function in my Euro constituency, she was extraordinarily well briefed and spent her time talking to the people on whatever project she had come to visit. She did not spend her time with the mayor, let alone with the MEP, but with whoever was working in the area that she had come to open, commend, present prizes concerning, and the like. I can think of no one better placed than the Princess Royal to be a Counsellor of State. She certainly knows everything about the job.

The noble Viscount, Lord Stansgate, will put me right if I am wrong, but the 1840 Act appointed Albert as regent until Prince Edward came of age if Victoria died before he was 18 years old. A strong candidate for the role of Counsellor of State must be the present Princess of Wales. She will be a Counsellor of State when her husband eventually succeeds to the throne. Presumably, if the throne is vacated before Prince George is 18, the Princess of Wales will be designated as the regent-in-waiting. Therefore, it would be very sensible, and give her some practice in the job, if the Princess of Wales was added to this list. I dare say that someone at the Palace will be reading this debate. They might like to consider these points. I certainly will not be pushing anything to a vote, but this is the one time in a lifetime when we can express an opinion on this. As such, I disagree with the noble Baroness, Lady Jones. One of the jobs of this House is to make informed comment on matters such as this. We are a monarchy, and the Counsellors of State matter.

4.23 pm

Lord Pannick (CB): My Lords, this Bill, which I support, would not justify a whole episode of the television series "The Crown". However, it raises some interesting constitutional questions, despite the dismissal of its significance by the noble Baroness, Lady Jones. I would welcome the views of the Lord Privy Seal, in writing or when answering this debate, on those questions; I do not propose to table any amendments.

Section 6 of the 1937 Act which this Bill amends is confined to cases when His Majesty is ill or absent abroad. Does the Lord Privy Seal agree that it is anomalous that there could be no delegation to the Counsellors of State if the monarch were at Balmoral, unable to travel and unable to receive visitors because of snow or fog, but that there can be delegation if the monarch is in Paris for the day and easily able to receive a visitor or return to London to conduct urgent business? It seems anomalous that if there is a problem within the United Kingdom, no delegation can be made.

My second question arises from the fact that some of the most important royal functions have been performed by the monarch when abroad. For example, in 1908, when Edward VII was unwilling to interrupt his holiday in Biarritz, Mr Asquith was summoned there to be appointed Prime Minister. In the very useful House of Commons Library paper, *Regency and Counsellors of State*, written by Mr David Torrance and published in May this year, there is a reference to what happened when Her Majesty Queen Elizabeth II was on a Caribbean tour in 1966. There was a request by the then Prime Minister, Mr Harold Wilson, for a Dissolution of Parliament. The assent of Her Majesty was contained in a letter sent to Mr Wilson.

We now have the advantage of videoconferencing and documents can be sent as email attachments. We have all sorts of modern communications and, one would hope, the occasions on which His Majesty cannot personally perform royal functions because he is abroad would be reduced. I entirely accept my noble friend Lord Janvrin's point that ceremonial occasions are best performed in person and I suggest that important constitutional functions should be performed by the sovereign personally. The Lord Privy Seal emphasised the role of the sovereign in giving consent to legislation. Can he answer the question of whether, in principle, His Majesty could signify his consent to legislation from abroad, sending his signature by email—a point raised by my noble friend? Equally, could His Majesty appear by videolink from abroad to preside over a Privy Council meeting? These important functions should be performed by the sovereign personally.

My third question concerns the scope of the powers of Counsellors of State. There are limits on these powers, as we have heard: Counsellors of State may not dissolve Parliament, except on the express instructions of the sovereign; they may not grant any rank, title or dignity of the peerage. But, in academic debates, the question has arisen of whether there are implied limits on the powers of the counsellors. Professor Vernon Bogdanor, in his book *The Monarchy and the Constitution*, quoted a memo written in 1954 by Sir Edward Ford, assistant private secretary to Her Majesty Queen Elizabeth II. Sir Edward said that Counsellors of State have no power to make decisions. They are,

"if one may say it without disrespect to their persons—merely a piece of constitutional machinery—the nearest thing to a human rubber stamp that has perhaps yet been devised."

Professor Bogdanor pointed out that the legislation provides no procedure for what should happen if the Counsellors of State disagree. He said that is because the question is "absurd", since the counsellors have no decision-making power.

Another distinguished constitutional scholar, Professor Rodney Brazier, took a different view in his 2005 article in the *Cambridge Law Journal*. He said that, if the King were seriously indisposed and could not express a view, counsellors may have to take decisions to deal with urgent matters—for example, the sudden death of the Prime Minister. Can the Minister illuminate us, or at least give some guidance, on whether the

[LORD PANNICK]
Counsellors of State are merely instruments of the King's will or have an independent decision-making function where necessary?

I shall raise my fourth point tentatively because of its sensitivity. The noble Lord, Lord Berkeley, has already referred to it. The noble Lord, Lord Janvrin, made a football analogy, saying that it is valuable to have two further players on the bench. I would respectfully suggest that it is a curious feature of the Bill to retain two people on the team sheet who will not play any part in the match. Of course, I understand why that is.

My final point is to express hope that the Government may think it time to conduct a general review of the provisions of the 1937 Act, as amended, to see whether they are appropriate for the modern world or can be improved. This little Bill does not provide an opportunity to resolve these questions but I hope the Government will consider them.

4.31 pm

Lord Newby (LD): My Lords, the British constitution is an extremely strange animal. The Bill shines a light into one of its darkest corners. How many of the general public know that there are such things as Counsellors of State? How many could name them? If they heard who they were, how many would think that this was a sensible current arrangement?

The noble Lord the Leader of the House helpfully said how many times the Counsellors of State have officiated in that role in recent decades, but I do not think he said what they did. I would find it extremely interesting to know what, in practice, it has been necessary for them to do. This will give us some sense of how they might be used in the future.

Obviously, I support the appointment of the Earl of Wessex and Princess Anne, both of whom clearly have the commitment and experience to do the job well. Indeed, both have done it in the past. They were on the bench and had what is normally the great ignominy of being dropped from the squad altogether. Now, at a rather more advanced age, they have been brought back to the squad and definitely strengthen it immeasurably.

The situation at the minute, given what the noble Lord, Lord True, said about only working royals being asked to fulfil the roles of Counsellors of State, is clearly extremely precarious and has been for some time. The last State Opening was performed by Prince Charles, now King Charles, with Prince William as the second Counsellor of State in attendance. Suppose, however, that Prince William had contracted Covid on the eve of the State Opening. There would still have been a requirement for two Counsellors of State. Instead of Prince William, the choice would have rested between Prince Andrew and Princess Beatrice. I do not think the country would have thought that an acceptable position to find ourselves in.

A number of noble Lords have suggested that we ought to have a root-and-branch look at who might be Counsellors of State. One can think of ways in which the situation could be easily improved—for example, inserting the word "working", albeit with some appropriate definition, to cover those members of the Royal Family who would be eligible to be Counsellors of State.

Given the many other pressing issues facing the country, I suggest that we should not be spending a huge amount of time looking at this now, because what we have before us today is a perfectly good, reasonable and workable temporary measure—if quite a long-term one—to deal with the problems of the existing Counsellors of State. For today, I am very happy to support the Bill. It gets us out of a hole that, at some point, it would be a good idea to fill in.

4.34 pm

Baroness Smith of Basildon (Lab): My Lords, I am grateful to the Lord Privy Seal for his detailed explanation of the Bill when he opened the debate. I also thank the House of Lords Library for its very helpful and comprehensive paper, which actually answers a number of the questions that were raised by noble Lords in this debate. I am sure that the Minister will make use of it.

I smiled when the noble Lord, Lord Pannick, referred to the constitutional machinery of Counsellors of State. Those of us who have been candidates at elections often remember being told that we were a legal necessity for the election, but our role was important in that context nonetheless.

This is a very simple, straightforward proposal. We have strayed into debate on wider issues that may be addressed in the legislation, but we have quite a straightforward and moderate measure before us today. It has the advantage, unlike so much other legislation, of being precise and very clear. The purpose is to ensure that Counsellors of State are available when His Majesty wishes to delegate certain duties. The noble Lord, Lord Balfe, asked what would happen if the Duke of Suffolk were to come over to the UK and try to assume responsibilities. Under the provisions of the legislation, the monarch delegates responsibilities; people do not take them on of their own accord.

I can think of no more appropriate members of the Royal Household to take on these two positions as extra Counsellors of State. As has been referred to, both have previously acted as Counsellors of State but were then moved as the line of succession changed—we will have to look at some of the gender issues in this at some point—and others reached the age of majority and became Counsellors of State. Princess Anne was a Counsellor of State from 1971 to 2003, and the Earl of Wessex from 1985 to 2005, when Prince Harry reached the age of 21. Their experience in that role is something that cannot be denied. They both know what is expected of them and how to perform their functions. It is of course open to other members of the Royal Family to carry out other ceremonial events, but Counsellors of State have very specific functions, as delegated by the sovereign.

There are other issues relevant to this legislation but they are not for discussion today, or indeed in this legislation. The measure before us today is entirely appropriate and proportionate. Unlike many other pieces of legislation, it does exactly what it says on the tin.

4.37 pm

Lord True (Con): My Lords, I thank all noble Lords who have spoken in this short debate. There have been some very interesting contributions, and some with

ambitions to range quite widely, even to include inclement weather in Scotland. We should recall that this legislation follows a message from His Majesty the King to Parliament. It reflects the wish of His Majesty the King. Most who have spoken in this debate support the legislation and wish to enable that to be enacted. I am very grateful for the broad support.

I accept, of course, that the noble Baroness, Lady Jones of Moulsecoomb, is entitled to her view. I am sure that, as and when the Green Party forms a Government, it will not only abolish the monarchy but join with the view of Sir Keir Starmer on abolishing your Lordships' House. However, we are a long way away from a Green Government, and it was heartening to hear from all other noble Lords who spoke the genuine affection, admiration and high regard that your Lordships' House holds for His Majesty. I am delighted to reiterate, on behalf of all noble Lords, our support and gratitude.

It was heartening also to hear your Lordships' warm support for the broad Royal Family, as expressed by my noble friend Lord Cormack, and the great admiration expressed—rightly, in my judgment—including at the end by the noble Baroness, Lady Smith, for Her Royal Highness the Princess Royal and the Earl of Wessex, who have been and are so outstanding in their continuing public duties.

I was asked about the order of the names in the Bill. I do not think that there is anything sinister in it. I note that it is in one order in the Long Title, in a different order in the preamble and in another order in Clause 1. I believe the drafters of the Bill have sought to reflect equality.

The noble Lord, Lord Janvrin, who spoke from a position of great and unique authority, told us about the necessity of the legislation, how it touches mostly the routine nature of everyday government, and the case for fast-tracking. In some of the things he said he expressed a very strong view about how the nature of government should ideally be conducted, which the noble Lord, Lord Pannick, courteously acknowledged. There is always room for innovation, of course, but I was very struck by what the noble Lord, Lord Janvrin, said on these matters.

The noble Viscount, Lord Stansgate, who has taken a great interest, said that this was a necessary Bill and should pass. I agree.

My noble friend Lord Balfe asked what would happen if somebody turned up and sought to exercise the role. With respect, as the noble Baroness opposite said, this seems a little far-fetched. Counsellors of State have been undertaking royal functions for 85 years under this scheme with no such problems arising. As the noble Baroness, Lady Smith, wisely reminded us, it is ultimately for the sovereign to determine who undertakes these functions.

My noble friend also asked why not others. The approach proposed is a limited modification to the Regency Acts, whereby two individuals are added to the list of Counsellors of State. Although it would have been possible to add others, this proposal provides the right balance between giving additional flexibility and maintaining the underlying structure of the original Act.

The noble Lord, Lord Berkeley, who has intimated his intention potentially to raise these matters in Committee, proposed that individuals be removed from the pool of Counsellors of State. He will have noted—indeed, I am grateful that he acknowledged this—that, as I set out, the Royal Household has confirmed that, in practice, working members of the Royal Family will be called on to act as Counsellors of State. As he acknowledged, the legislation already contains provisions whereby Counsellors of State are excepted from duties if they are overseas. I hope that addresses his concern.

The noble Lord also suggested in the amendments that he has put before your Lordships' House that perhaps some other person might decide on people's suitability to be Counsellors of State. He might reflect that this would introduce complexity into the scheme where it is not required.

The noble Lord also raised transparency. I am a strong supporter of the principle of transparency. I point out that the list of Counsellors of State is already available on the royal website, so there is no need for a legislative requirement to do this. In addition, the legislation is already clear as to who the Counsellors of State are. Moreover, when Counsellors of State are appointed the current practice is that Letters Patent are made public. It is therefore clear. I hope I have addressed some of the noble Lord's concerns and that he might not feel it necessary to return to these in Committee.

The noble Lord, Lord Pannick, whose reading slightly differs from my reading in my library, raised a number of significant and interesting points. I think I have dealt with the issue of bad weather. The weather would have to be truly exceptional to interrupt the conduct of the Government's affairs.

On videoconferencing, this idea is always before us and was in the age of Covid, but I believe the noble Lord, Lord Janvrin, addressed that point.

The noble Lord also asked about the scope of powers of Counsellors of State. In recent years, going back to 2010, the practice has been that Privy Council meetings, which can be one of the roles of Counsellors of State, have been arranged around visits by the sovereign, but looking at the past practice of Privy Council meetings—for example, in 1987, 1991 and 1994—Counsellors of State undertook the following tasks; this is also in response to the noble Lord, Lord Newby. They have approved Privy Counsellor appointments, amended charters, agreed Channel Island orders, agreed university orders, approved statutory instruments and, an unusual task which falls to the Privy Council, closed burial grounds. In 1999 the then Prince of Wales and the Princess Royal convened a Privy Council meeting required to approve a Prorogation of Parliament at the request of Mr Blair while the monarch was unavailable overseas. Counsellors of State can also undertake non-Privy Council business such as, as the noble Lord, Lord Janvrin, reminded us, receiving the credentials of ambassadors. The powers of Counsellors of State have been used, but it is not the norm. Wherever possible, diaries are organised such that Privy Council meetings revolve around the diary of the monarch.

[LORD TRUE]

I noted the noble Lord's suggestion and indeed that of the noble Viscount, Lord Stansgate, for a wider review. At this time, the Government are not persuaded of the necessity of that, and I rather agree with the noble Lord, Lord Newby, that there are perhaps more pressing issues at this time. While some Members of the House may feel this is an opportunity to make wider changes, in our submission it is not the appropriate place to undertake wider revisions. What we have before us is a small and focused Bill. The proposals in the Bill are modifications of the provisions that will ensure that there is a greater pool of Counsellors of State when needed, reducing any potential risk of delay in public business. Any further reforms of the nature suggested by some who spoke would require consideration of any wider constitutional significance and implications. We are here responding to a specific context in response to His Majesty's message and seeking practical steps to add further resilience and support to His Majesty's capacity to undertake his official role. That is where, in my submission, we should rest at present, and I rather agree, therefore, with the points made by the noble Lord, Lord Newby, as I have said.

As many of your Lordships noted, there are good practical reasons for the provisions proposed, and I welcome the support shown for the Bill today. Your Lordships will be aware that Committee is on Wednesday. Therefore, I am ready to discuss any questions or issues that any noble Lord might wish to raise before then. I remind the House, as so many who have spoken have done—and I reiterate my gratitude for the welcome given to the legislation—that the purpose of the Bill is very simple and straightforward, and I am confident that this loyal House of Lords will respond to His Majesty's message and support this legislation, and I submit that this legislation commends itself to the House.

Bill read a second time.

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, as my noble friend the Deputy Chief Whip informed the House last week, the deadline for amendments for the Marshalled List for Committee on this Bill is in 30 minutes' time. Therefore, amendments should be in by 5.19 pm.

Lord True (Con): Obviously, time has been allowed for the laying of amendments. I am grateful for that reminder to the House.

Bill committed to a Committee of the Whole House.

Genetic Technology (Precision Breeding) Bill

Second Reading

4.50 pm

Moved by ***Lord Benyon***

That the Bill be now read a second time.

The Minister of State, Department for Environment, Food and Rural Affairs (Lord Benyon) (Con): My Lords, it is a privilege to open the Second Reading of the Genetic Technology (Precision Breeding) Bill. I declare my interests as a farmer.

Science, research and development are at the heart of igniting the United Kingdom's economic recovery, boosting productivity, creating new jobs and improving people's quality of life. The United Kingdom is a world leader in genetics and genomics. With this Bill, we are supporting scientists to harness the huge potential locked within the DNA of plants and animals and will make sure that plants and animals developed using precision breeding are regulated proportionately to risk. We will also introduce a new science-based authorisation process for the food and feed produced from them and ensure that appropriate safeguards are put in place to regulate precision-bred organisms.

I am proud to present the exciting and vital opportunity that the Bill offers farming and the environment. It will give farmers options for greener, more resilient and more productive farming in the face of climate change and global challenges to world markets. Precision breeding has the potential to develop plants and animals that are more resilient to weather and resistant to disease and less reliant on chemicals such as pesticides and antibiotics.

This year we have seen England endure one of the hottest summers on record, leading to drought declarations in many parts of the country. Farmers have faced lower yields, higher fertiliser costs and challenging conditions for animal welfare. We do not have time to hesitate when it comes to ensuring that the right varieties and breeds are available to farmers to help them face volatile markets and a changing climate.

I will give noble Lords an example of how the Bill could help increase food production from a crop on which 2.5 billion people are dependent. At the John Innes Centre in Norwich, leading researchers have used precision-breeding techniques to identify a key gene in wheat that can improve traits such as heat resilience while maintaining high yield. This development could help address issues of rising temperatures not only at home but abroad.

The genetic technology Bill will create a new proportionate regulatory environment that will encourage innovation to help us adapt to the impacts of climate change. Many would say that this is long overdue. It is not an overstatement to say that precision-breeding technologies such as gene editing have the potential to revolutionise farming. Science has moved on from where we were 30 years ago, and this should be reflected in our legislation so that we can harness the benefits of these technologies.

I know that some noble Lords may have concerns regarding the safety of precision breeding. On that front, I hope to provide reassurance. For thousands of years, we have been breeding crops and animals to domesticate them and select desirable characteristics. Using the potential of animal and plant DNA in breeding programmes has resulted in safe and trusted products. Precision breeding is the latest in this line of breeding techniques which utilise this same resource. Under the Bill, an organism will be considered precision-bred only if it could have occurred through traditional or natural processes. Therefore, precision breeding allows us to introduce beneficial characteristics that could have occurred through traditional breeding, but much more precisely and efficiently.

In putting forward the Bill, we are choosing to follow the science. The scientific advice from independent scientific experts and our expert Advisory Committee on Releases to the Environment, or ACRE as I shall refer to it, is that organisms produced through precision-breeding technologies pose no greater threat to the environment and health than their traditionally bred counterparts.

The Bill sets out four key policy objectives which would enable the proportionate and science-based regulation of precision-bred organisms, while still making provision for appropriate safeguards for precision-bred plants, animals and the food and feed derived from them. The first objective is to remove plants and animals produced through precision breeding from the regulatory requirements governing the environmental release and marketing of genetically modified organisms, also known as GMOs. The key difference between precision breeding and genetic modification is that genetic modification produces organisms containing genes from a sexually incompatible species that could not occur naturally or by traditional breeding. The current GMO legislation will continue to govern these organisms.

Secondly, the Bill will introduce two notification systems: one for precision-bred plants and animals used in research trials, and a second for the marketing of precision-bred plants and animals. The information collected from these notification systems will be available on a public register on GOV.UK, which I hope will give noble Lords confidence in the transparency that the Bill provides.

The third objective will be to establish a proportionate regulatory system for the marketing of precision-bred animals to ensure that animal welfare is safeguarded. I understand that some of your Lordships may have some concerns regarding the inclusion of animals in the Bill. The Government are committed to maintaining our already high standards in animal welfare. That is why we are planning to take a step-by-step approach, facilitating the commercial use of precision-breeding technologies in relation to plants first, followed by animals later. We will work closely with industry, animal welfare NGOs, scientific advisers and other stakeholders to design the next steps.

To ensure that animal health and welfare are safeguarded, under the Bill anyone wishing to place a precision-bred vertebrate animal on the market will have to submit an animal welfare declaration, which will be assessed by an animal welfare advisory body. These measures are designed to safeguard animal welfare and ensure that the health and welfare of relevant animals will not be adversely affected by any trait that results from precision breeding.

I hope noble Lords are reassured that the measures in the Bill will not only safeguard animal welfare standards but have the potential to improve them. For instance, in research by Imperial College London, the Pirbright Institute and the Roslin Institute, we have seen the potential to use gene editing to produce chickens that are resistant to avian influenza—a disease that noble Lords will know is currently having a devastating effect on wild birds and poultry farming in this country.

The final policy objective will be to enable the establishment of a new science-based pre-market authorisation process for food and feed products developed using precision-bred organisms. The Food Standards Agency will design a new framework that is more proportionate to the risk profile of precision-bred food and feed products. This authorisation process will build on five key principles: safety, transparency, proportionality, traceability and building consumer confidence.

The Bill has the potential not only to unlock benefits for the economy, as the size of the global market for technologies such as gene editing is predicted to rise to over £7 billion by 2026, but to unlock benefits for farming and to address the impacts of climate change and to reduce food waste. Tropic Biosciences is an example of the innovative, smaller bioscience research companies that the Bill will benefit. It has recently developed a non-browning banana using precision-breeding techniques. Given the fruit's high perishability, this innovation has the potential to reduce waste, which helps both the environment and consumers. It is exciting to think that the Bill will support investment in both Britain's leading research institutions and SMEs such as Tropic. As we move to align with our international partners and harness the benefits of these technologies, we are enabling the development of foods enjoyed at home and abroad.

I am looking forward to what I am sure will be an enlightening debate. I beg that the Bill be read a second time.

5 pm

Lord Winston (Lab): Well, it was a real pleasure to hear the Minister open this interesting debate, and we are very grateful for the way he has done it. This is a Bill whose importance we should not underestimate. Although the amounts of money the Minister declared were quite small, the actual commercial value of these technologies in the longer term is massive. He has carefully, and very reasonably, understated the potential advantages to the environment: in a world that is increasingly suffering from crop pests and drought, this is a very serious issue. It has been estimated that, across the world, one-fifth of all cereal crops is lost by processes during storage, so this is massive in terms of starvation. Anything that can be done to make plants resistant will therefore be very important. Clearly, plants and animals have different consequences, and that is one thing we will need to discuss in Committee.

In addition to drought resistance, I have listed a few other things I think are important. The fact that you can make better flowers and improve the appearance of plants sounds trivial, but it is none the less part of the marketing. Certainly, for economies such as Ecuador's, it is probably one of the most important money-spinning exports. In addition, pathogen resistance generally will be very important. Making plants that have greater nutritional value or bigger fruit will certainly be hugely valuable to a lot of people. There is a whole range of other things we might come to during this debate, which I will not go into in great detail now.

The challenges, however, are quite considerable, and before I come to that I will mention my own experience with gene insertion, transfer and modification

[LORD WINSTON]
of various sorts in animals. My experience goes back as far as when I first visited Jon Gordon in New York, about 40 years ago, and saw the giant mice he was trying to make. At the time, that was almost one of the first possible mutations, and he was very proud of the fact that he had done this. I was amazed to see what he was doing down his microscope and thought, "I have to get into this technology myself". I did not, really, because by that time I was already involved in in vitro fertilisation, which uses some of those technologies but not all.

What was surprising and horrifying was going down to the animal house with him afterwards and seeing the mutations he had not talked about, which had occurred as a result of the manipulation of gametes and embryos. There was no doubt that some of the animals were unexpectedly blind and had limb defects and a whole range of other things—skeletal defects of different sorts—as result of whatever it was: whether it was the DNA being inserted or the method of manipulation was not at all clear.

That has been a constant problem. In the early days, raw DNA was injected, and gametes and embryos have been soaked in DNA, from whatever source. We have made DNA, of course, using instruments, and various ways of incorporating DNA have been used, with greater efficiency. Until recently, the main way of doing this was using viruses that were piggybacked as a kind of Trojan horse into the nuclear DNA of the organism. Now, of course, we have CRISPR-Cas9. I wonder whether the Minister, when he sums up, might apply himself to how often that will be used, or whether it is involved in this legislation. To my mind, it is not entirely clear from the Bill what techniques will not be permitted. The idea of natural sources seems to be a bit blurred.

I know from our own experience of all kinds of gene expression, we get lots of surprises—it is variable. Certainly with CRISPR, although that is probably the most accurate targeting at the moment, we often do not get any kind of gene expression at all and sometimes we do not get insertion. It is well-known, as I am sure the Minister knows, that you occasionally get off-target mutations, which may cause problems to the organism, added to other abnormalities that are completely unexpected.

With any gene insertion or any kind of gene manipulation, there is a risk that in some species there will be different attitudes. There is an issue of whether or not the genetic modification that you want will be maintained and continue to be expressed in the way that you want. I see that multiple repeats will be allowed in the Bill, which may help to increase the amount of gene expression—I imagine that is why that was considered—but all these unfortunately quite technical issues are things that we will need to discuss in Committee.

Without going further, one of the clear issues as a result is that a lot of people will be concerned about the welfare of the animals. One might make large animals. The biggest animals that we have been involved with in my own laboratory have been pigs, which are pretty big, but some people have modified cattle as well, and that may be something that we need to discuss. We do not always treat our farm animals as well as we should, and in many parts of Europe there are very heavy-bred animals that I would have thought suffer considerably because of the breeding or interbreeding that is dictated. When I do any kind of animal research myself—I did it in the past but do not do much of it now, although my team still does—we have to have strict animal licences from the Home Office. I do not see anything of quite that calibre in the Bill, so maybe we need to look at that in Committee.

The issues for a lot of people will be, for both plants and animals, those of diversity. I remember clearly Dolly the sheep, which was a very different issue but there were some similarities. When that paper was produced in *Nature*, I was surprised to see Dr Ian Wilmut justifying the procedure of cloning on the basis, he said, that we would be able to make better farm animals that would be used for herds. That may be true, but if you reduce diversity in a herd then you may increase the risk of that herd suffering from unexpected organisms or different traits that you have not yet identified. That is an issue that we need to look at in detail when we examine the Bill in detail.

I suggest that, apart from diversity, we have to look at how reliable the technique is. I am quite concerned by the use, in the Title of the Bill, of the phrase "precision breeding". I know it is coming into the literature—I see it increasingly in scientific papers—but in biology there is no such thing as precision. We do not know what is precise or entirely predictable. One of the reasons for being interested in genetics is that it is not completely predictable. It is that issue that may cause concern, along with animal usage, which is something that we need to look at. I ask the Minister to address that issue.

Without going into a huge amount of detail, I am still not clear what we do when there is a high abnormality rate in any animals as a result of these techniques. Do we just cull the animals? Do we treat them in a different way? What kind of disposal of livestock will be used? That will be important. With plants, as everyone knows, one of the great issues that have dogged this technology from the very beginning is changes in the surrounding habitat: changing the environment for both insects and other plants, and the risk of plants overgrowing areas. With an unstable environment in some countries, the real question is: might you then end up destroying crops that you really need or reducing the value of crops that you already have?

These are some of the issues I am quite concerned about. The Bill continuously deals with the issue of marketing and profit. I remind the House that that was one factor in sinking Monsanto when it produced its initial modification, which was then marketed. The marketing was so aggressive. I think the marketed seeds would not reproduce so farmers could not then use them as their own technology in countries which were developing economies. That is one issue we need to look at.

All these technologies are controversial, as the Minister and the Government have certainly accepted. They should not be controversial, but no doubt the controversies will be raised in this debate. We have to be absolutely

clear, as the Minister said from the Front Bench, that everything we do with these organisms has clarity and proper accountability. We must be absolutely sure that we are not causing harm but trying to do good.

That brings in the issue of how you manage to run the regulation of this technology, which is focused on a considerable amount in this Bill. However, I am not sure it is adequate. In particular, perhaps we ought to be looking at the long-term effects—particularly in animals when looking at epigenetic effects which will not be expected at the time of the modifications or changes in DNA we are looking at—to the fate of the animal.

That will be very relevant because one of the great advantages of these plants is that they are not only good for nutrition but for making chemicals and medicines we want to use in human care. To some extent, this information will be valuable to human medicine as well when it comes to animals.

There is a great deal to be discussed, but we need some clarity over some of the terms used, particularly "precision" because I do not believe anything in life is really precise. Certainly, my expectation from biology is that it is imprecise, which is one of the reasons I probably got so interested in embryos.

5.12 pm

Lord Krebs (CB): My Lords, it is a great pleasure to follow the noble Lord, Lord Winston. I strongly support this Bill. I would like to acknowledge my colleague in my department in Oxford, Jane Langdale, and her post-doc Dana Vlad. They spent a lot of time explaining the details of gene editing to me and showing me their work on rice.

It is widely acknowledged that current agricultural practices are unsustainable. The green revolution of the second half of the last century was a miracle. While the global population doubled between 1960 and 2000, per capita food production increased by 25%. This was a result of a combination of genetics, the application of agrochemicals, irrigation and mechanisation. But that miracle came at a cost: the loss of habitats and biodiversity, depletion of soils and water, contribution to greenhouse gases and pollution of the environment. Here in the UK, this impact is dramatically illustrated by the fact that populations of farmland birds have more than halved in the past 50 years. The simple fact is that, as we have squeezed more out of the land for ourselves, we have left less for the rest of nature. Furthermore, the gains of the green revolution are slowing down while demand is increasing. Many experts estimate that we will need to increase global food production by at least 50% by 2050.

This is why many have called for a doubly green revolution of producing more with less: more food with less environmental damage. This does not mean returning to pre-industrial, low-intensity organic farming. It means combining the best of new technologies, including GPS, IT, and genetics, to help us sustainably manage soils, habitats and water and reduce greenhouse gas emissions, while producing more food from the same amount of land. Precision breeding can play an important role in this doubly green revolution. We have already begun to hear of some of the benefits it can bring, including reduced use of pesticides, perhaps better nutritional properties, increased disease resistance, resilience in the face of climate change and increased yields.

Nevertheless, as we heard, a bit over 20 years ago, the application of a different advance in genetic technology—namely, transgenic modification of crops, or "GM crops" for short—stalled in this country because of objections, and I hope that that does not repeat itself. Of course, the *Daily Mail*'s coining of the term "Frankenfood" was a key catchy slogan for the objectors. I personally bear the scars of that campaign because I was head of the Food Standards Agency at the time. GM crops were subject to regulatory scrutiny for safety under the novel foods regulation on a case-by-case basis. But, because the FSA concluded that herbicide-tolerant soya or Bt maize, for example, was as safe as its conventional counterpart, I earned soubriquets such as "Professor Bullshit" and "The man who put the 'con' into consumer protection".

There may be lessons to be learned. One is that, although the objectors in the anti-GM campaign often presented their worries as being about human health or environmental safety, they were also concerned about other things, such as the role of agribusinesses—the noble Lord, Lord Winston, referred to Monsanto—the further intensification of agriculture or simply this being playing God with nature. This meant that scientific arguments about the rigour of regulatory scrutiny by expert committees gained little traction. So we have to be aware of that, as we think about introducing this form of genetic technology.

Another factor was that the benefits of the first generation of GM crops accrued primarily to farmers in North America and South America, rather than to consumers in the UK. Perhaps the direct consumer benefit contributed to the uncontroversial acceptance of GM human insulin—which many, perhaps most, diabetics take—or GM rennet for making cheese, including organic cheese. When I talked about this to then US Agriculture Secretary Dan Glickman, he responded—I will not do the full American accent—by saying, "So you mean that, when we have a tomato with the Viagra gene, consumers will lap it up". Perhaps, in this case, precision breeding will produce products that have a direct consumer benefit, which might help to get over the hump, so to speak.

I now turn to a few specific points and questions for the Minister. The definition of precision breeding in Clause 1 is deliberately—I assume—broad, as the noble Lord, Lord Winston, mentioned. For instance, gene editing can be used to delete a gene, to modify a gene within the existing genome or to replace a gene from within the same species. Could the Minister confirm that all three of these are included in the definition of "precision breeding"? Could he also perhaps elaborate on what he said in his excellent introduction about the relationship between precision breeding, as envisaged in the Bill, and transgenics—GMOs—as considered in earlier legislation? Is the aim to draw a clear line, or put clear blue water, between transgenics on the one hand and gene editing or precision breeding on the other? Alternatively, is it

[Lord Krebs]
seen that, once accepted, precision breeding is a stepping-stone to the wider deployment of modern genetic techniques? Perhaps the Minister could comment on that.

I turn briefly to residual exogenous DNA. Although the aim in gene editing is to modify genes within a species, part of the process of doing that involves the DNA from other species. This may be the agent that brings the gene into the cell, which may be the bacterium Agrobacterium, or an antibiotic-resistance gene that is used in the selection process to find out what you have gene edited. The question that some people have raised with me is: if residual bits of exogenous, or foreign, DNA remain after gene editing, is this not transgenics by the back door? However, importantly, the Bill points out that, if there are residual fragments of DNA, they would not be able to code for a protein, and they would therefore be non-functioning. In this way, even if there are a residual bits or fragments of exogenous DNA a few base pairs long, gene editing is quite distinct from transgenics. I hope that the Minister will confirm my interpretation.

How can we deal with these residual fragments if people are worried about them? In theory, whole genome sequencing could be used to search for these tiny fragments, but on the other hand it may be difficult to distinguish exogenous fragments from somatic mutations that have occurred during the process of a gene-edited organism growing up. However, it is important to note that the techniques of gene editing are not static; they are developing rapidly. In a recent paper in *Plant Physiology*, Yubing He, Mudgett and Zhao point out that it is already possible to gene-edit plants without any residual transgenes, so perhaps this worry will disappear in the future.

The noble Lord, Lord Winston, referred to animals. The Bill takes a very broad definition of "animal" as meaning any metazoan—in other words, all eukaryote multicellular taxa of animals. This, I understand, is designed to future-proof the Bill. While it seems unlikely that scientists will, in the near future, wish to market gene-edited tardigrades or onychophorans—your Lordships should look that up on your smartphones—the Bill could, for instance, open the way to gene-edited companion animals, such as cats and dogs. It could be a new way to create the best in show at Crufts. Given that this will be an additional cause of worry, I wondered if it might be more appropriate to proceed in a stepwise fashion and, in the first instance, restrict the Bill to farm animals. That is just a question.

Some people have argued that if we are going to have gene-edited products, they must be labelled. This seems a bad idea for a very simple reason: the gene-edited product will, on the whole, be indistinguishable from a comparable product produced by conventional breeding, so labelling could become a potential cheat's charter. That is why I think the Food Standards Agency's proposal of a public register of gene-edited products that have been put on the market or have applied for approval would be a good alternative to labelling to provide transparency.

My last comment relates to the Food Standards Agency's two-tier regulatory approach, which is still under development, for approval of food and feed. The threshold for entering the higher tier, requiring more detailed regulatory scrutiny, is that the change brought about by gene editing is deemed to be "significant". I can see this becoming a recipe for boundary disputes, and I wonder whether a single continuum might turn out to be an easier approach. That is really for the Food Standards Agency to consider as it refines its approach.

I end with a quote from Jonathan Swift. In 1727, he wrote that

"whoever could make two ears of corn or two blades of grass to grow upon a spot of ground where only one grew before, would … do more essential service to his country, than the whole race of politicians put together."

In the 21st century, Swift needs to be updated for gender equality: the co-discoverers of gene editing, Emmanuelle Charpentier and Jennifer Doudna—both female and Nobel prize winners for chemistry—have done more for humanity than probably any of us will ever do.

5.23 pm

Lord Jopling (Con): My Lords, I begin by drawing attention to my farming interest in the register. Like others who have spoken, my first comment is to welcome the Bill. I agreed enormously with the noble Lord, Lord Winston, when he said—I have put it into my own words—that we are doing what we should have done years ago. More years have passed than I am prepared to admit since I graduated in agricultural sciences. The teaching of genetics then, which had of course moved on some way from Gregor Mendel, could be described as the foothills of the science, practice and application of genetics compared with the towering peaks of genetic knowledge and application today.

Mercifully, however, I have had a number of refreshers in genetics since those days—the first was in the 1980s, when I was Minister of Agriculture. Noble Lords will remember that, in those days, the European Commission was faced with horrific surpluses of almost every agricultural product, which we could neither eat at home nor sell abroad. The Commission's Luddite reaction was to discourage any new scientific procedures which could make those surplus mountains and lakes even larger. It did its best to discourage developments, particularly entry into the food chain of products created by genetic modification or by things such as hormone implants in animals to promote growth. On the latter, it even suppressed scientific assessments which it had commissioned itself because those studies could see no danger in proceeding. So, in those days, little progress was made in applying the new technology and the potential benefit from the emerging techniques of genetic modification. Somebody once said—I am not quite sure where—that it has become technically possible, with the knowledge of applying genetic techniques, to cross an elephant with an oak tree; I will come back to that in a minute. In the 1980s, the Commission's actions very much stifled the fruits of science.

I had a further refresher in 1998 and 1999—shortly after I first became a Member of your Lordships' House—when I was a member of the European Communities Sub-Committee D under the most

distinguished chairmanship of the late Lord Reay. We produced a report entitled *EC Regulation of Genetic Modification in Agriculture*. Having studied the Commission's stranglehold on the progress in this area, we concluded in paragraph 203, the final conclusion of the report:

"GMOs need to be regulated, at least until our knowledge develops further, but it would be extremely damaging if Europe's access to this technology was subjected to inappropriate impediments".

We are now discussing this welcome Bill, which introduces these necessary regulations to ensure that foodstuffs which have been altered through genetic techniques are safe.

However, at that time, we discovered that, in spite of the Commission's Luddite attitudes, large quantities of genetically modified soya beans, maize and tomato pulp were already being imported into the European Community, particularly from the United States and other places where regulations could be described only as lax. Indeed, in our Select Committee report published in 1999, we said in paragraph 15:

"The enzyme Chymosin is identical to rennet and is produced by genetically modified yeasts or bacteria. It was introduced in commercial cheese-making in 1991 and is now used to manufacture 90 per cent. of hard cheeses"—

so much for the Commission's restrictions back then.

The Bill is a worthy step in ensuring that the introduction of gene editing and other techniques will happen only with proper safeguards, but I have some concerns about the Bill. We are told that it covers genetic changes that could have occurred naturally or through traditional breeding methods. This clearly rules out our elephant and oak tree liaison, which I referred to earlier, but I can foresee some prolonged arguments as to whether the traditional processes or the natural transformations conditions apply. I think the noble Lord, Lord Winston, again, had the same anxiety as I have. So, will the Minister expand a little on the appeals procedure, because I can imagine many, many appeals about whether those conditions within the Bill are followed? For instance, modern wheats are created from mutations years ago, long before genetics was dreamed of—unlikely mutations, in those cases—which I can see could be the basis for arguments as to whether new products today are within the rulings of the Bill.

Finally, I recall a conversation I had in the early 1980s with Lord Rothschild, the former chairman of the Agricultural Research Council. He was wildly enthusiastic about the possibilities of using genetic techniques to attach to wheat plants the capacity of legumes—peas, beans and clovers, in this case—to fix nitrogen from the atmosphere, thus providing nutrients for the wheat. On one hand, it would have dramatically increased wheat yields in exceptionally poorer land and would have had a massive effect on relieving poverty and hunger in less developed countries. On the other hand, it would also have reduced the demand for fertilisers and similar chemicals. I know that this particular research, which was entered into enthusiastically all those years ago, was too complicated to be fully developed and has slowed down, although I understand it still continues. I quote it as an example of a development that would or could be hugely beneficial to mankind.

I remember a similar development when I was Minister of Agriculture. Using public money, I bought—I cannot remember how many—perhaps about 10 Chinese pigs, much to the hysterical amusement of the Chinese Minister of Agriculture, because the department's scientists knew that those pigs had an in-built capacity for very large litter sizes and they wanted to see if they could extract the gene and implant it into the traditional European pigs, which would have made them very much more productive. My point about this is that it seems a pity that the Bill gives no encouragement to these sorts of benefits because of the limits of the Bill, especially in Clause 1. Those rather glamorous developments, if I can put it that way, remain impossibilities. Will the Minister please comment on these sorts of possibilities and say some encouraging words about possible further steps in the future to embrace the influences for good that could lie ahead through much wider genetic modifications than those rather limited ones that appear in the Bill?

5.35 pm

Baroness Jones of Whitchurch (Lab): My Lords, I should first declare an interest through my involvement with the Rothamsted Research institute, which is already carrying out authorised genetically edited field trials on wheat in an attempt to tackle some of the global food challenges that we collectively face today.

In previous debates in this House and in the Commons during consideration of this Bill, we on these Benches have made clear that we are pro-science and pro-innovation. We understand that laws designed 30 years ago for GM products need to be updated. It is a process of reform taking place in many countries, including the EU, which, as we know, is undergoing its own consultation process, so nothing we are doing here is unique. It is an opportunity for the UK to be at the forefront of technology, but this will be the case only if our legislation is respected globally as being robust and effective. Sadly, I do not believe the Bill as it stands meets that aspiration: it fails, in its current form, on a number of fronts.

First, as the Minister acknowledged in his letter to us of 1 November, the Regulatory Policy Committee gave the Bill's impact assessment a red rating. Its reasons included: failure to assess the impact on business; failure to acknowledge and assess competition, innovation, consumer and environmental impacts; and failure to address the impacts from removing labelling and traceability requirements. The Minister's response in his letter was to say that this rating was not terribly important and it was not a reflection of the quality or ambition of the Bill. I must say I beg to differ, because these factors, which the impact assessment ignored, are fundamental to the quality of the Bill, and hence the problem we have before us today in dealing with a Bill where much of the detail is missing.

Equally, the Minister's solution to this red rating, as set out in his letter, was to create an enactment impact assessment to be delivered at the end of the Bill's passage. I have to say that that is simply not acceptable, since it will not inform our deliberations as we scrutinise the Bill through its various stages. We need that information now. Has consideration been given to

[Baroness Jones of Whitchurch]
postponing the passage of the Bill, so that we can have all of the promised documentation before us in a timely manner when we consider the Bill?

Secondly, all the evidence shows that the public support genetically edited foods having a different regulatory regime than genetically modified foods, provided there is effective regulation, transparency and labelling. However, much of the detail in the Bill is left to secondary legislation, so we simply do not have that; we cannot measure it. It is not clear, for example, what information will be disclosed to the public about field trials or product labelling. We are being asked to take a great deal on trust, which has already been stretched to breaking point, given the delays that have followed the passage of the Environment Act, where, as we know and have debated before, all sorts of promised and statutorily required follow-up legislation has not been forthcoming.

That is why our colleagues in the Commons proposed a much more rigorous model of regulation, akin to the Human Fertilisation and Embryology Authority, to oversee the process and give that consumer confidence, proportionality and environmental safety, and implementation of the legislation proper oversight. This would give both researchers and businesses confidence in the regulatory system, as well as cementing public confidence in and acceptance of the new regime. I am sorry that the Government did not see fit to accept that proposal; I hope that, even now, the Minister will feel able to reconsider it.

Thirdly, many of the benefits of the Bill highlighted by Ministers focus on the environmental and food security benefits. We welcome the prospect of, for example, creating plants that are resistant to extreme weather conditions and diseases, could reduce the need for pesticides or could create higher yields to address rising food insecurity driven by climate change. Indeed, much of the good work already being carried out in scientific institutions around the country addresses these very issues; I fully acknowledge the critical role that they are playing in addressing our global food challenges.

When we first debated the outline of the Bill, it was focused on crop research. However, a decision has now been made to open up the reforms to the genetic editing of vertebrate animals. I am much less convinced by the need for this provision or that the animal welfare protections currently in the Bill are sufficient. My noble friend Lord Winston set out the concerns better than I could every aspire to but, for example, there is a real danger that animal gene editing could be used to accelerate traditional selective breeding to produce fast growth, high yields and large litters, which we know are capable of causing suffering to farmed animals. The image of chickens unable to stand because their body weight has been steered towards excessive breast meat must be avoided in the future, not exacerbated. We need those guarantees. In the Commons debate, my colleague Daniel Zeichner quoted the Nuffield Council on Bioethics. It is worth repeating. He said that

"animals should not be bred merely to enable them to endure conditions of poor welfare more easily or in a way that would diminish their inherent capacities to live a good life."—[*Official Report*, Commons, 31/10/22; col. 678.]

One of the main examples cited for how animals might benefit from genetic editing is that it may cut down on antibiotic use; of course, we all understand the strong arguments for that. However, if the end result is that animals simply live in more confined spaces without infecting each other, it is an unacceptable outcome. In the Commons debate, the ex-Secretary of State, George Eustice, said that he had hesitated before adding animal research into the Bill but had concluded that you should not put off things that are too complex by kicking the can down the road. I am sorry that he did not kick this can down the road, because it is too complex and the Government still do not have the answers as to how this element of the Bill can provide robust animal welfare solutions. Again, we are being asked to take the details of how this will work on trust, as the Government have said that they will consult further on this issue. Meanwhile, the powers to introduce these changes via secondary legislation, without further scrutiny, already exist in the Bill.

So, I do not believe that the Bill is fit for purpose in its current form. It needs to be more clearly underpinned by clear public interest criteria for future research. It needs to have a more robust and accountable regulator. It needs to rethink the application of gene-editing freedoms in animal research. I look forward to the opportunity to debate these issues further in Committee.

5.44 pm

Lord Trees (CB): My Lords, because of my interests as a veterinarian and as declared in the register, I shall confine my remarks to the impact of the Bill on animals, particularly in terms of disease resistance, the environment and animal welfare. These are overlapping issues for which, in my opinion, there is huge potential for positive effects with the adoption of new breeding technologies.

Notable recent advances in molecular biology relevant to the Bill include the increased speed and lower cost of whole-genome sequencing, as well as the precise manipulation of the genome by such means as gene editing. Against this background of scientific advances, although it has long been known that there is variation within and between species of animals in susceptibility to infectious pathogens, this has, by and large, not been exploited and emphasised in the conventional breeding of animals; conventional selective breeding has tended to concentrate on other productivity traits.

Now, with whole-genome sequencing, gene editing and using the range of genetic resources represented by a variety of breeds of livestock—rare breeds are a particularly valuable resource here—there is now a real opportunity to select for disease resistance relatively rapidly and very precisely. For example, using gene-editing technology, pigs have been bred with resistance to porcine reproductive and respiratory syndrome, a viral infectious disease of global importance that causes extremely high morbidity and mortality. In Europe alone, it is estimated to cost more than £1.3 billion per year.

With regard to avian flu, with which we are all now familiar and which is currently causing huge mortality in both wild birds and domestic poultry throughout Europe, it has been possible to gene-edit chicken cells

in culture to make them resistant to the avian flu virus. This gives hope that poultry with genetic resistance to this pathogen could be developed.

With regard to environmental issues, by reducing disease morbidity and mortality, new breeding technologies have the potential not only to improve food security but to maintain output with fewer animals and reduced land use, while at the same time reducing drug and chemical usage—notably that of antibiotics and parasiticides—to help combat the global problems of antimicrobial resistance and environmental pollution.

A further major environmental benefit is the reduction of greenhouse gas emissions from both reducing morbidity and mortality—that is a major cause of emissions that do not lead to any productive benefit—and directly breeding animals, particularly cattle, with reduced methane emissions. We know that that is a heritable trait in cows. So, I would argue that, in total, there are some substantial potential environmental gains.

With regard to welfare—let us remember that disease is a major welfare issue—reducing disease is a huge welfare gain, as I have outlined. In addition, welfare could potentially be improved by reducing the need for certain potentially painful management procedures, such as disbudding calves so that they do not grow horns or breeding polled cattle. Sex determination could avoid the large-scale culling of, for example, male chicks from layer flocks of chickens.

Concerns about animal welfare, as we have already heard, are raised; they are sincerely held but I am yet to be convinced that they are well founded in that they seem not to be specific in any way to precision breeding or gene editing, which experts in the subject maintain mimic natural mutational processes and conventional breeding. As with the introduction of any new technology, it is important to weigh the benefit-cost ratio. In my opinion, in this case, it is very positive in favour of the technology—provided, of course, that there are appropriate regulations and safeguards.

Turning to that issue, the Bill sets out a number of requirements, which the Minister elucidated, that must be met to enable precision-bred animals to be developed and marketed. These measures are in addition to existing animal welfare legislation. I will illustrate that in a bit of detail, if I may.

This Bill does not change existing legislation safeguarding, for example, animals in research and development. They are protected by the Animal (Scientific Procedures) Act 1986, world-class legislation which protects animals during the research and development of drugs and vaccines for humans and for animals. Also, the Bill does not change the Animal Welfare Act 2006, which protects animals in many other ways. I highlight two aspects of the Animal Welfare Act and subsequent regulations. The Welfare of Farmed Animals (England) Regulations 2007 state:

> "Natural or artificial breeding or breeding procedures which cause, or are likely to cause, suffering or injury to any of the animals concerned, must not be practised ... Animals may only be kept for farming purposes if it can reasonably be expected, on the basis of their genotype or phenotype, that they can be kept without any detrimental effect on their health or welfare."

Regarding dogs, which my noble friend Lord Krebs mentioned, the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 state:

> "No dog may be kept for breeding if it can reasonably be expected, on the basis of its genotype, phenotype or state of health that breeding from it could have a detrimental effect on its health or welfare or the health or welfare of its offspring."

I suggest that these two pieces of legislation are relevant to this Bill.

Moreover, it is generally agreed that, where possible, welfare assessments should look at the outcomes of any given management or breeding procedure and should not, without evidence, presume certain systems are good or bad for welfare a priori. I am ashamed to say that current natural breeding and management practices can lead, and have historically led, to welfare issues. I cite double-muscled Belgian Blue cattle breeds, which initially had to be delivered by caesarean section, and brachycephalic—or short-nosed—dogs, which we have bred with increasing levels of deformity as a fashionable trade, but which suffer all their lives from chronic ill health.

This Bill introduces additional animal welfare monitoring and checks over and above existing animal welfare legislation. One might argue that if existing legislation was fully enforced, the sincerely held concerns about negative welfare outcomes of this Bill could be assuaged.

The Government have said that the application of this Bill to animals will not take place until a regulatory regime is in place. Is this regulatory regime what is currently outlined in the Bill, or does it refer to additional regulatory measures that might be brought in?

Finally, I have some concerns which I share with others about gene drive technology. Would gene drive technology implemented by gene editing be permitted under this Bill, or will gene drive be classed as GMO and subject to existing GMO regulations? Gene drive technology is being researched not only for use in insects in the tropics to prevent the transmission of disease but in mammals, for example, for the potential population control of alien species such as grey squirrels. It involves the release into the environment of gene-edited individuals, characteristics of which, such as producing male-only offspring, are naturally amplified through the wild population. This is essentially an irreversible process which, if applied to wild animals, has considerable consequences for biodiversity and the environment, and has international ramifications too. Will gene drive technology, achieved by gene editing, be permitted under the Bill? I will fully understand if the Minister wants to respond by letter.

In general, I support this Bill very strongly. It would allow exciting new technologies which have the potential to be a game-changer in how we control disease in animals, to improve animal welfare and to be beneficial to the environment.

5.54 pm

Baroness Bennett of Manor Castle (GP): My Lords, it is a pleasure to follow the noble Lord, Lord Trees, and to reinforce his concern about gene drive and his desire for a direct answer from the Minister at some point.

[Baroness Bennett of Manor Castle]

The House may not know that the term "genetic engineering" was coined by a pulp science-fiction writer, Jack Williamson, in the novel *Dragon's Island*. As you would expect from a 1950s pulp science-fiction novel, it was an extremely lurid, overwritten and overblown expression of concern, but the concerns that arise from gene drives fit within that framework.

Returning to the framework of this Bill, your Lordships' House is now used to Bills coming before us, from the Commons or directly from the Government, in a dreadful state. However, the Schools Bill was at least about schools. The Procurement Bill was at least about—you guessed it—procurement, however poorly drafted it might have been, as the Government acknowledged. Yet with this Genetic Technology (Precision Breeding) Bill we have hit a new low. Experts from across the field, including many in favour of the widespread rollout of gene editing, say that "precision breeding" has no technical or legal meaning. The phrase is a sales slogan, not a definition, making the tabling of this Bill extremely surprising. The noble Baroness, Lady Jones of Whitchurch, set out many other practical concerns from the Regulatory Policy Committee. I will not repeat them, but the red flags are flying.

Echoing and building on the comments of the noble Lord, Lord Winston, coming back to "precision", how DNA works is far from precise, and the tools with which we manipulate it interact with highly variable genetic material in unpredictable ways. I will venture a little into the depths of the science because it is crucial. As with so many other issues within science, understanding is changing fast. Science often revises itself in deeply fundamental ways. I am afraid that your Lordships' House as a whole has not truly grasped that. There are few people in politics with a scientific background, though many of them are here in the Chamber today, and some who acquired it many decades ago, while those understandings have since moved on, and sometimes have reversed.

As the noble Lord, Lord Winston, outlined, genes do not operate in a deterministic way how an organism develops. Living beings are complex, ever-changing. They are not machines built to a blueprint. Picking up some of those technical points, copy number variation, the number of instances of a gene, can have widely varying effects. There are epigenetic changes: under different environmental circumstances the code of the genes can be read differently. Even the location of the same gene in a different place can result in widely different outcomes.

What I was taught in a science degree 30 years ago was junk DNA—about 99% of the total—is now titled "non-coding DNA". We know, as we knew then, that it does not produce proteins, but it has widely varying impacts on the DNA that does produce proteins. I pick up the point made by the noble Lord, Lord Krebs, about exogenous DNA, paraphrasing a little, that we do not really have to worry about it, but his junk DNA can have unknown and variable effects, so we really must think about it. However, I thank the noble Lord for putting "tardigrades" into *Hansard*, I think, for the second time, since the first time was in my maiden speech.

There is increased scientific understanding of how genetics and the environment interact. It is neatly, if somewhat cryptically, summed up in the phrase "genotype does not determine phenotype". Plants and animals are products of complex, sophisticated, ever-changing interactions between their genes, the microbiome that, in effect, makes every complex organism in an individual ecosystem—including every Member of your Lordships' House—the chemical and physical framework around them, and even pure chance. I point noble Lords to a fascinating article in *New Scientist* on 21 September on fascinating new research showing how there is a large element of chance in the way your brain develops.

The tools used for gene editing are not nearly as precise as has been claimed and there is a practical reality about how these studies are carried out. They often fail to check beyond the intended outcomes; they see if they produce what they wanted, but they do not see what else they have produced. To quote one careful academic analysis from this year,

"very few studies have used 'unbiased' methods and a systematic approach to detect genome-wide off-target mutations."

That is where we look for the driving force, the commercial interests, behind so much of this research. People are very often not paid to find the results that they did not want.

I point noble Lords to an excellent briefing, which covers these issues in far more detail than I have time to, from the Alliance for Food Purity. There is a great deal of very detailed technical work in that briefing. However, the underlying problem is that the Bill is applying the language of engineering to biology, and they are not compatible. The outputs—the food that we might all eat without knowing it, if the Bill is allowed through in its current form—could see the appearance of unexpected allergens or even toxins. With the Bill in its current form, farmers could see genetically edited seeds planted in their neighbours' fields and changing the genetics of their fields, without their being informed. That is a particularly huge issue for organic farmers.

That issue is played out on a national scale too. Both the Scottish and Welsh Governments have indicated that they do not want gene-edited crops, but there is no way of stopping the seeds or their genes at these borders. The issue extends beyond these islands. The Bill is likely to be in breach of the Cartagena Protocol on Biosafety—an international agreement that aims to protect biodiversity from the impact of genetic engineering.

The list of problems with this Bill—a familiar set—goes on. There are Henry VIII clauses, step by step, allowing changes by ministerial diktat at virtually every key point. To pick out just one, Clause 1(8) allows the Secretary of State to widen the definition of a precision-bred organism through regulations. That is a crucial part of this Bill. The noble Baroness, Lady Jones of Whitchurch, set out the issues around labelling and how it could be changed by regulation.

Many noble Lords have already covered the issue of whether animals should be excluded from the scope of the Bill. It has been very widely covered and the Minister, in a debate we had a couple of weeks ago on avian flu, almost made a concession in acknowledging

that we have huge problems with pests and diseases in our factory-farmed animal populations, because they are enormous. This inevitably allows one disease to flourish but, if you tackle that one disease while leaving the system in place, another disease will arrive in short order.

I come to my final group of points. Various noble Lords have made implicit or explicit references to food security. If our standard approach is through gene editing, we are aiming for a silver bullet-type approach by continuing as we are now but looking to find magic solutions. But we know what we need to do to feed the world—to use that phrase—and, on occasions, we have heard an acknowledgement of this from the Government Bench opposite. We need agro-ecological approaches that work with the sophisticated complexity of nature, which we are just beginning to grasp, to truly cultivate the systems that have developed over hundreds of millennia, rather than to take to them like a toddler trying to put back together a clock that it has disassembled with a hammer.

In his introduction to the Bill, the Minister said that science must be at the heart of our national recovery. I absolutely agree with that statement. The 21st-century sciences of ecology and systems thinking understand that these complex ecosystems cannot be managed like machines. That is the science that we desperately need to feed ourselves and look after our natural world.

The noble Lord, Lord Krebs, said that the green revolution was a miracle that came at a cost. The COP 15 biodiversity talks are coming soon and we are starting to see that that cost has been enormous and unaffordable. We cannot afford to repeat today the same mistakes we made in the 1960s.

I will finally pick up on the Jonathan Swift quote used by the noble Lord, Lord Krebs. I give the noble Lord credit for making a gender update to it, but I am going to make a speciesist update. Noble Lords will recall that it talked about growing two ears of corn or two blades of grass where previously there had been one. Well, if you want those extra blades of grass or ears of corn, you actually need a healthy soil, with a rich ecosystem of fungi and bacteria working co-operatively with the plant. Then you will get a lot more than two extra ears of corn; you will get healthy, rich food, a healthy environment and security for all of us.

6.07 pm

Lord Lilley (Con): My Lords, it is a pleasure to follow the noble Baroness, Lady Bennett of Manor Castle. Since my wife is always accusing me of verbal pedantry, I suppose I should feel some sympathy for the noble Baroness's opening argument, which seems semantic in essence—that the words "precision breeding" in the title of the Bill do not accurately describe genetic editing. However imprecise the wording may be, no one can doubt that gene editing is more precise than relying on random variations of natural breeding, let alone the radiative mutations that used to be permitted. I just suggest to the noble Baroness that a rose by any other name may smell as sweet, and that this Bill, under any other name, would be as good.

I cannot claim the expertise contributed by many noble Lords in this debate but, for 35 years, I have had the honour of representing Rothamsted agricultural institute. The noble Baroness, Lady Jones of Whitchurch, has the even greater honour of being on its board. It is one of the oldest agricultural research institutes in the world and it is world-leading. It aims to bring the best of science into practical application. I spoke to people there this morning and gathered that they are immensely supportive of this Bill. Someone said it removes the roadblock that an EU legal ruling has provided, which has prevented the institute implementing and gaining practical benefit from scientific developments that have already been made. Only a couple of weeks ago, it planted the seeds in a second trial for gene-edited wheat. I am informed that normally when wheat is cooked it can produce acrylamides, which are potential neurotoxins. This variant will produce fewer acrylamides and will be less toxic; it will be safer and healthier for users if all goes well. That is an example of how this sort of technology can be good for the health of humans, as well as for plants, animals and the ecosphere.

As the noble Lord, Lord Jopling, said, we are having to change the law because we inherited law from the European Union that was based on the precautionary principle. I only wish that Viscount Ridley were here to contribute to this debate. He has often analysed the precautionary principle in the past and said it boils down to saying that you must not do anything for the first time. The principle has been around in Europe since long before the European Union was thought of. When tomatoes were first brought from South America to Spain, people said, "They are obviously deadly poisonous. You must not eat them. That red colour signifies their danger." For two centuries, no one ate tomatoes—they were grown only for decorative purposes—until a couple of old souls tried them and found them tasty and nutritious. They are now a major part of our diet.

We must avoid adopting the principle that we must not do anything alien, new and untested, particularly now that we are in a position to understand the science of what we are doing and to know that gene editing is not only essentially natural—doing what nature does but in a more targeted and specific way—but potentially safer. It focuses on benign and beneficial changes, which will increase yields; reduce reliance on herbicides, insecticides, fungicides and artificial fertilisers; and enable crops to adapt more to climate change. It will do so, I hope, with precision and without damage to the environment.

By contrast, nature is not benign. It does not produce only mutants that are naturally beneficial. They can be harmful and dangerous. They often harm the particular organism that has mutated. I am told that, if the potato were now introduced as a new, freshly developed artificial product, it would almost certainly not be allowed in any country in Europe and probably not here: when potatoes turn green, they produce alkaloids that can be toxic. Peanuts would certainly not be allowed if they had been produced by artificial means. However, with this technology, there is every chance that we will be able to produce variants of peanuts

[Lord Lilley]
that will not produce toxic anaphylactic shock. This would greatly benefit the many people who are potentially allergic to them.

In the past, we have allowed radiation-induced variants. This involved putting seeds and plants into nuclear reactors and bombarding them, producing millions of variations and hoping that some would turn out to be beneficial. That is a far more random process than anything that we are talking about here. Golden barley, much loved by brewers, was produced by that process and contains literally millions of variations from the original, natural barley from which it was produced. We now have 25 years' experience of various scientific approaches to genetic modification and editing, and no one has suffered or died. None of the fears and concerns that people have expressed has, as far as I know, been observed in practice. We can therefore proceed in the way that the Bill suggests that we should, and that way should give us all confidence.

The noble Lord, Lord Krebs, mentioned how he had been vilified as a result of the *Daily Mail* campaign against "Frankenstein foods", one of the most effective images ever conjured up. I am ashamed to say that, at that time, the party of which I was deputy leader played along with that and thought that there were votes to be gained from expressing opposition to those foods. I was certainly not supportive of that particular approach. I am glad that we—and the Labour Party and the Liberal Democrats—have accepted, in principle, that we should go along with the scientific approach of allowing gene editing.

One can understand that naturally people are concerned when something new, strange and unknown comes on the scene. However, I am sad that the hostility stirred up then by the *Daily Mail* and others was allowed to stop not just gene editing but genetically modified organisms over a generation. For example, it prevented golden rice, which was genetically modified to produce more vitamin A. If used in developing countries, it would have saved millions of people from blindness. However, until very recently, it has not been available—I gather that it is in the final stages of approval in the Philippines and one or two other countries. We should be ashamed of allowing such hostility to build up without examining the science behind it and reassuring ourselves that there was virtue involved, rather than risk.

I very much hope that the Bill will go through. Of course, it may require some of the amendments that have been suggested. I hope too that, when it has been shown to work effectively and not result in the things that people fear, it will pave the way for us to allow other forms of genetic modification as well, to the benefit of humanity and this country.

6.16 pm

Lord Cameron of Dillington (CB): My Lords, it is a great honour to follow the noble Lord, Lord Lilley. I do not suppose anyone in this House will be surprised to know that I support the Bill and everything it is trying to achieve. Some of your Lordships will remember that I moved the amendment to the Agriculture Bill that resulted in the consultation that has brought us to this point.

I declare my relevant interests. I am still loosely involved in a family farming enterprise growing crops and rearing livestock. I am also chairman of the trustees of the UK Centre for Ecology & Hydrology, where our mantra is helping people and nature thrive together. Furthermore, I co-chair the All-Party Group on Agriculture and Food for Development, whose primary purpose is to bring improved agriculture to the smallholders of the developing world, notably in sub-Saharan Africa.

It is with that latter interest in mind that I stress how crucial it is that we bring urgent help to the African lady farmers to enable them to plant improved seeds across a wide range of different crops. There is such a lot of work to be done. In Africa, we do not have time for the 20 to 25 harvests needed for the random chance mutations that traditional breeding provides. We urgently and desperately need to make multifaceted improvements to a whole of range of crops to avoid the devastating effects of climate change. Bear in mind that Africa has the world's fastest-growing human population. Therefore, unless we act quickly, we will undoubtedly be responsible for human tragedy on a very large scale.

We have to ask ourselves: how do we breed plants that can resist the many different diseases and pests present in every country without having to put more chemicals into the environment? One of the problems in the developing world is that many farmers are only semi-literate and semi-numerate, so chemicals are often used far too liberally, sometimes to the detriment of the farmer's health herself.

How do we breed plants for hot countries which can resist the droughts brought about by our climate change? Irrigation schemes are expensive and use valuable water. Seeds are much cheaper, so you can breed either a plant that requires less water or, more often, one that comes to harvest two or three weeks earlier, during which time its older counterpart might have shrivelled and died.

How do we breed a rice that resists the flooding of Pakistan or Bangladesh? Plants can be bred to stay alive underwater for several days or, when threatened by water, to spurt upwards to keep their heads above the flood waters. Both are being developed. How do we breed a maize that is salt-tolerant, or a cassava plant that does not have to be dried and processed within 24 hours, or a cocoa plant resistant to mildew or phytophthora? How do we produce crops less susceptible to the dreadful post-harvest losses you get in Africa? Perhaps more importantly, how do we breed crops that give children access to vital vitamins and minerals, such as zinc and iron, deficits of which can cause blindness, stunting and cognitive degeneration? We need precision breeding, without the dangers of too many off-target characteristics that are inherent in the random mutations of traditional breeding processes. We need it in both crops and animals.

Coming back to the UK, we also need our own new varieties of crops to combat our own climate change. We need new varieties that can hopefully be produced with greatly reduced, or even a total absence of, chemical applications, and which therefore can be grown in harmony with the biodiversity that we so desperately

need. One of the major plusses about inserting gene resistance to pests is that it is better for biodiversity. Why is that so? It is because, unlike with chemical sprays, it does not kill the pest; it just protects the crop from the pest, which can go on thriving in conservation headlands or neighbouring habitats.

We can also, hopefully, breed new varieties which can give us the improved nutrition that so many of our population aspire to—perhaps a wheat with minimal gluten content to help coeliacs, for instance, or varieties that have a longer shelf life in our supermarkets and thus reduce the need for plastic. The advantages of such precision breeding are huge, and the disadvantages seem so much more remote than traditional breeding practices. All the projects I have mentioned are at various stages of development across the world, and in my view, are safer than the random mutations used in traditional breeding, and other forms of breeding, as other noble Lords have mentioned, such as using gamma rays and so on. For those, it can often be necessary to remove hundreds of plants with undesirable, off-target characteristics. The backcrossing in genetic breeding is quite limited, compared to normal breeding.

I turn for a moment to the gene editing of animals, because there is currently a slight weakness in the Bill in that area. First, I stress that, for the avoidance of suffering of animals, precision breeding is vital—not the cruelty that some people might think or imply. It reduces the off-target characteristics that other forms of breeding are more likely to produce, some of which might be harmful to the animal, as the noble Lord, Lord Trees, mentioned. Genetically editing a salmon egg, for instance, is not cruel. Rather, if, for example, you can increase the mature salmon's resilience to sea lice, as they are striving to do at Roslin, you will be doing both the salmon and its surrounding environment a heap of good as there will be no need for environmentally damaging treatments to remove the lice.

With mammals, you also take the egg, treat it, and then reinsert it into the mother— a process no crueller than IVF in humans. If, for instance, you thus increase resistance to PRRS in pigs, as again they are striving to do at Roslin, then you are actually reducing the enormous suffering and deaths from this appalling respiratory disease. Moreover, if you alter the genes of one animal, you should—and I agree that there is doubt about this, but the tests are going on—get hundreds or even thousands of their progeny with the same characteristics without touching them in any way. Breeding resistance to disease into future generations is much more sensible than the ongoing use of antibiotics, medicines or even vaccines as the best way to help animals live pain-free and disease-free lives.

Nevertheless, there is one point that I noted was raised in the other place, and was not, in my view, satisfactorily resolved there. The process for authorisation and licensing of new breeds of animals is, as yet, not very clear and probably not wide enough in its remit. Who or what is the animal welfare advisory body? Who is on it and how independent is it? What is its full remit?

I realise that, even before this Bill, the existing law insists that every single step of the process of holding and breeding an animal has already to be licensed, checked and inspected many, many times for even the mildest form of suffering on the part of the animal. That is all good and as it should be. As I said, that already happens and there is little need for us to reinvent the wheel. To my mind, however, there is too much responsibility, certainly in the latter stages of the proposed development process, for the notifiers themselves to keep the welfare advisory body informed. It appears that the notifiers are in the driving seat.

Clause 14 states only that regulations "may"—and, as the Minister knows, we tend not to like that word in Bills before this House—

"make provision for requiring the notifier"

to provide the Secretary of State with information about an animal's progeny during periods prescribed by the regulations. I for one would like more clarity on those processes in the Bill.

What worries me more is who will determine whether the newly bred characteristic enhances the quality of life of the animal and its descendants on the farm. In other words, how far down the line does the welfare body's remit extend? We do not want animals being bred, for instance, so that they can be ever more densely packed in inhumane conditions. Of course, there is nothing about precision breeding that makes this more or less likely than the traditional random breeding practices already in existence, but if we are going to make new trait developments easier, then we want to make sure that we get the right trait developments. So there is a small bit of tightening up to be done on the Bill at this point.

However, I end by repeating that I cannot endorse more strongly everything this Bill is trying to achieve. It has never been more important, as our UKCEH mantra says, for people and nature to thrive and prosper in harmony. If that is to happen, we must allow science and precision breeding to help us make it possible.

6.26 pm

Lord Lansley (Con): My Lords, I am very glad to follow the noble Lord, Lord Cameron of Dillington, who gave us a further excellent example of the expertise brought to this House by so many noble Lords in support of the Bill. I also support the Bill and I very much welcome it. I look forward to the further speeches to come, not least the maiden speech by my noble friend Lord Roborough. I do not want to hold up the House too long, because I do not bring the scientific expertise that so many noble Lords do.

However, I have taken an interest in this issue since I was first elected to the other place in 1997, when I was involved in the Plant Varieties Bill, not least because of my own constituency interest. As with my noble friend Lord Lilley, in my constituency, when I was first an MP, we had the Plant Breeding Institute. We still have in my old constituency the National Institute of Agricultural Botany, and I thank the people there for the conversations that I have had with them over a number of weeks about this Bill and its implications.

In a sense, I approach this from the standpoint not of the science, but of the policy. I was very much against the view taken early in this century that genetic modification by its nature should be resisted rather than be embraced. The point was to embrace it and

[LORD LANSLEY]
regulate it in ways that gave us great confidence. However, there is an essential point in this Bill that was referred to by the noble Lord, Lord Krebs—who is not now in his place, but he will doubtless read it—and I thoroughly agree with him. It is in Clause 1(2)(c), which says that an organism is precision-bred if

"every feature of its genome could have resulted from … traditional processes, whether or not in conjunction with selection techniques, or … natural transformation."

If one thinks back to the point at which so much of our public debate about GMOs was distorted, the distinction was because that which is the result of gene editing, which is essentially adding pace and precision to what would otherwise be achievable through natural transformation or traditional breeding, was being conflated with transgenics. This Bill is absolutely right in principle because it separates those two things out so that we can look carefully to ensure that we are regulating proportionately.

That is why—if I may just add this point in response to the speech with which I otherwise agreed from the noble Baroness, Lady Jones of Whitchurch—I do not agree with the point made by Daniel Zeichner in another place and the Labour Party that we need a new and separate regulatory function. So far as I am particularly concerned with plant varieties, we have a perfectly acceptable regulatory mechanism with the specific authorisation requirements, broadly speaking, set out in this Bill, allied to the existing use of the recommended list—the national list—and the related authorisation. That should give people confidence.

It does not give people confidence to have a separate regulatory function and a separate regulatory body in order to arrive at a decision in relation to something that is, in fact, indistinguishable as a product. If people think there are two separate regulatory processes, they think there will be two separate, distinguishable products. In that sense, the Labour Party's proposals, which were not accepted in the other place, were wrong. They would not have given the public confidence; they would have raised public concerns. That would have been a mistake.

My final point is very much to agree with my noble friend Lord Jopling about the importance of this in the context of our relationship with EU regulation. I am a remainer and I would have stayed and fought the argument, but we did not win this argument about genetically modified organisms with our EU colleagues. I remember in particular having debates with my colleagues and friends in the European People's Party, who had what amounted to an ideological—one might almost say theological—objection to the use of GMOs, which, because of the conflation with gene editing, has prevented us making steps in this direction and having a regulatory structure for it.

As we change this, we should try to avoid regulatory divergence from the EU, which I want us generally to avoid, but in this particular instance we should continue to argue that we are doing things the right way. Frankly, it is time for the European Union to think about whether it, too, bearing in mind the advantages and the progress that has been made in gene editing, should distinguish between transgenics and gene editing of this character and should change European regulation.

Here we are, only a few days after the United Nations declared that there are 8 billion people in the world and that there are going to be 9 billion. If we are going to feed people, use fewer pesticides and synthetic fertilisers—as the noble Lord, Lord Cameron, rightly said—and achieve the kind of progress that we need to make, not least in plant varieties, I very much support the Bill. I hope it will be of benefit not only to British industry, which is very important in my part of the world in East Anglia, but, equally, across the globe in terms of enabling us to feed the planet.

6.32 pm

Lord Rooker (Lab): My Lords, in general I support the Bill. I am afraid that whenever the word "genetic" appears some people, organisations and supermarkets run a country mile. It is no good supporters of the Bill complaining and moaning about this. I remember my experiences in my early days at the old MAFF in 1998-99, when the issue arose. We all recall that, at that time, GMO tomato paste was on the shelves outselling non-GMO tomato paste 2:1. Then the anti-science, semi-religious zealots got to work.

That is the history, but there is a fundamental lesson regarding new technology and food that I took away and tried to use later at Defra and at the FSA, which is that the consumer is king and that the consumer benefits always need to be up front, rather than the producer benefits. I was always reinforced in that view by the late Professor Derek Burke, a former chair of the Advisory Committee on Novel Foods and Processes. His essay in 1998 in *Consuming Passions: Food in the Age of Anxiety*, published by Mandolin on behalf of the *Times Higher Education Supplement*, is worth a read by the Minister. Professor Burke's four key points on new products were: that they must be technically possible; they must offer advantage to the consumer; the regulatory process must be rigorous, open and universal; and the consumer must be offered a choice, at least initially. It is worth putting on record the very last sentence of his essay:

"Technical skills will not be sufficient on their own to turn this exciting and powerful new science into products and processes; scientists will have to take the public with them."

That is a key lesson.

I agree with the noble Lord, Lord Lilley, that there is little wrong with GMO techniques. Some 250 million people in the United States of America have been our living experiment for about 25 years. As far as I am concerned, there has not been a single problem regarding food safety over that time. I accept that there have been some environmental issues, but I do not keep comparing the prairies of the USA with our tiny, people-dense island. They are not the same.

The science of breeding has never been more vital with climate change, as others have said. There will be new diseases in food crops and food production animals that we have not encountered before. Confidence in the current and proposed regulatory system is vital.

I am not in favour of gold-plating but, where food is concerned, the key aspects for consumer confidence are openness and transparency. In this respect, Defra blotted its copybook with the recent Public Accounts Committee report on Weybridge animal health laboratory, which has obviously been facing

hard times since new Labour. That needs to be put in order PDQ, otherwise confidence in Defra and its scientists will be damaged.

Defra and British Sugar, whose submission I read, have all set out the potential benefits, which certainly relate to consumers. Not least of these is the use of fewer pesticides and fertilisers. In former days, if we could produce fewer pesticides and use them less, there would be less chance of residues in the final product. I have not checked recently, but I am not so sure whether we check for residues in products as quickly and frequently as we used to.

There is one other issue that I read about. The Royal Society sent a very short, readable one-page briefing on this, with some questions which I will ask the Minister to answer in Committee.

I am going to raise only three general issues. The first is with regard to animals being included in the first place. These concerns have to be satisfied. I can see the benefit for food production animals—I am less concerned about the others—but the fact is that we and our key trading partners have different rules on food of animal origin, and rightly so. The noble Lord, Lord Trees, raised the issue last week at Question Time after a Question literally about the benefit of the technology in enabling our food birds to avoid avian flu. There is quite clearly a benefit to the animals, but there is also a real benefit to the public. There is no question about that. There are also potential benefits to the pig industry.

Less disease in food production animals caused by either poor husbandry or climate change will directly benefit consumers, but we must not use the technology to cover up poor husbandry. That is the reason we do not want the material the Americans want to give us: because the washing of chickens in chemicals is only to cover up their poor husbandry. That is the reality. As my noble friend said, if this is all about ever faster-growing broilers on weaker and thinner legs, forget it; I am not going down that route. I have been in chicken sheds with 30,000 birds that were well looked after with techniques to find out whether they are ill. The techniques that can be used beggar belief. But if it is all about fatter, faster-growing birds on legs they cannot stand on, I for one am not having that.

My second general issue—and this is where I am going to fall out with some people—is traceability. To simply claim that "general food law requires traceability", which is an excuse I saw offered by one scientist, is an unprofessional cop-out. As such, I am persuaded that, from a consumer point of view—remember that—labelling is a must. It is not only that consumers are entitled to know; we have to take direct account of the United Kingdom Internal Market Act. Like it or not, we have devolution.

As far as I am concerned, the Food Information Regulations do not cover enough, because they do not cover methods of slaughter. I would add that in if I could, but I suspect that this is not the Bill in which to do that.

Innovative techniques which claim to improve foods have nothing whatever to fear from openness and transparency. If there is a sniff of less openness and less transparency, confidence disappears. We know what happens when that occurs: we get crisis after crisis, built on false evidence.

I looked at the FSA board papers because I have had no briefing from the FSA, which I am a bit sad to say, and neither has anyone else so far as I know. I looked at its board papers from September; this was discussed at the September meeting. Buried right at the end were the results of its 4,000 sample opinion poll. I will quote only one figure: 78% of consumers thought it important to know that the food was as a result of precision breeding. You cannot dismiss that—it is overwhelming by any stretch of the imagination. If those consumers think they are not being told information, confidence will go out the door.

My third issue is governance. Parliamentary counsel has again, at the Government's orders, produced another Bill which removes powers from Parliament—not this House but both Houses—to give to Ministers. The Delegated Powers and Regulatory Reform Committee, on which I serve, has not considered this Bill, but I am assuming we will do so before Committee starts. A Bill with three Henry VIII clauses and 28 delegated powers needs to be looked at very carefully. Some powers have no procedure at all; they are not even classed as negative resolution.

Of all Bills, a Bill that relates to new food technology should, on the evidence of the past, be one that gives Ministers no new powers in respect of food safety. We settled all this many years ago. If Ministers do not think it matters, or that because Ministers are elected they are more important—we were told that the other day—they have not looked at the history of why the FSA is there in the first place. It is there to remove Ministers from pontificating on food safety because we wrecked industry after industry in the 1990s due to people's lack of confidence, and the system has worked incredibly well, by and large, in the past 25 years. That is important. Ministers should have no role whatever in food safety. They are not qualified or trusted. The Bill looks a bit like it is side-lining the FSA, and for the avoidance of doubt I would like to hear from the Minister about that.

I will come back to this in Committee. I am pro-science, pro-technology, pro-consumer and a supporter of the Bill, but the Bill will have to be changed.

6.43 pm

The Earl of Stair (CB): My Lords, I draw attention to my interests in agriculture, forestry and horticulture. Like many others, I am pleased to see this Bill, which has been welcomed by many in the industry of food production and farming.

There can be no doubt that global warming is taking place at a far faster rate than natural evolution, and there are more and more climatic and disease stresses placed on our cropping and animal production. Many of them have been imported from other areas of the world, such as phytophthora, Chalara and of course Covid, which admittedly is not an animal disease. We also face climatic threats for which our crops are not prepared with the increased risk of drought.

This Bill will allow progression, but needs considerable caution. As it stands, it allows for change at a speed which I think is probably unwise. I am generally

[Earl of Stair]
extremely cautious about GMO produce, and this is treading a fine line that could easily be overstepped—although I note that, as the Minister said at the beginning, this Bill is to separate gene alteration from modification. The principal purpose of this Bill is for the benefit of both producers and consumers. It should also benefit the environment through less requirement for chemical and medicinal intervention and, in the case of cropping, less fuel and therefore carbon production.

However, I am concerned that the Bill has reached this House without very much alteration in the other place and without the inclusion of what appeared to be several very sensible amendments. I very much hope the Government will be receptive to the amendments which will come forward and be introduced in this House.

The Bill covers a wide spectrum, which includes changes to both plant and animal. The Government are keen to emphasise that precision breeding will be scientifically based development. However, I am concerned that the Bill appears to permit the introduction of new genetic technology in plants in a period of under two years in some circumstances. Although I am very pleased that the scientific approach will be so important, there is little time to assess any practical or physical impacts in under two years.

Plants are more complex because a mistake in precision breeding could escape, as mentioned by other noble Lords, and pose a further risk to indigenous wild plant life. Scientific alterations to the genetics of animals may be easier to oversee because they are more closely controlled in the short term. However, I think it is worth noting that, in the development and breeding of dairy cattle, it takes at least four years to show genetic improvements.

It must not be forgotten that often an improvement on one side by genetic alteration may have a balancing detrimental effect on another side, so even three years is a short period of time to monitor any effect of change. I note that this Bill will bring us more into line with genetically enhanced techniques in other parts of the world. Perhaps the EU approach is slightly better, at a slightly slower pace.

This leads me on to regulation. As was highlighted by others, including the noble Lord, Lord Winston, British farming has a worldwide reputation for quality, welfare and standards. The Bill as it stands does not appear to allow for any form of independent and dedicated monitoring of what is being created or the methods used. This is essential to ensure that the line of genetic precision breeding does not become unauthorised modification. With livestock enterprises, there needs to be regulation, if only to ensure that the welfare management of housed stock, such as pigs, poultry and cattle, is enforced, and the monitoring and management of bacterial and viral infections, such as coccidiosis and pneumonia among other things, does not become lost because the animals are deemed to be safe due to precision breeding and standards are allowed to drop. I suggest that this new sector of science needs an independent regulatory body to oversee change rather than relying on regulations based on perceived scientific risk.

I also note that there is no requirement for any plant or livestock, including feed materials from precision-bred material, to be labelled as such. To my mind, this is a major omission, and I see an issue that needs to be addressed. However, my noble friend Lord Krebs's proposal for a register may well be a suitable alternative. I do not understand why if vegan and gluten-free products can be labelled, genetically altered products should not also be, so that the end-user is aware of the process used to source the ingredients.

This follows on to traceability and where there will be further conflict with the stance being taken by the Scottish Government at present in this devolved issue covering the use of genetically altered materials. While the Scottish Government may be objecting to the use in Scotland of precision-bred products, albeit linked to other legislation, without a clear agreement on precision-breeding technology being in place there will continue to be unnecessary conflicts at all levels of use. This point was picked up by the noble Baroness, Lady Bennett of Manor Castle. Although the terms of this Bill relate to England only, surely before it becomes an Act there needs to be further work with the devolved authorities in Wales and Scotland. Surely it is sensible to have a consensus of agreement among all the Parliaments. Can the Minister update us at the end on whether there is still dialogue going on with the two devolved Parliaments? What would the consequences be for producers of cattle in Scotland or Wales who inadvertently marketed cattle fed on precision-bred cereals? It would bring them into conflict with legislation produced by their own devolved Parliaments.

In summary, I see the Bill as being progress in many ways. Less use of fuel to protect crops and less required use of medication for animals can only help to improve a producer's bottom line and aid the production of food. Climate change is a sad fact of life, governed by how we have lived and are living our lives. It is unlikely to change instantly. As a result, we need to progress change, but without risk to or impact on the environment, and in particular without impacting on the welfare of animals. I see the need for independent regulation, labelling and sensible interaction with internal and external neighbours as essential. I hope the Government will be receptive to the inclusion of new amendments in this House.

6.50 pm

Lord Roborough (Con) (Maiden Speech): My Lords, I am grateful to my noble friend the Minister for this Genetic Technology (Precision Breeding) Bill, which has driven me to speak for the first time. I will begin by expressing my thanks, first to noble Lords from all parts of the House who have gone out of their way to introduce themselves with great warmth and encouragement, and, secondly, to the doorkeepers, clerks and staff, who have been generous in their welcome and unfailingly helpful with advice and directions.

This Bill is a natural place for my maiden speech, as it is a subject on which I have a little knowledge and in which I declare an interest. I grew up on a dairy farm in Devon. In 2015, we restructured the farm to move away from high yield and high input to a more

regenerative, lower-yielding system. The results have been positive for animal health and longevity, working conditions, soil health and profitability.

My family have been Members of this House or the other place for the last seven generations. We arrived in the United Kingdom in the 18th century as an immigrant Jewish family with Portuguese roots. Our prior background was in trade and finance, which we continued and became landowners and politicians. I have followed in that tradition despite the dilution of that genetic inheritance over two centuries of imprecise breeding.

I hope that there are areas other than agriculture where I may make some contribution. I have worked within financial services for the last 30 years as an investor in companies across the technology, manufacturing and commodity industries. I hope this gives some perspective on where this country's threats and opportunities lie now and in future. I was also a designated senior manager, as defined by the Financial Conduct Authority, and so have experience of the City's regulatory environment.

For the last four to five years, every meeting with senior management of companies around the world included a discussion of their emissions reduction strategy. The evidence of increasing atmospheric carbon and consequential global warming is irrefutable. While we cannot know with certainty how much the world will warm, or even what the precise outcomes will be, a substantial part of that forecast range could have severely negative consequences for our species. We have a responsibility to take action to reduce and remove those possibilities. My own response has been to focus on large-scale afforestation and to cofound a global trading platform for not just carbon offsets but all aspects of natural capital. As much as 25% of the required global reduction in atmospheric carbon can come from re-evaluating land use, and I am playing an active role in that.

That brings me to the genetic technology Bill. This legislation enables faster development of a technology that will deliver valuable benefits. Greater food security is the ultimate prize. That in turn will allow us to focus more on rebuilding the stock of carbon that has been released from harvested forests, damaged peatland and degraded soils.

Global food consumption has grown at close to 1% per annum for several decades, on a broadly static amount of farmed land. Those demands have been met through technology. The largest contributor is the selective breeding of crops and animals to enhance desirable traits and eliminate harmful ones. This Bill encourages the acceleration of the rate at which and the precision with which we can focus on the traits we desire and will allow for less land to be used in agriculture.

If I look to my own herds, were all my cows blessed with similar genetic traits to my best cow, I could raise my milk output by 23%, without material change to land use or carbon emissions. While we breed every year to increase the prevalence of those best traits in our herd, it is an imprecise and slow iterative process. Precision breeding offers the potential for others to help us accelerate that process dramatically, using DNA that is already present within the species.

Prioritising animal welfare is central to any livestock farming business. We care about our animals and also know that no livestock farming system can be successful without putting animal welfare first. Standards of animal welfare in the United Kingdom are already among the highest in the world, and this Bill introduces a process for additional safeguards on declaration and ongoing monitoring to address others' concerns. That makes this country one of the most suitable globally for pursuing precision-breeding technology.

It has been an honour to have had the chance to contribute to this debate. I look forward to making further contributions to the House's work, hopefully with less trepidation in future.

6.55 pm

Lord Curry of Kirkharle (CB): My Lords, sadly the noble Earl, Lord Leicester, was delayed in his transport arrangements and arrived in the Chamber 16 minutes late. He is with us now but was scratched from the speakers' list. It was his great task to welcome the noble Lord, Lord Roborough, to this Chamber—so I will read out the first part of his speech instead of him. I also draw your Lordships' attention to the noble Earl's interests.

"It is a rare honour, indeed my first, to follow a dear friend as he makes his maiden speech. We have a new Member of intellect, integrity and good judgment, and what an excellent speech it was"—

I am sure we all agree with that.

"I am sure the whole House will join me in welcoming him to these Benches. I am also grateful to him for clearing up one or two issues regarding his antecedents. With the name of Lopes, I now understand his Portuguese roots. For the last three decades, I had harboured the romantic notion that his family had been brigands or buccaneers who had been shipwrecked on the south Devon and Cornish coastline.

After completing a degree in politics at Durham University, he embarked upon a career in the City, about which you have been briefed. My noble friend is being modest. He worked at Goldman Sachs and more recently rose to become No. 2 to Crispin Odey at Odey Asset Management. Perhaps the most exciting part of his career is that which he has recently embarked upon: co-founding a global trading platform for carbon trading and all aspects of natural capital. The carbon markets are currently like the wild west"—

they are indeed—

"so Circular Algorithmic and Data Systems Ltd is a welcome and trusted entrant into this market, and I am sure will have a large and responsible part to play. Finally, I cannot emphasise enough what a thoroughly nice and decent man my noble friend Lord Roborough is. There is not a bad bone in his body."

What a tribute to the noble Lord. Had the noble Earl, Lord Leicester, been able to contribute, he would also have welcomed this Bill—and, by the way, the noble Earl owes me at least one gin and tonic for that. I also add my welcome to the noble Lord, Lord Roborough. I absolutely agree with the noble Earl's assessment of his very impressive speech. I am sure he will be a great asset to this House and I welcome him.

I turn to my own contribution to this Second Reading. My interests are recorded in the register. I am no longer a practising farmer—but once a farmer, always a farmer. I welcome His Majesty's Government's progressive decision to introduce this Bill. It marks a key moment for agricultural science, which ought to be taken seriously if we are to attract investment in

[Lord Curry of Kirkharle]
agri-food innovation and stimulate economic growth. Indeed, if we do not progress this Bill, we will find ourselves lagging behind other countries in the global food market which are willing to embrace this technology. The truth is that we are already lagging behind some of our global competitors in the application of science, for the reasons outlined by the noble Lord, Lord Jopling.

I want to stress that I understand the concerns of those who have reservations about the Bill and the potential ramifications of precision breeding more broadly. I recognise that the debate requires a clear distinction between genetic modification and so-called precision-bred plants and animals, as we have already heard in contributions from other noble Lords. I am not a scientist, but I bow to the eminent scientific knowledge that exists in your Lordships' House and look forward to the Minister's response to the challenges from the noble Lords, Lord Winston, Lord Krebs and Lord Trees. What is clear is that the Bill has widespread support not just from the scientific community, which is understandable, but from a wide range of industry organisations which believe that precision-breeding techniques such as gene editing will be a time-efficient means of identifying important traits that lead to new varieties, compared to traditional breeding methods.

There is, of course, a need to ensure that breeding programmes have appropriate safeguards and standards embedded within them, as have been mentioned already, to ensure there are no negative consequences on animal welfare. I in turn welcome the Government's step-by-step approach, which is set to create a regulatory system for plants first, followed by animals. Lots of questions have already been raised about the process, but I am encouraged by the positive comments of the noble Lord, Lord Trees, in this respect.

Precision breeding offers an opportunity to farmers in England to advance and improve their economic performance and productivity. Such breeding techniques have the potential to produce crops which are resistant to disease and with far fewer inputs, including fertilisers and pesticides. By removing allergens and preventing the formation of harmful compounds in food, precision breeding can create safer and healthier crops, with higher yields at a lower cost for farmers. Globally, 20% to 40% of all crops grown are lost to disease or pests; this is a huge waste. The genetic editing of crops may then become vital in securing future food security for an ever-growing global population which, as we have heard already, reached 8 billion last week.

I know that there are concerns about the risk of cross-contamination of neighbouring crops. There are also requests for traceability and separate labelling, but I need to be convinced of the need for that. I understand from the many scientists who have briefed me already that the risk to neighbouring crops is no greater from genetically edited crops when compared to those which are conventionally bred. For this reason, the benefits may far outweigh the potential risks.

As we seek to move towards net zero and need to reduce the use of chemicals, along with emissions of greenhouse gases from agriculture, the benefits of precision breeding are particularly significant. Gene editing will, I hope, help to produce crops that are resilient to the effects of the climate crisis, as has been said, and should reduce the environmental impacts of farming overall. This, in my view, is a huge prize.

However, I have two further issues that I would like reassurance on from the Minister. First, I too am concerned about the devolved nations, which are refusing to support this technology. As a separate point, there are important research institutions located in Scotland, Wales and Northern Ireland which are global leaders in plant and animal science. Their scientific contributions have proved invaluable in the past in the Government's mission to make farming more sustainable. Can the Minister confirm what he is doing to try to overcome the current objections from the devolved nations to this Bill? Does he believe that the Bill will exclude those institutions located in devolved nations from participating in the Government's programme?

Secondly, there is a possibility, as we know, that, having been opposed previously to this technology, the EU may well adopt a similar approach. If this happens and the green shoots appear, will the Minister reassure the House that his department will monitor developments closely, so that, if possible, our legislative frameworks are aligned?

7.04 pm

Baroness McIntosh of Pickering (Con): My Lords, I am delighted to follow the noble Lord, Lord Curry, and I echo his good wishes and warm welcome to my noble friend Lord Roborough. He may have claimed to be of imprecise breeding, but he demonstrated his knowledge of the subject and good humour. We look forward to having him on our Benches and making many such contributions in future. I congratulate my noble friend the Minister on bringing forward this initiative, but I am probably housed somewhere between the noble Lords, Lord Krebs and Lord Rooker, in that I think this is a good start to the debate today but it is a work in progress.

I do not entirely support the position taken by a number on our Benches, such as my noble friends Lord Jopling and Lord Lilley, as to why Europe was so cautious in pursuing the precautionary principle. A large part of that was demonstrated by those—in particular, the noble Lord, Lord Rooker—who referred to the general concerns put forward by consumers. I will be the first to confess that I approach this not as a farmer or scientist but as someone who potentially would like to see more food produced, to a better environmental and higher animal welfare standard, and to have such technologies rolled out across the world. As a very young lawyer, I was involved in Brussels in the early 1980s with Monsanto as a client, which obviously had a great vested interest in this field.

The mistake that successive Governments have made is in failing to bring the consumer with us in this regard. It is difficult to understand entirely what the difference is in the law. In introducing the Bill, my noble friend pointed out that it would create a simple new regulatory regime for precision-bred plants and animals. It will also introduce two new notification systems, for research and marketing purposes, and enable the development of a new science-based authorisation process for food and feed products derived from precision-based organisms.

I am so sorry that the noble Lord, Lord Rooker, did not receive the letter from the Food Standards Agency. I am sure I am not the only one who received it but will gladly share it with him afterwards. One issue we have to resolve is whether it is sufficient to have a public register such as that proposed, which was endorsed by the noble Lord, Lord Krebs. I do not believe it is sufficient. I wait to be convinced, which is the purpose of this debate, along with Committee and the other stages of the Bill. If I am a consumer who does not understand the process, why should I have to go to a public register on a database and put myself through those paces?

It would be interesting to see how other countries do this. I do not know whether Denmark, where half my family are—I am also of imprecise breeding—is very keen on this, but I am a big fan of labelling. The Danes are very big on that in most consumer issues, whether it is food, medicines or even beer. I would like a very good explanation from my noble friend the Minister and the Government as to why we are resisting labelling at this stage. If it is so good, as we are hearing, and if precision-breeding technology has so much to commend it, then it is incumbent on us as legislators to ensure that the public and consumers are made aware of it.

I had the honour to serve with the noble Earl, Lord Stair, on the EU sub-committee on the environment when we were still part of the European Union. Another immediate problem which clearly arises, and to which he alluded, is that the Bill applies only in England. I entirely support the sentiments expressed by the noble Earl that further work with devolved Parliaments is required. I am not sure whether this was at Second Reading but, as those who follow the proceedings next door may know, the Scottish National Party has clearly stated that it would oppose the Bill as a result of its impact on Scotland. I am grateful to the House of Lords Library for its excellent briefing and for setting out this quote at page 13. The SNP spokesperson, Deidre Brock, said:

"If the Scottish Parliament refused to allow gene-edited crops to be planted in Scotland, we would still be prevented from stopping GMO products from being sold in our shops under the devolution-violating United Kingdom Internal Market Act 2020 … The SNP is committed to ensuring that Scotland operates to the highest environmental standards, and that we protect and enhance the strength of Scottish agriculture and food production. If we end up with unwanted gene-edited products in Scotland, diverging standards with the EU could cause further damage to our sales, risking damage to Scotland's reputation for high-quality food and drink."—[*Official Report*, Commons, 15/6/22; col. 384.]

My noble friend may well say in summing up that Scotland has got it completely wrong and that we are all getting unnecessarily confused between gene editing, GMO and precision-breeding technology, but that, effectively, makes the point for me. As soon as we keep changing the terminology, the public get even more confused than they might have been at the very start, in the 1980s, when this was first debated in the European Union.

I want also to draw attention to concerns raised by two other bodies, one of which is the British Veterinary Association, of which I am, I think, an honorary fellow or associate. My interest is listed in the register, and I stand by what I have declared there. The BVA has raised a number of concerns, to which I hope my noble friend will respond when he sums up. It accepts that gene editing has the potential to contribute to producing abundant, safe food and in doing so play a role in reducing the environmental impact of a growing global population. However, the BVA says that, as gene editing is relatively new, it is difficult to quantify the risks, particularly in relation to unintended outcomes and the longer-term impact of unintended changes. I hope to hear some more on that. In particular, will my noble friend agree to prioritise animal health and welfare, and food safety, through proper regulation of gene-edited organisms; to enshrine a reporting function in the Bill; and to provide for the transparent labelling of food derived from gene-edited organisms, to which I referred earlier? It is true that retained EU law requires that all gene-edited organisms be classified as genetically modified organisms, so I am not sure whether EU retained law being replaced is part of the forthcoming Bill, of if this is a stand-alone Bill in its own right.

Secondly, the BVA refers to the fact that the EU regulates gene-edited organisms based on process, rather than outcomes, as a number of noble Lords have mentioned. Moving away from what is a very well understood, highly regulated environment to one that involves light regulation or no regulation at all has to be done sensitively, and the public have to be kept informed. I look forward to hearing my noble friend's response to the BVA's concerns.

Then, there are the concerns raised by the Royal Society, which is generally recognised as being a relatively august body. It has two concerns with the approach adopted in the Bill, one of which is that it is perpetuating the technology-based approach to regulating GMOs, which is not justified by the scientific understanding of risk and is not future-proofed against new breeding technology. I should be interested to know how my noble friend and the Government respond to that. It also feels that the Bill's approach leaves out genetic technology products that depend on the movement of genes between species, which could have major societal and environmental benefits—for example, nitrogen fixation in wheat—subject to the overly generous GMO framework. The Royal Society proposes that any future GMO regulatory framework should include greater scope for public deliberation on the acceptability of the purposes for which genetic technologies have been used.

I am adopting a cautiously optimistic approach to the Bill, but I look forward to my noble friend's response to my concerns and those of others that I have raised. What may well not cause problems in large areas such as North and South America and Africa could pose very real problems for this country and the devolved parts of it.

7.14 pm

The Earl of Devon (CB): My Lords, I note my interests as listed in the register, both as a farmer and as an IP and technology litigator at a law firm that represents clients active in this space.

I too welcome the noble Lord, Lord Roborough, to this House and congratulate him on an excellent maiden speech; I am glad to have another Devonian in our

[The Earl of Devon]
midst, particularly one who is so close to the cream and who brings such a wealth of expertise in markets of natural capital.

While welcoming one new Member, I regret the retirement of another. Viscount Ridley would have contributed significantly to our review of this Bill, and his absence will be keenly felt. I hope his rebellious backing of my conservation covenant amendment last year did not contribute to his departure.

As a committed environmentalist, farmer and cross-border IP practitioner, for me, this is a significant and exciting Bill. It promises considerable benefits to our food supply, to animal welfare and to our national well-being; it can contribute to our net-zero ambitions, our climate resilience and our restoration of biodiversity; and it also provides great prospects for our innovative bioscience and agritech industries.

It is the last of these benefits that is probably the most exciting. Generally as a nation, we flatter ourselves in thinking that what we do on our very small island will move the needle much on global climate change, food supply or biodiversity; we simply do not have the land to make a significant difference. But with excellent universities and research centres, harnessing a structured and internationally accepted regulatory framework, we can make technological advances that have a significant impact on a global scale. That is the gold standard for which we must strive.

The Government are therefore to be congratulated on bringing forward this Bill, but they must also be wary that these bright and shiny opportunities do not blind us to the dangers that many fear from the technological developments being considered. For those comfortable with biotechnology and its regulation—and plenty of eminent speakers today fall into that category—these fears about gene editing and the use of precision breeding may seem misplaced, but they may indeed be fed by unreasonable suspicions and a certain amount of hyperbole and misinformation. I note that certain briefings mischievously describe gene editing as a form of "deregulated" or "exempt" genetic modification. However, we need to be mindful of public sentiment and bring consumers with us by openly developing robust safeguards, transparent regulatory processes and proper parliamentary oversight. The Government must temper their tendency to introduce critical policy through secondary legislation that sidesteps oversight and engenders mistrust.

There is a major public relations element to this Bill, and the Government must strive to educate in order to overcome the worrying statistics revealed by Defra's public consultation. In our post-pandemic, social media-mired world, we cannot ignore the fact that the vast majority of individuals and businesses disagree with regulatory liberalisation for genetically edited organisms. Can the Minister please provide any insights into the public information efforts that will be introduced to support the aims of this Bill?

Public information leads us to the question of traceability and labelling. It is important that consumers are conscious of where their food comes from and how it was grown, and universal traceability of our diet is an important goal, particularly as we seek to shorten supply chains and ensure producers are answerable for the manner in which our food is produced. But I do not think labelling is the answer here, as gene-edited produce that presents no additional risk to health or well-being should not be forced to compete unfairly with non-GE alternatives. If, as suggested, such produce actually improves health and animal welfare, or saves resources, then producers would undoubtedly extol those virtues in their own marketing.

I have already referenced the international export opportunities presented by this Bill, particularly for technology that can be developed. However, can we be certain that it presents no risks to our existing agricultural export business? Both the World Trade Organization and the European Commission are considering the regulation of gene-editing technology. Can the Minister please assure us that, by being an early adopter and taking a lone path, we will not unwittingly exclude ourselves from these international markets? In particular, what mechanisms are in place to ensure we maintain equivalence with future EU or WTO regulations?

I note some uncertainty regarding definitions and the market sectors impacted by this legislation. Briefings I have received focus largely on animals and plants for the food chain, but I trust the Bill will be equally applicable to silviculture and particularly the crucial development of disease-resistant and climate-resistant tree species, which are essential to the fulfilment of our extensive net-zero tree-planting commitments. Equally, I note that the legislation applies only to multicellular organisms. I wonder whether we are missing out by not addressing the opportunities presented by microbial proteins, which are single cell and an important alternative animal feed.

I agree with the concerns raised in the other place over animal welfare, and the fact that gene-editing technology must never be used to create animals able to withstand lower-standard living conditions. That said, it is a complex issue; for example, if we can help to create native breeds that survive in our inevitably hotter climate, that would surely be a good thing, even though some might say it enabled them to endure harsher living conditions.

The Bill asks much of the Food Standards Agency. I hope the FSA is prepared, and will be fit, for this important purpose.

I would be interested to understand the intellectual property implications of this legislation. Considerable intellectual property resides in the technologies developed to achieve gene editing, as seen in the extensive recent CRISPR technology disputes in the United States. Jurisdictions around the world remain uncertain and divided about the patentability of edited genes themselves, particularly where they are not otherwise naturally occurring. Can the Minister confirm whether the Government have considered that issue? It would be significant if gene-edited organisms were themselves protectable by the intellectual property regime, providing potential monopoly power to multinational agritech firms that would prohibit open access to the important public goods that should be created by the Bill.

I look forward to the Minister's response and to working with noble Lords to deliver, I hope, a better Bill.

7.21 pm

Lord Carrington (CB): My Lords, I declare my interests as a farmer and landowner as set out in the register. I too welcome the noble Lord, Lord Roborough, and congratulate him on his excellent and amusing maiden speech, and look forward to many such contributions in future.

The development of new cultivars through rapid and precision breeding is a necessity, both in order to reduce crop management burdens such as disease and drought but also for the challenges and opportunities of meeting the demands of the supply chain, and of course changing consumer preferences in relation to product quality—the non-browning banana, which the Minister mentioned, is a good example.

For many crops, including horticultural crops, the conventional breeding cycle usually takes eight to 15 years, according to Frontiers, which is the third most cited research publisher in this field. Technology tools are urgently required to reduce the length of that breeding cycle. Techniques for precision genetic manipulation, such as targeted gene editing, can significantly increase breeding efficiency, particularly for those elements, such as resistance to pathogens, that are genetically controlled by a few major genes. All this must be accompanied by necessary and proportionate regulation to ensure product safety and consumer confidence.

The message therefore comes across loud and clear that every effort possible should be made to reduce the length of the breeding cycle so that we can cope not only with changing consumer demands and growing populations but, more importantly, with the effects of climate change and political events such as war, all of which put new pressures on land use. In this country and many others there is a new policy direction aimed at using what for many years has been purely farming land for the provision of energy, biodiversity and woodland or forestry, leaving aside the changes to farming practices in the shape of using less artificial fertiliser and fewer pesticides. Hence, innovation in agriculture that leads to lower water, spray and fertiliser use is essential. A wonderful example of what can be achieved was given in an article on this subject in the *Financial Times* on 11 November:

> "There has been greater progress in gene editing to improve yields. Inari, a US agritech company set up in 2016, has been working on gene editing to increase yields on wheat, corn and soyabeans as well as reducing the necessary water and nitrogen fertiliser … Inari is targeting yield increases of up to 20 per cent in corn, wheat and soyabeans, with input reduction targets of 40 per cent in water and nitrogen fertiliser for corn."

All that cannot be done with conventional technology.

Drought tolerance and yield increases using smaller amounts of inputs are complicated issues, and need addressing now if we are to be able to adequately address the challenges. Happily, there are many universities, research institutes, agribusinesses and SMEs out there to complement the research and development being undertaken by the big chemical and other agriculturally focused businesses. We are therefore able to take advantage of developments in the gene-editing world, as long as it is adequately regulated, so that the consumer can buy gene-edited products in full confidence. However, care needs to be taken that the industry is not overregulated to the extent that innovation is discouraged, becomes too expensive or takes too long to reach the rollout stage. Hence, overregulation may be as bad as too little regulation. It needs to be proportionate, risk-based regulation with science at its core, rather than bound by the innovation-strangling precautionary principle that the noble Lord, Lord Lilley, mentioned—and which I am sure Viscount Ridley would have mentioned. For that reason, we need to look closely at Part 3 of the Bill to ensure that it is fit for purpose.

Fortunately, despite the claims of some scientists that this is an industry that pays too much attention to vested interests, particularly in the agriculture sector, there is an increasing body of opinion that the science has moved on and, in the words of the European Food Safety Authority in November 2020, also quoted by the noble Lord, Lord Curry:

> "Genome editing techniques that modify the DNA of plants do not pose more hazards than conventional breeding".

That was confirmed by the EU Agriculture and Fisheries Council at its recent meeting in Prague, when it concluded with the statement:

> "Ministers agreed that the EU must react as quickly as possible to the development of modern trends and not hinder innovation. It is therefore important to change the outdated legislative framework by which the EU regulates the use of modern plant breeding methods. This framework not only restricts European farmers, but also leads to an outflow of top experts to countries outside the European Union, so the damage is extraordinary."

Let us hope those scientists come here.

Luckily, regulation is already out there as the issues are not new, so it is not a case of reinventing the wheel. More than 15 major countries have set rules that are open to gene editing in crops, and several of those do not differentiate gene editing from conventional breeding. Surely we can learn from these countries and their regulatory systems so that we can introduce best practice in this area to the already formidable Food Standards Agency. No one scientist—not even any group of 100 scientists—has the monopoly of wisdom in this complicated area of science, but, in order to progress such important innovation, let us look at and learn from our friends, who in many cases have a great deal more experience than we do, along with the resources of other world-class scientists.

The more we can work together in this area, the easier it will be to identify any weaknesses in the regulatory system and to develop the all-important confidence of consumers, at home and abroad, to accept precision breeding and gene editing. I ask the Minister to describe the level and depth of consultation with other agencies at the forefront of food regulation such as Health Canada, the European Food Safety Authority and similar regulatory bodies.

It is good to observe that the mood on gene editing in Europe is changing and GMO regulation is being re-examined, as we have heard. It is even possible that some gene-editing technologies will be authorised in 2023. I hope that despite the attitude of elements of the ruling coalition in Germany—and, no doubt, other parties—that may happen soon, as elements of the farm-to-fork strategy involving lower pesticide and artificial fertiliser use, and the lowering of methane emissions from farming, will be hard to achieve without the new technologies.

[Lord Carrington]

Farmers require innovation to both maintain and increase productivity in the face of multiple challenges. The Bill will give them considerable confidence in the future.

7.30 pm

The Earl of Caithness (Con): My Lords, when genetic technology is mentioned, many of us still get alarmed because we associate it with GMOs and remember our press in an unedifying moral panic using dramatic headlines such as "Frankenstein foods". However, with precision breeding, we need to look deeper than the headlines and the shroud-waving, shrill screams of the "anti" campaigners, which are more often semantic than scientific. I believe many are playing on popular misconceptions and a general lack of knowledge about the science of genetic improvement or breeding.

What is breeding? My noble friend Lord Roborough called it "imprecise". At its most basic, it is the random recombination of literally hundreds of thousands of genes of living organisms. There is nothing new to us in that; us humans have been doing it for 10,000 years. Almost every morsel of our food is genetically modified now. Thus, there is nothing particularly natural about farming. For example, wheat is not a natural food. It is a wheat grain that has been genetically modified from grass. Equally, my noble friend Lord Holmes of Richmond's guide dog is a genetically modified wolf. There is nothing new in it.

As it involves such a random recombination of genes, I have heard breeding described as like playing a fruit machine—not with three or four reels, but with several hundred. Over time, as our understanding of plant genetics has increased, the process of breeding has become more sophisticated, with each new advance improving the plant breeder's chances of hitting the jackpot. Much of the success of plant breeding, for example, is based on invasive laboratory-based techniques such as protoplast fusion, doubled haploidy or somaclonal variation, to name but three. All of them, it could be argued, are as difficult to understand as "precision breeding", if not more so. All the questions the noble Lord, Lord Winston, raised about precision breeding could equally be asked about what is happening now.

Despite these advances, plant breeding remains a lengthy, research-intensive process. It can take up to 15 years to develop each new crop variety. Precision breeding techniques such as gene editing allow scientists a tool to control adjustments to a living organism's existing DNA, when these changes could occur in nature or in traditional breeding. That is worth stressing. The Bill is absolutely clear and precise that the changes could occur in nature or traditional breeding. As my noble friend Lord Jopling reminded us, it does not permit the introduction of a new gene from another species. That is why the result is not a GMO. Its great advantage is that it speeds up the process considerably by many years in the same way that keyhole or minimally invasive surgery has transformed the ordeal of a full-blown surgery.

By taking products which would equally have been bred conventionally out of the scope of the GMO rules we inherited from the EU, the Bill will realign our regulations with the mainstream approach taken elsewhere in the world. Countries such as Australia, Japan, Canada, Brazil, Argentina and the United States do not treat the products of these techniques as GMOs but rather as conventionally bred products. The noble Baroness, Lady Jones of Whitchurch, was right that there are now strong indications that the EU will revise its position and follow the example of this Bill.

Some argue that precision breeding is unnatural. Many of us enjoy a glass of craft brewed ale. It is often made from golden promise barely, as was most Scotch whisky in the 1970s and 1980s. This excellent barley was created by bombarding seeds with gamma rays from cobalt-60 isotopes in a nuclear reactor to introduce random mutations, then picking out the seeds with a desirable character. What is natural about that? I have not found a beer drinker or a Scot who likes a 40 year-old malt who has changed their mind at all when I mention the origin of their beer or whisky.

Exempting gene-edited products from GMO provisions does not mean that they are no longer subject to regulation. I welcome that the UK has well proven and robust regulations to improve new plant varieties, underpinned by the general requirements of food safety, novel food and environmental protection laws. However, we will need to look closely at Part 3 of the Bill, as the current performance of the Food Standards Agency in regulating GM feed import dossiers does not inspire confidence that implementation of these provisions will be either light touch, low cost or proportionate.

The first tranche of GM feed import applications approved by the FSA lagged behind the EU by more than 12 months. What action is my noble friend the Minister taking to ensure that the FSA is not allowed to stifle the good intentions of the Bill through bureaucracy and drive up costs so high that it is uneconomical for the smaller seed merchants producing less popular crops such as vegetables or for farmers to grow new varieties competitively? We do not want to be in the hands of only the international firms and to have to import seeds when we could produce our own.

I agree with the noble Earl, Lord Devon, that precision breeding will benefit our environment hugely, as it will help minimise our environmental footprint by enabling increased and better production of food. It was very useful for the House to hear the wise words of the noble Lord, Lord Cameron of Dillington, about Africa. Everybody and every country in the world stand to benefit from properly regulated precision gene editing, but will my noble friend the Minister confirm that in Defra precision breeding will not be regarded as a single, silver-bullet solution? It needs to be adopted as part of a broad toolbox of technologies and management approaches incorporated into farming systems to encourage sustainability, increase food production under climate change challenges and protect unproductive areas for the benefit of conservation. It should not allow farmers to farm more productively yet shirk their responsibility to farm sustainability or dedicate more land to nature and to maintain the high animal welfare we already have.

The noble Lord, Lord Trees, was right to say that this Bill is a game changer. It deserves our support.

7.38 pm

Baroness Hayman (CB): My Lords, I declare my current interest as co-chair of Peers for the Planet and past interests as a trustee of several international development charities and as Minister of State for what was then MAFF for two years, with responsibilities for the issues with which this legislation deals.

All those interests lead me to support the policy development the Bill embodies. As the Minister explained in his clear and cogent introduction, it is a narrow and considered approach dealing only with gene editing and not with the wider issues of genetic modification. Most importantly, it sets out processes for risk assessment, scientific scrutiny and appropriate regulatory regimes. Those issues have all been discussed in this debate. They are all issues where I am sure there will be proper deliberation in Committee and where there may well be room for improvement.

This Bill gives us the opportunity to get it right this time. We did not get it right 20 years ago, and that has meant that we have not made the progress we could and should have made in areas of real importance.

So I hope that the Minister responsible for the Bill does not come out of his time in office with the scars on his back that were described by the noble Lord, Lord Krebs, and that I certainly still feel, from the days when the atmosphere was so febrile in relation to GMOs that it was almost impossible to have rational debate. As the noble Lord, Lord Lilley, who is not in his place, said, the media coverage and the manipulation of language—I cite the famous "Frankenstein foods" phrase—made it impossible to step back and debate important issues. I remember the day that I had to order the destruction of 1,000 hectares of oilseed rape because of the "contamination" of a tiny amount of GM oilseed rape that would have been admissible for any other sort of seed. The day started with John Humphrys on the "Today" programme and ended with Jeremy Paxman on "Newsnight", and those were never good days if you were a junior Minister.

What was awful was the sense that the debate was out of control and that it was impossible to have an argument in which different points of view could be expressed and some sort of synthesis of them could come together. Part of the problem was a focus on technology as being, in and of itself, a force either for good or for evil. There was also a lack of concentration on, and therefore of a proper assessment of, the risks of the application of that technology in particular circumstances, and a lack of focus on a risk assessment and cost-benefit analysis of the application that was being considered. I was reminded of this when the noble Lord, Lord Lilley, spoke about the precautionary principle, which could be invoked to stop absolutely anything. This is the only time in my life that I have made up a joke: "Why did the chicken cross the road? Because it had never heard of the precautionary principle."

Noble Lords: Oh!

Baroness Hayman (CB): This is first audience that has ever laughed at that joke. I have only ever told it to my children, who thought I was completely mad. But this is seriously important. On these issues, my vision is that of the noble Lord, Lord Cameron of Dillington: given the potential benefits, it is so important that we get it right this time and that we find a way of having a regulatory framework and a prudent approach that allows us to evaluate and manage potential risks.

I take seriously the strictures of the noble Lord, Lord Rooker, who had his own experiences in this field. I note the importance of being open with the public about that cost-benefit analysis of particular processes. But this was, and continues to be, difficult when the fundamental understanding of the scientific issues is so often absent or misrepresented in certain elements. Like other technologies, genetics can be applied for benign or malevolent purposes, and I note the painstaking work of examining its benefits. We were always told not to mention vaccines that relied on genetic modification because public health physicians were terrified that they would be contaminated in some way. We heard the example of human insulin, where the same thing applies. Equally, I always felt that there was something of a conspiracy of silence among those who opposed GM about the enzyme that allowed the production of vegetarian cheddar. It was a torrid and difficult time.

So I have a great deal of sympathy for the approach adopted by the Royal Society in its briefing to us. It argues for an outcome-based rather than a technology-based approach to regulation. However, given where we are, we need to take this limited step now and consult broadly on the much wider regulatory framework later—that is the correct and prudent approach. Who knows, perhaps the EU may even have taken its own steps in this area by then. But even this limited measure offers the prospect of real benefit in areas of urgent need, be that the sugar beet crop in East Anglia, the possibility of drought-resistant wheat or the Tomelo tomato created at the Sainsbury Laboratory. We have in this country a wonderful bank of expertise in this area of plant sciences. We also have a very good reputation and experience of appropriate regulatory frameworks, and I believe that these can be put together to create something that is important for the future.

My views on this were formed 20 years ago when I visited the John Innes laboratory in Norwich, where I met scientists and agronomists from Africa who were passionate about their work with UK colleagues to develop crops that would survive in adverse conditions and provide nutrition for their growing populations. In the intervening years, those populations have grown even more substantially, and climate change has intensified the challenges and made the need even more urgent. What matters to me is heat-resistant wheat, which is resilient to climate change, and non-browning bananas that would cut the current 50% wastage, as a staple crop for millions of people.

There is a growing understanding that, as well as working to limit further climate change, we need adaptation to respond to the changes already baked into the global climate. The people most at risk and in need will benefit most from adaptation in agriculture that allows them to feed their populations without pollution. Supporting the research and development that will help them do so through gene editing is the fundamental reason why I support the Bill.

7.48 pm

Lord Taylor of Holbeach (Con): My Lords, I would not have chosen to speak in the gap, but it has certain advantages. It is certainly a privilege to follow the noble Baroness, Lady Hayman, who chairs a group with which I am involved in an advisory capacity: Peers for the Planet. Of course, there is a risk that what you will say has already been said, but I do not think that that should trouble me so much: had things worked out better, I would have been on the speakers' list. It was also a delight to hear the maiden speech of my noble friend Lord Roborough, who is not in his place—I suppose he, like the rest of us, has been worried about how to get some nourishment during this debate.

I have some interests to declare. As noble Lords will know, I am involved with a family farming and horticultural business. I am also very grateful for the briefings I have received from the Library—just one of the excellent documents it produces—the NFU, Science for Sustainable Agriculture, the British Society of Plant Breeders, British Sugar and many others. Among other things, I am a member of the All-Party Parliamentary Group on Science and Technology in Agriculture, which has long campaigned for gene editing to be facilitated. I have a particular interest in the Bill, and I will concentrate on my area of knowledge, which is, of course, plants rather than animals. It may interest the House to remember that, 10 years ago, I was the Minister in the Home Office responsible for licensing animal experiments. It would be interesting to know whether the Home Office is likely to be involved in any way in the regulation that will follow from the Bill.

I have long been interested in horticultural research. I had an early encounter with it at school, when my form master, who was also my botany master, somehow got hold of some irradiated tomato seeds. I was the pupil required to grow these tomatoes and see whether they had changed in any way, and whether there was anything remarkable about the genetic stimulation that irradiation had produced in them. I was also a founding member of the Horticultural Development Council. Some of the institutes available to us then have disappeared, but we do have research institutes in both the public and private sectors in this country that are second to none. Mention has been made of NIAB, the John Innes Centre and Rothamsted Research, which are all centres of excellence we can rely on.

The Autumn Statement provides for increased investment in research and development work, and this is just such an area where British excellence can be a huge advantage. The advantage of gene-editing technology takes us a step further to healthy, productive cropping, with disease resistance, an efficient use of plant nutrition and an awareness to adapt to climate change.

I support the Bill. In an increasingly hungry world, the technology we are able to use has opportunities way beyond our own needs in the United Kingdom. As the Minister said, we are world leaders in genetic technology, and this Bill should be welcomed in every way.

7.53 pm

Baroness Parminter (LD): My Lords, I rise to speak from the Lib Dem Benches. Sadly, my noble friend Lady Bakewell of Hardington Mandeville is in hospital today, but she hopes to be back fighting the good fight in Committee.

These Benches are not anti-science. Although the noble Lord, Lord Lilley, is not in his place, I was surprised but delighted that he knows so much about Lib Dem policy to confirm that we are not against gene editing. We are not anti-science, and we see that there are benefits to gene editing. We accept that it is happening now and that there are clear benefits. However, the point of a regulatory process is to manage those benefits and risks in an appropriate way. That is the starting point of good regulation. While we can say that where we were 20 years ago is no longer appropriate, in this House we need to make sure that this new piece of legislation does the job of managing risks and benefits appropriately.

My starting point was to look at the Explanatory Notes to understand the Government's thinking and why they are doing this. The overview of the Bill boldly and simply states:

> "This Bill intends to reduce the regulatory burden and financial barriers in place for researchers and commercial breeders using precision breeding technologies."

There is nothing about the best system to manage the risks and benefits. If one was to be unkind, one could say that it was driven by a deregulation agenda and nothing more. However, our concern on these Benches is that we have a process to manage those risks and benefits.

We have heard a lot about the benefits, which I accept. We have heard less about the risks, but they are out there. From the environmental side, the speed with which organisms can be bred means that they could be out of sync with other environmental factors, and indeed the landscape and the soils in which they live. However, it is particularly among animals where those off-target mutations—in the phrase the noble Lord, Lord Winston, used—are most common. Indeed, the Government's own advisory committee, ACRE, says that the unintended DNA introductions are found predominantly among animals. That is the area of particular risk where I have concerns that this proposed regulation does not go far enough.

Let me start where the noble Lord, Lord Rooker, did: with the issue of consumer choice and ensuring that they are involved in this process. Whatever we think about gene editing, it will have profound societal and environmental system changes. As a liberal, I believe that the public should be consulted and should have their say on changes that concern the food that they eat and the environment in which they live and work and which they enjoy. I think it would be fair to argue that, so far, the Government have been sleeping on the job when it comes to involving the public and having the conversation about what gene editing will mean for their food and environment. The noble Earl, Lord Devon, referred to the SI that was introduced last year, and he rightly identified that the majority of people and businesses were overwhelmingly opposed: 88% were opposed to changing the regulation of gene

editing from what it is at the moment, which is analogous with GMOs. So, the public have not been persuaded, and the Government, to my mind, have not done a good enough job of making the case.

Equally, as others have said, the FSA did a piece of research which showed overwhelmingly that the public wanted this produce to be labelled, yet its response is that it will be on a register. I feel sorry for the noble Lord, Lord Krebs, who faced such opprobrium many years ago when he was in charge. If there is any opprobrium out there, it should be for coming up with the idea of a register when the debate about where we are with our food and society has moved on to such a degree that Defra itself is looking at introducing a labelling system next year that will look at a whole raft of issues of concern to the public. However, we are not accepting that, in this instance, labelling is absolutely fundamental to giving the products credibility and giving people the confidence in them that they need. As other Members around the House have said, if there are benefits—and there are benefits to gene editing—there should be no worry about putting labels on the products. The fact that the Government are removing that traceability and labelling from the current regulations is one of our fundamental concerns with what is being proposed.

Secondly, as a number of noble Lords around the House raised, we do not want to deregulate the system in such a way that allows the further suffering of our farm animals from further intensification. We need to make sure that that does not happen. The noble Baroness, Lady Jones of Whitchurch, referred to the Nuffield Council on Bioethics and its very clear position that we should not allow a regulatory process which bakes that in. As the noble Lord, Lord Cameron of Dillington, said, the way to overcome that is to have a really strong animal welfare advisory body, which is clear about who is on it and what its remit is. At the moment, we do not know who is going to be on it—that has been left to secondary regulation—and its remit is very narrow. All it can do is ensure that the developers have taken what they argue are the necessary steps to identify the welfare traits. That is absolutely not strong enough; we need much greater clarity on the face of the Bill around the animal welfare advisory body. That will give us some of the assurances we need that the Bill will not bake in further unnecessary suffering in terms of animal welfare.

Another really important point that the noble Lord, Lord Winston, raised was about reporting and monitoring. The analogous piece of legislation, the Human Fertilisation and Embryology Act, identifies the reporting mechanisms there are for people to say what the adverse traits of these activities might be, both for the individual animals and their future progeny—it is included in the Act. I think that is analogous and that we should be arguing for something similar in the Bill. Indeed, the British Veterinary Association—I am very grateful for its briefing on this—are particularly concerned about the need for clear reporting and monitoring and the fact that it is not in the Bill. That is certainly something that we will be seeking to amend in Committee.

I will make another point about animals. We may have views about how appropriate it is to use gene editing to fashion our animals and various other things. I would prefer the Bill to be limited to farm animals because I am extremely worried about some of the impacts for wild animals, including highly mobile fish and insects. I feel that it would be far better for us to concentrate on farm animals, as the Minister knows. He very kindly gave a briefing to a number of groups, during which I asked him who had actually asked for any extension beyond farm animals in the scope of the Bill. He confirmed that nobody had asked for it, but that—as the noble Lord, Lord Krebs, said—this is about future-proofing. That is not good enough; you cannot just future-proof when there is such uncertainty around this use of animals. So, at the very least, we should be constraining this back to agricultural animals.

The third issue—which I will discuss briefly to limit my speech to 10 minutes—is on trade. A number of other noble Lords have mentioned this: our biggest number of exports are to Europe. While the Europeans are of course looking at this issue, my fairly sure understanding is that the French and the Germans are still opposed at the moment, so we are not there yet with them. But, even if they were to move forward, there will be two issues. First, as the noble Lord, Lord Curry, said, they may not have exactly the same situation or one that is analogous, so how can we ensure that we do not put barriers for our trade in advance by having a system which is out of step with what Europe is doing? We might come to an agreement within the next year; it is possible. The second point, which nobody has raised, is that the Europeans are not looking at animals at all; it is off the table. Therefore, all the people producing British meat, dairy, yoghurt and eggs will face friction in their trade, delivered to them by this Government, because Europe is not going to allow it. So a Government who have prided themselves on cutting red tape—I applaud them for the sentiment—if they go ahead with allowing gene editing for farm animals, are not going to be able to sell into Europe in a frictionless way. This is because the Europeans are not looking to change their proposals around gene-edited animals.

Equally, on the point made by the noble Earl, Lord Stair, the devolved Administrations are really uncomfortable with this proposal, to put it mildly. Therefore, labelling, in addition to being an answer for consumers, is an answer for trade, because that gives traceability and certainty for producers, both to our major export markets and across the devolved nations.

I said that I would stick to 10 minutes, so I will conclude by saying that we are not against gene editing, but we need a system which balances the benefits and the risks. This is going too far: it is too light-touch, it does not have the reassurances for consumers, animal welfare or trade, and it needs to be amended by this House or it will be repented at leisure.

8.04 pm

Baroness Hayman of Ullock (Lab): My Lords, this has been a very interesting debate. I also welcome the noble Lord, Lord Roborough, and congratulate him on his maiden speech; we look forward to his future contributions.

There were a few references earlier to Jonathan Swift, and I recall that he also wrote an essay suggesting that the poor could eat their babies if they were

[Baroness Hayman of Ullock]
starving, so we should not assume that everything he said is always a good suggestion.

I begin by confirming that the Labour Party supports the principles of scientific development that this Bill embodies. However, to reassure the public and to provide the right environment for research and investment, we believe that the right regulatory safeguards must be in place, because good regulation is the key to both innovation and investor confidence. As the noble Baroness, Lady Hayman, said, this is our opportunity to get this Bill right. My noble friend Lady Jones of Whitchurch referred to the impact assessment from the Regulatory Policy Committee, which is, as she said, pretty damning. It says that the Bill is "not fit for purpose", and that the Government's analysis of the impact of deregulation was "weak". It further added that the Government has not adequately considered

"the full range of potential impacts arising from the creation of a new"

category of genetically modified organisms. We agree with the questions that my noble friend asked the Minister about these concerns.

The NFU provided a very helpful briefing, stating that precision breeding has the potential to deliver major improvements in the productivity and environmental footprint of farming, to address pest and disease pressures on crops and farm animals, to reduce fertiliser and pesticide use and to increase resilience to extreme weather events, such as flooding and drought. Many noble Lords have spoken in support of these aims, and we support those aims. But the Bill needs to be well drafted, and safeguards need to be in place. Proper regulation and safeguards are important because this is about our food. The noble Lord, Lord Krebs, rightly said that current agricultural practices are unsustainable, so we must change the way we work.

There is huge potential to deliver benefits by helping us not only to grow our food more sustainably and efficiently but to tackle the challenges of the environmental, health, economic and social harms that our modern food systems cause. My noble friend Lord Winston mentioned the potential advantages for the environment, but he also demonstrated to noble Lords the considerable challenges.

So, while the Bill brings opportunities, we believe that substantial improvements are necessary. We have heard a lot about potential, but we think that the regulatory regime intended to implement and to monitor these technologies is completely inadequate. Good governance must be at the heart of the Bill, including full supply-chain traceability and transparency. My noble friend Lady Jones explained that, in the other place, we proposed establishing a robust, independent authority, which would be modelled on equivalent provisions in the Human Fertilisation and Embryology Act. I am very sorry that it would clearly not get the support of the noble Lord, Lord Lansley, but it would appear that the noble Earl, Lord Stair, may well be interested in that proposal.

We want to draw attention, as other noble Lords have, to the risk of unintended consequences: these must be recognised and addressed, and we do not believe that the Government have done this. When they were giving evidence, the Francis Crick Institute and the Royal Society said that they felt uncomfortable with regulation based on techniques rather than outcomes—in other words, that the purpose, and not the technique, needs to be paramount. Gene editing should not just support commercial interests but be directed at outcomes that support public good.

We have heard that the greatest concern is around animals. At this stage, I declare an interest as the president of the Rare Breeds Survival Trust. We are extremely concerned about the inclusion of animals in the first place, as well as the lack of protections to ensure that if, such technology is used, it will be done ethically and with due regard to animal welfare. I was glad to hear the Minister talk about the step-by-step approach in his introduction, but I am sure that he has heard from other noble Lords that there are many outstanding concerns in this area. The RSPCA has said that public consultation and dialogue have been about farm animals, and it is concerned about ethical issues around animals, including sporting, companion and wild animals, as other noble Lords have said.

We are very concerned that this is a step change in breeding and in how people perceive animals—they could now be regarded as mere things to be modified for human convenience, contrary to the recognition of animals as sentient beings in the Animal Welfare (Sentience) Act. The BVA is concerned that the Bill is progressing without proper consideration of the regulatory frameworks needed to ensure animal health and welfare and food safety. We believe that, unless we get this right, it is a missed opportunity to create a world-leading, scientific, well-regulated and robust approach to gene-editing which would benefit animals, consumers and producers. As the noble Lord, Lord Cameron of Dillington asked, where is the detail about the advisory body? The noble Baroness, Lady Parminter, also looked at this. I am concerned about Clause 12; if we are not careful, it looks as though it will have been drafted to put the applicant in the driving seat.

The Minister reassured us that gene editing is simply a more precise version of selective breeding, with little to worry about. However, selective breeding has prioritised fast growth, high yields and larger litters, and we know that sometimes this causes suffering. The Nuffield Council does not believe that conventional breeding is inherently benign while precision breeding is not. Indeed, we have heard that conventional breeding can lead to both acceptable and unacceptable outcomes which have not been mitigated by existing regulation. Defra has said that the Bill will enable the development of precision-bred plants and animals that will bolster food production and drive economic growth. This gives us concern that gene editing will be used to drive animals to faster growth and higher yields, exacerbating the severe welfare problems that have arisen through selective breeding. If the Minister can provide reassurance on how the Bill can be tightened up to ensure this does not happen, we will be very pleased to hear it.

Defra has also argued that gene editing will be used to improve disease resistance in livestock, and the noble Lord, Lord Trees, discussed this at length. This certainly could be beneficial in the case of diseases that do not arise from the way in which animals are

farmed. However, there is scientific evidence that keeping livestock in crowded, stressful conditions contributes to the emergence, transmission and amplification of pathogens. As my noble friend Lord Rooker said, the proper way to reduce diseases that are generated by keeping animals in poor conditions is to improve the conditions.

The Minister may say that there is little for us to be concerned about, but too much of the detail of the Bill—how it will work, what it will cover—is, as we have heard, dependent on secondary legislation. That does not give us confidence and, as the noble Earl, Lord Devon, said, it does not necessarily encourage public trust and confidence in government intentions and outcomes either. So it is really important that the discussion we have had around labelling is also taken on board by the Government. The noble Lord, Lord Carrington, talked about the importance of public confidence, and the noble Baroness, Lady Parminter, talked about why labelling is critical. The Nuffield Council's report also recommended that the labelling of such foods should have advice on safety, nutrition and health.

The fact that the Government do not intend to label products raises concerns about a lack of transparency. The noble Baroness, Lady McIntosh of Pickering, raised particular concerns about this. We know that many British consumers have concerns. As my noble friend Lord Rooker said, if we are using new technologies, we have to take the public with us. The noble Baroness, Lady Hayman, explained exactly why this is so important, because of what has happened in the past.

On plants, the noble Earl, Lord Caithness, spoke passionately about the benefit for crops and the noble Lord, Lord Cameron, talked about how this can be used more widely in the developing world. These are really important ways we can move forward. However, the Landworkers' Alliance, which supports smaller agroecological farmers and organic groups, has raised concerns about an increased risk of contamination, so it would be very helpful if the Minister and the Government could explain clearly how that is not going to cause the organic sector any problems.

I have one final question for the Minister. Noble Lords have raised the issue of Scotland. Can he reassure the House on this and the potential for divergence? Harmonisation on trading gene-edited products more widely is a real concern. Whatever position you come at the Bill from, it is going to need to be addressed.

In conclusion, I reiterate that the Opposition support the Bill in principle. A positive statement from the Minister about the precise purposes for which precision breeding might be used, including confirmation that it will be directed towards a just, healthy and sustainable food and farming system, would be very welcome.

8.15 pm

Lord Benyon (Con): My Lords, I thank noble Lords for their insightful and engaging contributions to today's debate. It undoubtedly shows this House at its best when it draws together scientists, former Ministers, farmers, leaders of the veterinary profession and many other insightful contributions on this very important legislation.

I broke a self-denying ordinance in my opening remarks when I said that we were going to follow the science. I always promised myself that I would never use those terms again, because after many years in the department in which I now serve, I have been given conflicting scientific advice on so many issues. Others who have been Ministers there will know that, if you are a layman, as I am, you can sometimes find scientific advice prayed in aid by polar opposites. I find a much more united scientific body of opinion in support of this legislation than on anything else I have done, which is why I broke my self-denying ordinance.

Others have spoken of scars on their backs. I really appreciate the insight given by the noble Lord, Lord Krebs, the noble Baroness, Lady Hayman, and others into how the arguments on this issue were in some ways traduced—that is perhaps not too strong a word—by others to create the impossibility of having rational debate. What we are trying to do here is bring this down to a proportionate measure, grasp the benefits of this technology and regulate out the disadvantages and malign effects. If we just concentrate on this and are too cautious, we will lose all the precious advantages that noble Lords have spoken about today with such eloquence.

It is clear to me that the exciting potential of precision breeding will of course ignite passions about how we should grow, buy and eat food, as well as about how we should care for our crops, the animals on our farms, biodiversity and the planet. This Bill complements the great work that Defra has been doing in these areas. I assure noble Lords that I know that precision breeding is not a silver bullet—the very words used by some—but it will be another tool in our toolkit as we adapt to climate change and a turbulent global environment.

Jonathan Swift seems to have come in for quotation, so I will give noble Lords another quote. He said:

> "Proper words in proper places make the true definition of style."

With this legislation, we are trying to use proper words in proper places. I am happy to debate this tonight—and, of course, in Committee and at other stages of the Bill—to make sure that we are getting that right. I understand that views may differ on some of the finer details of this legislation, but I will take this opportunity to reassure noble Lords on some of the concerns raised in this debate.

I start by paying tribute to my noble friend Lord Roborough for his excellent maiden speech. He brings to this House wide experience: that nexus of an understanding of agriculture, finance and natural capital can be incredibly powerful in our deliberations. What he said about climate change, echoing the point made by the noble Lord, Lord Cameron, and others, reminded me of an incredibly moving conversation that I had at COP with a Minister from the Maldives. She was talking about the salination of the atolls that make up that low-lying country. The point has been made about trying to create opportunities in countries where, for example, salination is becoming a problem, such as by making species of crops that can be resistant to that, thus giving us an opportunity to help some of the most vulnerable people in this world.

[Lord Benyon]

People like me sit at the foothills of understanding of this issue when people such as the noble Lord, Lord Winston, speak. That was brought home to me in an analogy from the chairman of the Food Standards Agency, which I, as a layman, found really helpful. What we are talking about here is a paragraph in a book. We are taking out one or two words from that paragraph and replacing them with other words from the same book. That is totally different from what we were being accused of 20 years ago: taking out the entire paragraph and putting in a paragraph from another book. I know that that probably does not stack up when it comes to exact scientific examples—the noble Lord, Lord Winston, is shaking his head, which makes me think that I got that one wrong—but the point is that we need to explain this and communicate it to a wider group of people; the noble Baroness, Lady Parminter, is absolutely right to try to do that. I will come later to some of the other points that the noble Lord, Lord Winston, made.

The noble Lord, Lord Krebs, made an incredibly powerful speech. He referred to Jane Langdale; I am going to see her when I visit her laboratory to really immerse myself in the details of this. I am grateful to the noble Lord for making that point, and the point about the consumer benefits that will undoubtedly flow from this.

My noble friend Lord Jopling gave an interesting historical perspective on this. He referred to a number of issues where there can be enormous benefits; I will come on to the animal welfare possibilities. His point about the nitrogen-fixing nodules on wheat—indeed, many of things he talked about—may not be within the exact confines of this legislation, but undoubtedly he spoke about there being great possibilities with the technology within the confines of the Bill.

The noble Baroness, Lady Jones, wants me to delay the Bill. I hope that she listens to the scientists she works with at Rothamsted; as my noble friend Lord Lilley pointed out, they are in favour of this Bill. We can kick this can down the road if we so wish, but we will miss out on an opportunity about which many noble Lords spoke so eloquently. However, like other noble Lords, the noble Baroness was absolutely right to point out that this should not be a substitute for bad husbandry. We should not create a pathway towards types of farming activity that we are moving away from. We have some of the highest animal welfare standards in the world; that is something that we should be proud of and where we should continue to push boundaries. I will come on to talk about that in a minute.

Many noble Lords spoke on issues which I will come to in a moment, but in response to the concerns of the noble Baroness, Lady Bennett, regarding allergens: no, that will not be the case. The Food Standards Agency has a very clear remit and success in protecting people from allergens. All the transparency issues relating to labelling which people may be concerned about will exist and the current food safety legislation will still apply regarding the chance of an allergen finding its way into a foodstuff. What I do agree with the noble Baroness about is an ecosystems approach to food production. This was echoed by my noble friend Lord Caithness. Britain has signed up to, and will be consistent with, the Cartagena protocol, which she may not be aware of. It underlies what we are talking about.

My noble friend Lord Lilley apologises for no longer being here. He spoke about the precautionary principle. I am fully signed up to this being front and centre in the Environment Act and many other areas. I am sad enough a person to have read the EU guidance on its use and implementation. Sometimes I must remind parts of Defra and its agencies what the precautionary principle is and what it is not. He is right to point it out. The analogy of the chicken was well made by the noble Baroness, Lady Hayman.

A number of noble Lords talked about polling and public opinion on this. Of course, it depends on the question that you ask. If you ask people a question in a way that makes them feel unsafe, they will give you a negative answer, but if you ask it in a positive way, perhaps reflecting some of the exciting possibilities in terms of vulnerable people around the world, Britain's ability to grasp this technology and be a world leader, and all the other things, you get a different answer. I have been a politician long enough to respect that perceptions are reality in the game that we live within. We perhaps need to do more to get the message across.

I pay tribute to the noble Lord, Lord Cameron, the midwife of the Bill, and his appeal for the urgency of it. That is why kicking the can down the road is not an option. There is a requirement to tackle this now. The noble Lord, Lord Rooker, is a former Minister for whom I have great respect. I will talk about virus yellows in sugar beet as a possibility for this technology. Often, we have fearsome debates in this Chamber about derogations for the use of neonicotinoids on sugar beet. So far, we have not had to use them, but if we can breed out virus yellows and continue to produce sugar in this country, that is good for so many different reasons.

The noble Lord, Lord Winston, was one of several noble Lords to raise the concern about the use of the words "precision breeding". As the changes that we are considering are similar to natural breeding, it is not misleading to use "breeding" within the definition of a qualifying plant or animal. Meanwhile, "precision" reflects the specific, targeted nature of changes which can be introduced by such technologies and which we are considering in the Bill. By not naming the products of such techniques after the technology used to produce them, we futureproof the Bill against developments in this area. For example, genome editing is currently the most popular technology that breeders are using to make the kinds of changes that we are considering in the Bill. However, this may change, so naming qualifying plants and animals "gene-edited organisms" or similar would not be appropriate.

Whether this is a move to GMO by stealth has also been raised. Precision breeding is different from genetic modification, where modern techniques are used to insert genes from one unrelated species to another, for a desired trait or beneficial outcome. Precision-bred plants and animals will have only genetic changes that could occur through traditional breeding.

Lord Winston (Lab): I apologise for interrupting at this late stage of the debate, which has been really thoughtful and helpful.

The Minister might want to consider the difference between DNA that is naturally produced and is what the Bill is talking about and DNA that is produced in a gene sequencer, completely chemically. An issue here is that there is not really any difference at all. We must consider that very carefully.

Do not forget, too, in spite of your spelling, that if three base pairs are missing, for example, you end up with cystic fibrosis, which is a killer. One base pair will do with many diseases, so there is a real problem with these definitions. I hope the Minister will forgive me for interrupting; I do not expect an answer, but it is something we will need to consider during the next stage of the Bill.

Lord Benyon (Con): I am not going to debate with the noble Lord, because he knows much more about this than me, and I know that I would sound even weaker if I just read out a line that has been written. But I value his contribution and I hope to tease out some of these matters as we go through the remaining stages of the Bill.

In response to a point made by the noble Lord, Lord Krebs—I hope I have got this right—in some cases, transgenic organisms will be used as an intermediate step in the development of precision-bred organisms. However, for the end product to be classed as a precision-bred organism, genomic features that could not have occurred naturally or resulted from traditional breeding must be removed from these organisms. For example, this would include removing CRISPR-Cas9 genes from gene-edited organisms.

DNA fragments from sexually incompatible species are naturally present in many organisms. This is in line with what could occur naturally—and I hope the noble Lord, Lord Winston, is on board on this. Therefore, we are allowing for foreign DNA to be present in precision-bred organisms only so long as this DNA does not serve any function and is within the range achievable through natural processes.

The noble Lord, Lord Krebs, also asked why companion animals are in the Bill, and a number of other noble Lords referred to this. Independent scientific experts advise that precision-bred organisms pose no greater risk to the environment or health than traditionally bred organisms. This applies to companion animals, as well as farmed animals. We are aware of precision breeding research that is already taking place on animals that could lead to positive welfare outcomes, such as increased disease resistance. Although there is less research taking place on companion animals, there is early research on the use of precision breeding—for example, in improving hip dysplasia in dogs. We do not want to restrict the potential benefits that can be achieved to improve the health and welfare of these species. That is why they are included in this Bill. I would say that that is not a priority, but it is definitely important that we future-proof the Bill.

We are not aware of the specific project to which my noble friend Lord Jopling referred and I would be interested to hear about it. A project that may be relevant was recently authorised by the Secretary of State for a field trial of GM and gene-edited barley. This is related to the concept about which my noble friend spoke. It is being undertaken by the Cambridge Crop Science Centre and is investigating the potential to increase yields by altering the interaction between the plant's roots and the soil micro-organisms with which they are associated. We are not aware that any research group has yet succeeded in developing wheat plants in the laboratory that can fix nitrogen like legumes can.

I agree with the noble Lord, Lord Trees, that disease is a welfare issue. I cannot put it better than he did. The Government are committed to maintaining our already high standards in animal welfare, and we want to improve and build on that record. I assure noble Lords that this Bill will not lower the standards set by current legislation. He refers to zoonotic diseases and there is a human health element to this. This Government are very much signed up to the "one health" concept, so there is a wider benefit from this.

I will address the questions about why we are including provisions for animals in this Bill. Precision-breeding technologies such as gene editing have the potential to improve the health and welfare of animals, and improve the sustainability and resilience of farming systems. Such technologies can enable new traits to be developed more precisely and more efficiently than traditional breeding. The noble Lord, Lord Winston, made a really interesting point about genetic diversity. I cannot remember what percentage it is, but many of our dairy cows are descended from a very small number of bulls. It could be that in the future, because of recent trends, something occurs that endangers the health of many of them—I am not saying the whole dairy herd—because of their genetic uniformity. We want to be able to correct circumstances such as those as quickly as possible, and this legislation should allow us to de-risk that situation.

Research in farmed animals is already leading to the development of animals that have increased resistance against some devastating diseases. A number of noble Lords have spoken about the great organisations we have in this country: for example, the Roslin Institute and others such as Genus have developed gene-edited pigs with resistance to porcine reproductive and respiratory syndrome, or PRRS. It is a disease that causes mortality and major welfare issues in pig populations globally. This has been referred to by a number of noble Lords.

Whilst there is great potential for increasing innovation, we recognise that there is a need to safeguard animal welfare in the new regulatory framework. That is why, as I have already said, we are taking a step-by-step approach, facilitating use of precision-breeding technologies in relation to plants first followed by animals later. The measures in the Bill are designed to ensure that the health and welfare of relevant animals will not be adversely affected by any trait that results from precision breeding. To provide some further reassurance, I would also like to take this opportunity to expand on what the system for protecting animal welfare will look like. I am mindful of the time, but I will be as brief as I can.

[Lord Benyon]

Before marketing a precision-bred vertebrate animal, developers will need to provide assurances to confirm that the health and welfare of the animal will not be adversely affected by any trait resulting from precision breeding. This will be in the form of an animal welfare declaration and accompanying evidence. The Secretary of State will need to be satisfied with the declaration before issuing a precision-bred animal marketing authorisation, after which point a precision-bred animal can be marketed. This process will also involve an independent scientific assessment of the declaration by a welfare advisory body. We have also commissioned a research project to help us design the animal welfare declaration process and will work closely with a wide range of stakeholders as this work progresses.

I hope my words, the ongoing research project and engagement on these issues will provide noble Lords with some assurance that we fully acknowledge the importance of animal welfare, and we will continue to protect the high standards that we are proud to uphold.

I turn to labelling and the issues raised by the noble Lord, Lord Rooker, and others. The Bill will provide the Food Standards Agency with the ability, through regulations to be made by the Secretary of State, to introduce a new proportionate and science-based food and feed authorisation process. This will include a pre-market risk assessment for food and feed products developed using precision-bred organisms. The FSA's role is not being diminished but enhanced—we could not be doing this without it—and it has produced some really interesting work in support of what we are doing.

I will address the points on traceability made by the noble Lord, Lord Rooker, and others. To ensure transparency, there will also be a public register of authorised precision-bred organisms for food and feed uses. This will provide consumers, industry and enforcement authorities with information on the precision-bred organism authorisation date, product, developer, characteristics, and food or feed uses. This will give clarity on food business operators involved in the supply of precision-bred organism food and feed products and enable traceability back to source.

A number of noble Lords have raised concerns about the delegated powers. Let me assure them that this is not a skeleton Bill. The powers supplement the principal policy measures which are set out on the face of the Bill and are quite specific and technical in how they are intended to be used. Your Lordships will know that delegated powers serve a valuable purpose, and it is always important to assess them in context. Simply counting up the number of powers in a given Bill is not necessarily meaningful. There are Henry VIII powers, which I know that your Lordships are quite rightly keen to scrutinise. They exist in Clause1(8), Clause 10(2) and Clause 42(1). I am sure that we will discuss those if noble Lords give this Bill the boost that it needs to get into Committee. I will hopefully be able to satisfy your Lordships about the need for them and the proportionality with which they have been put in the Bill.

I am coming to the end of my remarks, but I must address the points made by the noble Baroness, Lady Parminter, the noble Earls, Lord Caithness and Lord Devon, and the noble Lord, Lord Carrington, about trade. They quite rightly want to ensure that trade will not be negatively affected by this Bill. The international regulatory regime for precision-bred products is rapidly evolving. Many countries, as has already been said, have already amended their equivalent regulations, including the United States, Canada, Japan, and Argentina. Our proposed approach would help facilitate greater trade with those countries that have already adopted a similar approach to the regulation of precision-bred organisms.

With regard to the EU, this summer it conducted a consultation on legislation for plants produced by certain new genomic techniques, which is the term it uses for techniques such as gene editing. Some 80% of the respondents agreed that the existing GMO legislation was not adequate for plants, and more than 65% mentioned negative consequences if the regulations were not amended. These consequences included the loss of tools to tackle climate change, to develop more resilient crop varieties and to reduce the use of phytosanitary products. In response to the point made by my noble friend Lord Lansley, we will continue to monitor the position of the EU on precision-bred products and on UK/EU trade implications for products developed using precision breeding.

As things stand, the noble Baroness, Lady Parminter, is absolutely right. If we pass this Bill, some material produced through precision breeding and sold into Europe would be treated as a GMO there, but they are moving fast and we want to make sure that we are too. The global market value for gene editing is estimated at £2.7 billion in 2020 and expected to rise to more than £7 billion by 2026. I therefore ask noble Lords to consider the impacts and missed opportunity that would be caused by not supporting this important transition and the scientific basis for it.

Concerns have been raised about the impact assessment. I reassure noble Lords that this red rating is not a reflection on the quality or the ambition of the Bill. The Government are committed to proportionate, science-based regulations and have carefully considered all views and evidence in establishing our approach. The main criticism of the RPC is that the description of the policy differed between the initial review notice and the final submission. It felt that the impact assessment had not adequately accounted for the potential impacts arising from this policy change.

We are clear that at no point has the policy changed. The final submission had small changes in terminology such as changing the title of the Bill from "gene editing" to "precision breeding". In our engagement and evidence-gathering, researchers and developers were made aware of the policy intention, and that the name had not been finalised, and so our expectation is that the change of the name to precision breeding will be of no impact on researchers or developers.

In response to the RPC's comments, work is under way to gather further evidence from stakeholders and additional consumer insight data to provide more detail on the impacts to businesses and to bolster the cost-benefit analysis. We are also seeking to provide information to give more clarity on the policy intention, the Bill's objectives and the options appraisal. Defra is

working closely with the RPC and will submit an enactment impact assessment which will address its comments, and this will reflect any amendments made to the Bill as it progresses through Parliament.

On the point made by the noble Baroness, Lady Jones, about pausing the Bill, the policy has not changed. His Majesty's Government are absolutely committed to supporting proportionate, science-based regulation. Our engagement and evidence-gathering will, I hope, address her concerns.

We recognise that the devolved Administrations' positions regarding this legislation differ. My department has had very good conversations with a number of people. I have meetings next week with the devolved Administration in Wales and we will be talking to the Scottish Government as well. The noble Earl, Lord Stair, raised the point that this is a devolved issue. The Scottish Government have declined to join the Bill but the Welsh Government remain open to discussions via the common frameworks. We also engage with leading research organisations: with the Roslin Institute and the James Hutton Institute in Scotland, and with Aberystwyth University and Bangor University in Wales. These are world-leading organisations and they are calling for this kind of legislation. The electoral dynamic will, of course, differ in different parts of these islands and we want to make sure that we are talking to and working with the devolved Governments, and that we come to the right conclusions. I hope that we can persuade them to come along with us.

The noble Earl, Lord Devon, talked about the IP implications and whether precision-bred crops and organisms can be patented. The patent system exists to encourage inventions by offering time-limited exclusive rights in exchange for making the invention public, allowing others to further develop it. I am preaching to the choir; he is, of course, an expert on this. Patent rights are available in the UK in the area of gene editing, including plants and animals modified by such techniques. A number of patent applications have been filed and patents granted that relate to the genome-editing tool CRISPR.

The noble Earl and others also raised issues relating to the World Trade Organization. In 2018, a joint statement issued to the World Trade Organization signed by 13 countries stated that Governments should

"avoid arbitrary and unjustifiable distinctions"

between those crops developed through precision breeding and those developed through conventional breeding. The signatories included Canada, Argentina, Australia, Brazil and the USA. We are moving in that direction.

I have not had time to answer everyone's points, even though I have been rather lengthy in my reply. It is important that we have open conversations. This has been an incredibly fascinating debate. I am encouraged by the level of support for the Bill. I hope we can progress it through the House. I beg to move.

Bill read a second time and committed to a Grand Committee.

House adjourned at 8.47 pm.

Grand Committee

Monday 21 November 2022

Biocidal Products (Health and Safety) (Amendment) Regulations 2022

Considered in Grand Committee

3.45 pm

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

That the Grand Committee do consider the Biocidal Products (Health and Safety) (Amendment) Regulations 2022.

Relevant document: 16th Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Stedman-Scott) (Con): My Lords, this draft statutory instrument was laid before Parliament on 18 October. It makes a technical change only and there are no policy changes. It relates to biocidal products, which are used to control harmful organisms and include disinfectants, insecticides and rodenticides. These products have important roles in protecting human health and critical infrastructure and it is therefore essential to society that legal supply of these products is not disrupted.

Although biocidal products are critical to society, they can pose risks to human health, animal health and the environment if used incorrectly. Therefore, to allow a biocidal product on to the GB market, a two-step authorisation process is in place. First, the active substances used in biocidal products must be approved. Approval involves a rigorous scientific evaluation to ensure safety and efficacy—a process which takes one to two years and costs approximately £180,000. If an active substance is approved, applications can be made to authorise biocidal products containing that substance.

This evaluation looks at the safety and efficacy of the formulation, a process which takes about a year and costs approximately £25,000. As noble Lords will understand, the applications are large dossiers of scientific data and require complex evaluation and assessment by a range of specialist scientific disciplines to ensure that there is no danger to human health, animal health or the environment.

The HSE operates a cost-recovery model so applicants bear the full cost of processing applications. Biocidal products are regulated under the Great Britain biocidal products regulation, which was retained following EU exit. The authorisation process in Great Britain is similar to that in the EU, except where references to the EU arrangements were replaced by domestic arrangements.

Also retained in the legislation are the legal deadlines by which applications should be processed. These legal deadlines were in place to ensure consistency across the EU over how long was given to process applications and to provide transparency to applicants. While the UK was still in the EU, a steady stream of applications was processed across EU member states although, even at that time, deadlines were often missed.

In preparation to meet our ambition for the HSE to become a world-class standalone chemicals regulator following the UK's departure from the EU, significant investment has been made to increase the HSE's capacity and capability and to embed new processes and procedures. Through a major transformation programme, the HSE's headcount for its chemicals regulation division has increased by around 40%, with continued ongoing significant investment in people and IT.

As part of the EU exit preparations, transitional arrangements were put in place to ensure a smooth transition for business to the new domestic systems. These arrangements required businesses which had applications in process at the end of the implementation period to resubmit them to the HSE by deadlines in 2021 if they wanted to retain access to the GB market. Under these arrangements, biocidal products already on the GB market could continue to be made available until their application was processed. It was unknown at the time how many resubmissions would be made by applicants to access the GB market until the deadlines had passed.

However, I am pleased to report that over 70% of biocides applications seeking access to the UK market under the previous EU system have been resubmitted to GB. This clearly shows that industry has faith in the GB market and the HSE as the regulator but generates a greater workload than was originally anticipated. As a result, it is not possible to process the large one-off influx of biocidal product authorisation applications within the legal deadlines in place.

This issue has been compounded by the HSE's loss of access to EU databases holding historical reports which contain scientific information relevant to processing these applications. A resolution should be in place by the time this information is required to process the applications. The HSE will also consider what future digital solutions may be required once a resolution has been implemented; however, the issue has caused some further delays in processing applications. Because these issues have arisen directly from the EU exit, the legal deadlines in the Great Britain biocidal products regulation amount to deficiencies in retained EU law. Therefore, the appropriate course of action available to the HSE is to make amendments through the statutory instrument under the powers to remedy deficiencies in the European Union (Withdrawal) Act 2018. The changes proposed by this statutory instrument are straightforward: the legal deadlines in place to process biocidal product authorisation applications will be temporarily extended by an additional five years. The period of five years has been derived from resource modelling from the transformation programme I referred to earlier. It represents the amount of time that the HSE forecasts it will take to address the backlog and to return to a position where applications can be processed within the original legal deadlines. I trust that it is understood that processing applications is not a rubber-stamping exercise and that it requires highly trained staff who simply cannot be brought in in large numbers at short notice.

The amendment to these legal deadlines should have no impact on businesses, and an extension of the deadlines themselves does not provide any additional cost to the applicant. Instead, this statutory instrument provides legal certainty that where biocidal products are on the GB market awaiting the outcome of their application they can remain there, which may not otherwise be the case had the legal deadlines been missed. This, in turn,

[Baroness Stedman-Scott]
also ensures that there is no disruption to the legal supply of essential biocidal products while the backlog of applications is cleared. A small number of new biocidal products authorisation applications will also be affected by this instrument. However, these applications will be prioritised to ensure that where businesses are waiting for authorisations before they can supply their products, they will not experience any delays.

Finally, this statutory instrument also adds an additional transitional measure which was an oversight in the previous EU exit statutory instruments. This allows a type of biocidal product authorisation application called "same product applications" to transition to GB and be treated in the same way as other applications. This also does not have any impact on businesses and is a technical correction to ensure that the biocide regime is now fully functioning as intended. I can confirm that consent to make this statutory instrument has been obtained from Ministers in the Scottish and Welsh Governments, in line with normal conventions. The regulation of biocides in Northern Ireland follows separate arrangements under the Northern Ireland protocol and is not affected by this instrument.

I hope that colleagues of all parties will join me in supporting the draft regulations, which I commend to the Committee.

Baroness Brinton (LD): My Lords, I thank the Minister and civil servants for the details in the Explanatory Memorandum. I also put on record from these Benches that we too are pleased that arrangements have been made with devolved states; there have been two or three incidents recently where trying to box and cox between those in time to get things out has been problematic, but if that has been able to happen, that is fine.

I should say from these Benches that we do not have a problem with the content of the SI; that is absolutely fine. I just say that, helpfully, the Secondary Legislation Scrutiny Committee, in its 16th report for this parliamentary year, noted in paragraph 4 that

"the Explanatory Memorandum does not indicate what progress the HSE has made in the last three years in reducing the backlog, or whether HSE is building up its own database to prevent"

the problems. I therefore want to ask two questions arising from that. The Minister referred to improvements and understanding that there were pressures so, first, it would be helpful to know whether there is a specific figure available for that backlog and how it is has been reduced. Or is it in fact worsening—which I suspect may be the case—or is it static, having worsened before it came down? On the issue of the Government not being able to access the EU databases now, is there a timescale for the alternative arrangements? That will obviously also help to speed things up.

In reading the Explanatory Memorandum, I have to offer an award to the author in that it is beautifully written and one has to look quite hard to see the problem underlying why we are asked to make this technical SI arrangement. It would be fair to say that the sentence in paragraph 3.1:

"This instrument is formally prospective but will have some retrospective effect"—

in other words—

"this temporary future change will have some effect on past arrangements",

is glorious and worthy of "Yes Minister". But I understand the problem. Civil servants are helpfully trying to cover Ministers' embarrassments, which I will come on to in a minute.

I note that there is a temporary extension for a period of five years to legal deadlines. I particularly turn to paragraph 7.8 in the Explanatory Memorandum, which refers to the "temporary backlog of applications", and paragraph 7.9, which says that the Health and Safety Executive

"will not be able to meet the legal deadlines".

The Minister said that the Government intend for us to have a world-class chemicals industry, with world-class safety arrangements. However, the arrangements that were put in place as a result of Brexit and the transitional period mean that a very large number of organisations have had to resubmit applications. I thought it was interesting in the context of Prime Minister Truss—one Prime Minister ago—vowing to scrap remaining EU laws by the end of 2023, that many people said would risk a bonfire of rights. However, it has also created, and will create, an enormous backlog of work for the Civil Service and government agencies. The scale and complexity of the task ahead will be difficult in the context of Civil Service cuts. Can the Minister say how her department and the agencies that report to her—in this instance, I obviously refer specifically to the Health and Safety Executive—will be protected from the proposed Civil Service cuts in order to deliver the extended timescale that is now listed in this particular SI?

This is not just the past Premier's ambition: about 10 days ago, the Daily Express had a headline

"Brexit bonfire of EU laws set to go ahead with no delay as PM confirms date for axing"

the EU legislation. Can the Minister help to explain how not just this one statutory instrument, but the many thousands of statutory instruments can be in a bonfire by the end of 2023 when we are here today talking about the practical effects on one government agency—the Health and Safety Executive—to make it workable to catch up on the backlog? That is before this Government have even redefined the datasets they were using with the EU to make this job possible.

4 pm

During the Brexit referendum, there were many debates in public where those of us on the other side of the argument warned that there would be a very particular problem with SIs and laws. In fact, one of my colleagues in the House of Lords, who I will not name, said to me after the Brexit referendum, "Well, that'll see us out"—we're both about the same age—"we'll be doing changes to EU directives in SIs for the rest of our working days in your Lordships' House." We are beginning to see the practical consequence of that. Can the Minister set out what the Government plan is to achieve the current Prime Minister's ambition to remove all EU law in 13 months' time versus the practical effect that government departments and agencies are currently facing?

Baroness Sherlock (Lab): My Lords, I thank the Minister for her introduction to these regulations, the noble Baroness, Lady Brinton, for her very interesting contribution, and officials for supplying some useful information.

As we have heard, these regulations are needed because the post-Brexit arrangements made for authorising biocidal products in Great Britain are not, shall we say, working quite as smoothly as one might have hoped at an early stage of the process. After Brexit, the process of authorising the "active substances" in biocidal products was transferred from the EU to the Health and Safety Executive. There was a three-year transition period during which products whose active substances had previously been authorised could continue to be sold in GB using the certification. These regulations propose that those products can carry on being sold in Great Britain until the end of 2027, whether or not the HSE has processed their application for authorisation—I hope I have that right; I read them several times but I would not swear to it. However, the Minister can correct me in her response if I have not.

The noble Baroness, Lady Brinton, mentioned the comments by the Secondary Legislation Scrutiny Committee, which helped us to understand that the big problem is in fact a huge backlog primarily caused by the fact that the HSE no longer has access to much of the data stored in EU databases on which previous assessments have been made. Therefore, we need this instrument to give legal certainty that at least until the end of 2027 biocidal products can continue to be sold and used legally while the HSE works its way through the backlog of applications for authorisation.

I too have some questions. First, when did the HSE know that it would not have access to the data in the relevant databases that was needed to make these assessments? Presumably, it was part of the negotiations for Brexit; did it know in plenty of time? If so, why were alternative arrangements not put in place for some time? Nobody could suggest that the Brexit process passed swiftly—I feel that it has been happening for most of my adult life, but even if it was not that long, it was not a speedy process. Was there not time to get ahead of the curve?

I would be interested in the response to the questions raised by the noble Baroness, Lady Brinton, about what the agency is doing to build up its own database and what progress it is making on reducing the backlog.

What assessment has been made of the possible risks of the HSE not having access to the data it needs to make timely and expert assessments of biocidal products? I understand that the EU was doing a rolling review of active biocidal substances, so presumably there are products awaiting authorisation that have not been reached. So their active substances had not yet been reviewed by the EU, yet, at the moment, these regs provide for them to be legally marketed until the end of 2027 without any HSE authorisation. Can the Minister therefore tell us what is the longest period a product could be on the market since either its active substances were approved either by the EU or the HSE?

What happens if evidence emerges that an active substance is not as safe as it had perhaps been thought or indeed as it was known to be when it was approved by the EU? I presume that the HSE or other bodies have powers to act if someone brings evidence to them saying, "Evidence has emerged that this product is not as safe as we thought it was." However, since there will not be any guaranteed systematic review of the evidence for quite a long time, what if that evidence emerges elsewhere and is not drawn to the attention of the agency? Has a plan been put in place to consider the impact of that? If a product were to contain, say, two active substances which had been approved separately by the EU, how would we know if they would interact and whether the product is safe if the product is not being authorised by the HSE for, potentially, a number of years?

Finally, to follow on from the question from the noble Baroness, Lady Brinton, the HSE now has an enormous job to do. The Minister mentioned an increased head count. What I am interested in is whether she can assure the Grand Committee that her department has taken the view that the HSE has access to the numbers of people and the expertise that it needs to keep British people safe in this area. I look forward to her reply.

Baroness Stedman-Scott (Con): I thank the noble Baronesses, Lady Brinton and Lady Sherlock, for their contributions. I shall try to answer those questions. If there are some that I cannot answer, I shall write and clarify at a later point.

First, the noble Baroness, Lady Brinton, asked about the backlog in the past three years. It is important to clarify that the HSE has been working on the backlog of biocidal product applications for only around a year. Three years is a misleading timeframe, because it fails to account for the EU exit implementation period and, after that, the time given to industry applicants to resubmit their applications to the HSE. In this year, the HSE has added the details of all resubmitted applications and associated data into their systems and initiated work on around 20% of these. This is in line with plans to clear the backlog of applications. The HSE's operational planning assumptions are that it will commence 50 applications per year over the coming years, which means that, by the end of the five-year period, it anticipates having completed the roughly 200 applications received after the transition period or be on track to complete them with the normal timeframes in the legislation. After that, the HSE will return to operating within the existing deadlines so that the deadline extension can lapse.

The noble Baroness, Lady Brinton, also asked a question about having lost access to the EU databases. The EU databases contain certain historical information from the EU regime, which it would be too costly to recreate in Great Britain. Therefore, at the same time, the HSE is exploring options for how it can best operate the GB regime, on the assumption that this information will remain unavailable. Working on this is at an advanced stage, and appropriate solutions will be implemented as soon as they are fully developed and tested. I do not know how we would plan to communicate that once it is done, but I shall write to noble Lords.

Baroness Brinton (LD): I am very grateful for the Minister's response, but can I decode it as saying that the HSE is having to start again from scratch? It is not quite clear; I understand the part about not being able to use the EU databases, but do I understand that what is happening in the background is that we have had to start again completely from scratch with a completely blank sheet of paper?

Baroness Stedman-Scott (Con): My understanding is that, with the information that the HSE has, it has to start from a very low point, but it will not be without anything—as I understand it. I am told that biocide evaluations are complex regulatory assessments involving a number of scientific specialisms, so developing solutions is inevitably taking some time. I am not sure that that answers the question that the noble Baroness has challenged us with—whether we are starting from scratch, or whether we have information with which we can start it off. In fact, I can now say that we are not starting from scratch, but I think that I owe both noble Lords a bit more on that, and I shall place a copy of a letter in the Library. They can be comforted that we are not starting from scratch, but I am not sure where we are starting from—but there we are.

The noble Baroness, Lady Brinton, asked about retained EU law. The Department for Work and Pensions and the Health and Safety Executive will continue to assess REUL to identify potential impacts. We are committed to ensuring that health and safety legislation continues to be fit for purpose and that our regulatory frameworks operate effectively following the sunset of the REUL—forgive me for not reading the term out in full.

The noble Baroness, Lady Sherlock, asked about mixing two authorised products into one—a chemistry set comes to mind when answering this question. The new product will require its own authorisation. It will not be allowed on the market until it has gone through its own risk assessment, biocidal product assessment and authorisation

The noble Baroness also asked when the Government found out that we had lost access to the EU databases. The EU withdrawal agreement provided that the UK would no longer have access to the relevant EU databases from the end of the implementation period. Since then, as I said, the HSE has been assessing a number of options to manage biocidal product authorisations, taking into account the loss of access to historical information in EU databases, such as use of publicly available information. I am sorry that it is not possible to give a timeline, but work is at an advanced stage and appropriate solutions will be implemented as soon as they are fully developed and tested.

The noble Baroness raised the issue of resources, which is important. The total budget for the HSE's chemical regulation division has grown by 39%, from £22.4 million to £31.2 million between 2018-19 and 2022-23, reflecting the HSE's need for increased resources for its post-EU exit responsibilities. The HSE's current focus is on building out from our initial day one operating capacity and laying the foundations for its long-term future operation. The funding the HSE has received to date is sufficient to support that work, and I am not aware of any attempts to reduce it in the current climate.

The noble Baroness, Lady Sherlock, asked about the risks of leaving products on the market. There is a multi-regulator approach to the regulation of biocides not yet authorised under BPR using a jigsaw of legislation, including product safety law and earlier pesticides legislation. This provides proportionate powers for the appropriate authorities to take the regulatory action if products are identified that pose risk to people, animals or the environment.

The instrument will provide the necessary extension to the legal deadlines—

Baroness Sherlock (Lab): On that last point, the question I was trying to ask—I probably phrased it very poorly—was that I realise that if information comes to the Government's attention, by some tool or agency, a means will be found to do something about it. But it is quite possible that, for a product that has been on the market without review for a long time and is used around the world, evidence may have appeared elsewhere which has not been brought to the Government's attention. The point about systematic reviews is that one presumably goes out looking at the evidence. Is there any concern that, the longer products are on the market, the greater the risk that some previously unclocked problem may arise?

Baroness Stedman-Scott (Con): I will write to the noble Baroness about that. I would assume—correctly or incorrectly—that the Health and Safety Executive is keeping up with developments by other countries' health and safety agencies, but let me write to the noble Baroness to clarify that point. If, when she gets the letter, she is still worried, she may come back to me and I will do further work on it.

To conclude, the instrument will provide the necessary extension to the legal deadlines to enable HSE to process effective biocidal product authorisation applications. This will provide legal certainty to businesses that biocidal products on the market awaiting their application to be processed can remain there. In turn, biocidal products essential to the functioning of society can continue to be made available and used. I commend the instrument.

Motion agreed.

Cessation of EU Law Relating to Prohibitions on Grounds of Nationality and Free Movement of Persons Regulations 2022

Considered in Grand Committee

4.14 pm

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

That the Grand Committee do consider the Cessation of EU Law Relating to Prohibitions on Grounds of Nationality and Free Movement of Persons Regulations 2022.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Stedman-Scott) (Con): My Lords, this instrument was laid before the House on 20 October. It disapplies retained EU equal-treatment provisions relating to nationality and freedom of movement so that they cease to be recognised and available in domestic law in relation to access to social security, statutory payments, social assistance, housing assistance, education, training, apprenticeships and childcare-related matters.

These retained EU provisions have been redundant since the end of the transition period. The withdrawal agreement provides the necessary protections for those EU citizens who were resident in the UK before the end

of the transition period and their family members. By disapplying the redundant provisions, this instrument furthers the Government's aim of ensuring that all UK law is right for the UK. Correcting this deficiency in retained EU law will bring greater clarity to the UK statute book. I am satisfied that these regulations are compatible with the European Convention on Human Rights.

Prior to the UK's exit from the EU, these equal-treatment provisions granted EEA and Swiss citizens rights to access benefits, services and educational entitlements on the same basis as UK nationals, if their presence in the UK was based in the exercise of specific freedom of movement rights. The UK voted to leave the EU and, as a result, freedom of movement between the UK and EEA countries came to an end on 31 December 2020. Equal-treatment provisions based in freedom of movement arrangements therefore became redundant.

Disapplying these redundant equal-treatment provisions clarifies the situation that is already in effect for EEA and Swiss nationals coming into the UK. In line with the Government's manifesto commitment, EEA nationals are now treated on an equal basis with other non-UK nationals arriving in the UK after the end of the transition period, with the exception of those EEA or Swiss nationals granted status under the EU settlement scheme.

While the instrument does not effect a policy change for any group of EEA or Swiss nationals in the UK, I particularly emphasise that it in no way alters the rights of EEA or Swiss nationals that are protected under the EU-UK withdrawal agreement, the EEA European Free Trade Association separation agreement and the Swiss citizens' rights agreement. They will continue to be able to access benefits and services on broadly the same basis as they did before the end of the transition period, and their rights to do so are protected by the European Union (Withdrawal Agreement) Act 2020. Additionally, we already have domestic law that protects individuals from discrimination. Retained EU provisions based on freedom of movement are therefore not only redundant but unnecessary.

In summary, this instrument is a technical correction of the statute book that will address a deficiency arising from retained EU law. I therefore commend the regulations to the Committee.

Baroness Sherlock (Lab): No other takers—I am shocked, given that it is such an exciting instrument. I thank the Minister for her introduction to these regulations, in which I am interested. I was going to say, "and all noble Lords who have spoken", but it is just me. I am also grateful for the briefing on the regulations from the Minister's officials. I confess that, despite reading everything I could, I am struggling to work out what these regulations actually change, if anything.

I read a summary of this instrument done by the House of Commons Library for a colleague at the other end. It noted that Parliament has already legislated to end the underlying right of free movement for EU citizens moving to the UK. The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 repealed the main provisions of retained EU law relating to free movement and disapplied the equal treatment obligations supporting free movement, in so far as they were inconsistent with the UK's immigration laws. However, the note went on to say that

"these equal treatment rights 'would continue to apply in non-immigration contexts unless disapplied'. The draft measure now disapplies those equal treatment rights in the specific areas set out in the schedule, including social security payments and housing."

The Minister said that these rights "became redundant" as a result of the 2020 Act having ended the underlying right to free movement. I am still not clear as to exactly what rights may still exist that this instrument is disapplying. Can the Minister clarify that? I can see that the aim is to make it clear that EEA nationals who are not subject to the settlement arrangements should have the same rights as anyone else subject to the points-based immigration system going forward. I am just not clear what, if any, rights they have now that they will not have once this instrument becomes law. If the answer is none, I ask the Minister to say that categorically for the record. It may be about legal clarity; I would just like to be really clear.

I want to make two other points. Regulation 4 makes changes to Regulation (EU) No. 492/2011. I looked this up; it turns out that it amends Article 7—it prohibits different treatment of EU nationals in respect of employment, social and tax advantages—to say that this will not apply in relation to the matters in the Schedule to this draft instrument, namely: social security, social assistance, housing, education and training, and childcare. Do Article 7 rights continue to apply to any other areas?

Finally, the instrument also removes Articles 9 and 10, which provide for the rights of EU nationals in relation to social housing and to state education for their children. Are there any other rights that EU or EEA nationals still enjoy that have not been repealed? If the answer is that any such rights that exist will be swept away by the sunset provisions of the advancing retained EU law Bill, why not wait for that rather than using Section 8 powers? I look forward to the Minister's reply.

Baroness Stedman-Scott (Con): I thank the noble Baroness, Lady Sherlock, for her contribution and questions and congratulate her on her stamina in these matters. I will try to answer all the points raised.

The noble Baroness asked how the EU provisions to be disapplied became deficient or redundant. Prior to the end of the transition period, through the EU freedom of movement of persons rights, EEA and Swiss citizens had access to certain benefits, services and education entitlements. When the freedom of movement of EEA citizens ceased at the end of the transition period, the application of these rights became redundant, as the rights granted by these provisions have been redundant since the close of the transition period. They represent the deficiency arising from retained EU law. The regulations clarify the situation already in effect.

The noble Baroness asked what rights the provisions to be disapplied still grant. First, let me clarify that these regulations should not be understood as implying that these provisions continue to grant rights outside of the relevant matters as per Regulation 1(4). The department involved in these regulations examined the provisions as they relate to the benefits and services

[Baroness Stedman-Scott]
covered in the relevant matters and is confident that these rights are redundant as they relate to the relevant matters. We are disapplying them to clarify the position that is already in effect.

The noble Baroness, Lady Sherlock, asked what would happen if these provisions were allowed to remain on the statute book. These redundant provisions are not in line with domestic legislation on immigration and access to benefits and services. They therefore create confusion in the statute book. Not disapplying them would leave this deficiency in UK law unaddressed. It could also mean that EEA nationals who are not eligible for benefits or services could bring legal challenges against the Government to try to bypass domestic legislation by instead relying on those retained EU freedom of movement provisions. This would set back progress on implementing the public's decision to leave the EU and end freedom of movement.

The noble Baroness asked me to clarify whether that was a change in policy. The answer is categorically no. These regulations do not effect any policy change; they are a technical rectification of the statute book to clarify the position already in effect after the end of the transition period. She asked why the regulations were being laid now. Why not let these retained provisions be sunsetted by a reform and revocation Bill? Work on the regulations was initiated independently of the Retained EU Law (Revocation and Reform) Bill under Section 8 powers from the European Union (Withdrawal) Act 2018. Those powers allow Ministers to address deficiencies in retained law. Section 8 powers expire on 31 December 2022, thereby creating a need to lay these regulations.

The noble Baroness also asked whether any rights still applied. Rights and entitlement for EEA citizens set out in the withdrawal agreement and domestic legislation still apply.

These regulations are a technical rectification to ensure that UK law functions with legal clarity. The retained EU provisions that they disapply are redundant, and that deficiency should be corrected. This instrument will not change the policy in place regarding any rights currently enjoyed by EEA nationals in the UK. However, it will bring greater clarity to the UK statute book. I therefore commend the regulations to the Committee.

Motion agreed.

Football Spectators (Seating) Order 2022

Motion to Take Note

4.28 pm

Moved by ***Lord Faulkner of Worcester***

That the Grand Committee takes note of the Football Spectators (Seating) Order 2022.

Relevant document: 10th Report from the Secondary Legislation Scrutiny Committee

Lord Faulkner of Worcester (Lab): My Lords, I express gratitude to the usual channels for giving us the opportunity to debate the order. I tabled a take-note Motion because I felt that the reintroduction of standing at our main football grounds was a sufficiently major change to the licensing regime enforced by the Sports Grounds Safety Authority to justify a short debate.

The all-seater requirement for the top two divisions of English football was a direct consequence of the reports by Lord Justice Taylor into the Hillsborough stadium disaster in April 1989. It was his report that caused the abandonment of the central provision of the Football Spectators Act that would have made it compulsory for everyone attending a match at a designated ground to be part of a national membership scheme.

It is often forgotten that the Act was introduced as an anti-hooliganism measure, particularly as a result of appalling disorder at a cup tie between Luton Town and Millwall, which caused huge offence to Prime Minister Margaret Thatcher. That led to a breakdown in the relationship between the Government and the Football Association, whose secretary rather unwisely suggested to her face at a meeting I attended in Downing Street that Mrs Thatcher should get her hooligans out of football.

Lord Justice Taylor was scathing about a compulsory membership scheme and said that it would have made the Hillsborough disaster worse. I believe that I am the only Member of your Lordships' House to have been at that match and to have witnessed the horror of that afternoon. I certainly agreed with what he said about a compulsory membership scheme. Instead, the Football Spectators Act was pressed into service as the means to enforce the all-seater rules, which I always supported, although there was some opposition from some of the fan groups.

Until December 2018, successive Governments were content to leave those rules in place and were able to point to general improvements in football crowd behaviour as one of the benefits of that, even though many fans at a number of clubs took no notice of the no-standing rules, particularly behind the goals, and stood up in their seats. This caused considerable disquiet among a number of supporters, who were concerned by the consequences for family areas where young children were present and for disabled fans. I declare an interest as vice-president of the Level Playing Field charity, about which I will say more in a moment.

The Sports Grounds Safety Authority published a report on the *Safe Management of Persistent Standing in Seated Areas*, in which many of the dangers were described. It also pointed out that operating licensed standing areas had the additional benefit of removing

"the need for safety teams to make spectators sit down, thus reducing potential conflict between staff and spectators."

Perhaps the Minister can comment on what seems to be a rather unusual aspect of this debate. It is clear that one of the reasons for abandoning all-seater stadiums is the acknowledgment that the rules could not be enforced and that lawbreakers should, in effect, be rewarded by getting the law changed. Does he feel that this establishes an undesirable precedent for other aspects of public policy?

The Conservative manifesto for the 2019 election contained a commitment to

"work with fans and clubs towards introducing safe standing."

This was followed by what was called the early adopter programme, launched by DCMS and the Sports Grounds Safety Authority, which provided for licensed standing

in seated areas at five football clubs—Cardiff City, Chelsea, Manchester City, Manchester United and Tottenham Hotspur—from the start of the 2022-23 season. This was followed, on 4 July this year, by the laying of the statutory instrument we are debating today. This provides for all football clubs to allow for standing in areas of their grounds where the seating accommodation has been adapted.

I referred earlier to my involvement with Level Playing Field, and I have some questions that I hope the Minister will be able to answer. I should make clear that Level Playing Field has always maintained an entirely neutral stance in the safe standing debate. But that stance would change if the introduction of standing compromised safety or reduced the matchday experience of disabled supporters in respect of things such as sight-lines, discrimination or abuse, misuse of facilities, or displacement. Disabled supporters should be able to choose whether they are in the safe standing section or not. Choice is important and there must be facilities for them, including accessible toilets and dropped counters at refreshment kiosks. It is vital that if parts of a ground are to become designated standing areas, all spectators—particularly disabled ones—are safe from crowd surges and crowd collapse.

It is good that recommendations and guidance relating to disabled supporters were included in the SGSA's document SG01, *Safe Standing in Seated Areas*, published in July this year. But there are concerns as to how the impact on disabled spectators and the inclusion of disabled spectators will be mitigated, implemented or enforced.

I have a few questions for the Minister. Will observance of the guidance become a part of the safety advisory group's duties and responsibilities? How will the facilities for disabled spectators be monitored to ensure that they have been included in the safe standing areas, with spaces for wheelchair users and easy-access and amenity seats? What measures will be in place to ensure that disabled spectators choosing not to purchase tickets in the safe standing area are not adversely affected? How will persistent standing be dealt with in non-standing areas? How will the potential displacement of disabled spectators be managed? What steps are being taken to ensure effective stewarding in the safe standing areas? Lastly, how will consultation with disabled supporters be conducted and monitored? I have given the Minister notice of these questions and hope that he will be able to answer them today or, if not, in writing later.

To conclude, I repeat my support for the adoption of safe standing areas but urge that it be carefully and continuously monitored. The very last thing we need is any return to the incidents of disorder that did so much damage to the reputation of English football in the past—a reputation that I hope will be enhanced by the performance of the England team at the current World Cup, particularly after that sensational start in the first game this afternoon.

4.35 pm

Baroness Hoey (Non-Afl): My Lords, I very much congratulate the noble Lord, Lord Faulkner of Worcester, on getting this opportunity to make a little bit of history. There has been a long campaign by many supporters over many years to get government authorities, the Premier League, football authorities and safety groups all to recognise that safe standing—done properly, properly monitored and with the use of the right technology—can work and be safe. It will make very many football supporters throughout the country happy that this has finally happened.

I find it rather ironic, because 22 years ago this week, as Sport Minister, I did an interview for a programme called "Watchdog"—the noble Lord, Lord Faulkner, will probably remember this—and dared to say that I was going to send the Football Licensing Authority over to Germany to visit the Schalke stadium and to see what the Bundesliga was doing with its new technology and the way it was able to adapt its stadiums. I think it was the great sports writer at that time, Robert Hardman, who said that the reaction to what I had said was as if the Minister for Sport had invited Myra Hindley to the cup final. There was an enormous outburst. How could I dare to call for terraces to be brought back? Of course, I was not calling for that at all; I was calling for precisely what we now have.

I congratulate all those supporters who tried so hard over the years to get this to happen—for example, Phil Gatenby, Adam Brown, Standing Areas for Eastlands and a number of other groups that persevered with a very difficult argument. The Premier League was absolutely opposed to it at that time and for a very long time. We were not helped by the Football Licensing Authority. Its chief executive, John de Quidt, told me at one time, "There's more chance of Martians landing than the safe standing campaign achieving its goals." We have not had Martians but we have safe standing.

I thank the Government for recognising that this needed to be looked at, could be done and was perfectly safe. I accept what the noble Lord, Lord Faulkner, said. It is important that it is monitored and that we look at things that can make it better, but this is definitely a great step forward and a day to be celebrated by all football supporters.

4.38 pm

Lord Addington (LD): My Lords, this is one where I find myself slightly conflicted. I did not like the idea of bringing back safe standing, probably because I lived very close to Carrow Road and the violence that was endemic in football for decades occasionally spilled out into the roads close to me. I remember that all-seater stadiums were brought in to stop that organised violence. They were largely successful as part of the packages that went through, but it is well that we remember that.

It was not just the crush. Seating, and the barriers brought in here, may well stop that incredibly dangerous surge forward on an open terrace. I remember people saying that the movement of the crowd was wonderful; look at old film of the movement of a crowd. I am astounded that people were not more frequently hurt—one person going down, taking three or four with them, trapped underneath the motion. It is bad enough when it happens on a rugby pitch, which is, generally speaking, soft, and only three or four people are landing. The wind is knocked out of you, then two more people land and you cannot get your breath back. There is usually a referee pulling you to your feet

[Lord Addington]
then. It was potentially incredibly dangerous, and the fact that only a few people were involved in crowd disorder is probably why there were so few disasters. There is also the intrinsic danger in areas as such as stairwells. Floods of people going through them led to tragedy in the past. Please let us not think that these measures were brought in for no reason: there was a need. It was not the only action, but there was a need.

I ask the Minister a couple of questions on the "stay standing" procedure here—the barrier in front to stop people coming forward. What weight of people pushing forward has been tested against the barriers giving way? What is the level of people flow coming forward? Can we have a little idea of the testing that has taken place? If they are sturdy enough to resist that, most of the danger will be removed.

The noble Lord, Lord Faulkner, has done a very good job on disabled access here, but the grounds in the Premiership do not have an unblemished record. If they have just got to the level of providing access—I do not think they have—they have done so incredibly recently. Their unwillingness to take these steps has been obvious for a very long time. Nobody has fallen over themselves to make sure this happened fast. Will we make sure they are properly regulated and enforced to make sure that a disabled person who goes into the stands is safe? Remember that they may not all be wheelchair users; many people who are disabled are not. They may have to use them temporarily; they may be able to stand for parts of the game. Is a person who is slightly unstable on their feet safe? That is a good question to add. What can be done to make sure that they are safe?

When it comes to other crowd control techniques, can the Minister assure us that a person will be identified as in a ticketed area, and thus can be easily identified if they are committing anti-social, racist or other abhorrent behaviour? Has that been tested? Crowds allow bad behaviour or allow people to think they can get away with it. Football is just one area where it has happened historically.

If we can get those assurances, let us give the experiment a go. However, I should like to think that the Government are paying attention to it, remembering that there were pitch invasions at the end of last season and occasions when crowds have behaved badly. There are many fewer than there were, and it is now a news item worthy of note, which is definitely a step forward from the historical position, but are we making sure that we are able to punish people with better monitoring arrangements and the identification of the people there? We need that assurance, because it was not about the seating but the safety. The seating was just a vehicle to get there. If the Government can give us those assurances, I will wish this experiment well, because, let us face it, we did not bring the measure in because we were desperate to interfere with people's lives but because we had to.

4.44 pm

Lord Bassam of Brighton (Lab): My Lords, a debt of gratitude is owed to my noble friend Lord Faulkner, who has been assiduous in following this issue over the years. I am grateful to him for ensuring that we had today's debate. For our part, on the Labour Benches, we very much welcome the regulations and the pilot carried out by Cardiff City, Chelsea, Man City, Man United and Tottenham Hotspur which has provided the evidence base for the wider introduction of safe standing at Welsh and English football stadia.

I am old enough to have been a teenager when some of the worst ravages of football hooliganism took place in the late 1960s and 1970s. It was not a pleasant sight and, like many football fans of that period, I got caught in crushes and found that I started half way up a standing area and ended up somewhere near the front because of a crowd surge. It was not a very pleasant experience, but it was very common. The tragic events at a number of football grounds, including of course Heysel—and Sheffield Wednesday's ground, where we had the terrible deaths in 1989, are etched strongly in our minds and memories collectively. They were awful things that should never have happened. The quality of football stadia back then left very much to be desired; it had not changed for decades and very little thought was ever given to the safety and security, even less the comfort, of football fans who watched the nation's great game.

We have come a long way since then. Seated stadiums were introduced, as other colleagues including the noble Lord, Lord Addington, and the noble Baroness, Lady Hoey, have said, because there was a desire to make stadia better as an experience, to improve the quality of the spectators' experience and to ensure that safety was paramount—and quite right too. There has always been some pressure to create the opportunity for safe standing, but it is really only in the last 10 years, I would guess, that the quality of our stadia has reached a point—particularly at Premier League and Championship level—where it is possible for safe standing to be introduced.

The noble Baroness, Lady Hoey, reminded me of the German experience. When I was a Minister in the Home Office and responsible for football hooligans—the Hooligans' Minister—I, too, went to Germany and looked at the Munich stadium, which had a very good design that enabled safe standing behind the goal areas. I have been to Tottenham in recent seasons to watch my favourite team, Brighton, and stood in the safe standing area there. It is a delight. It is very pleasant and comfortable and you do not feel in any way threatened by the size or nature of the crowd.

Like my noble friend Lord Faulkner and others, I have some questions just to elucidate some of the points that have been made in this discussion. The first few follow the points made by the noble Lord, Lord Addington, I suppose. We have to be confident that the design is right, because design is critical in this. Are we satisfied that there are sufficiently strict design criteria for safe standing areas? Do we think that that case has been fully proven? Will the design be kept under very careful and strict review?

Has the department been able to satisfy the JCSI's request for further information about the legal basis for only one spectator taking each space in a licensed standing area? If so, has that been made available in the Library or can the Minister tell us anything

about that? It is important that there is a proper legal base for that because it has an impact on safety and security.

We very much welcome the inclusion of a review mechanism in the order, but can the Minister clarify why the date of 7 December 2026 has been chosen? Similarly, why have five-yearly reviews been deemed most appropriate? What happens if the arrangements prove unmanageable? None of us wants that to happen but, if that is the case, is there sufficient flexibility in the five-yearly review process? When the review is published, will it be laid before Parliament formally or simply made available digitally via GOV.UK? Will it be debateable? I certainly think that it should be, because we need to keep a careful eye on these issues.

The move to safe standing was part of several proposals from the DCMS, including the potential relaxation of the ban on consuming alcohol in view of the pitch. I must say, as a spectator this does sometimes seem rather arbitrary. I go to grounds where 15 minutes or half an hour before the game starts, the shutters are brought down in the VIP areas and you cannot even see on to the pitch; it seems slightly ridiculous but nevertheless I can understand some of the thinking that lies behind it. I appreciate that rugby and cricket have a long history of enabling alcohol to be consumed in view of the game when it is in progress; I wonder what lessons we can learn from the experience of event managers and management in those stadia and if there have been some thoughts turning to the relaxing of regulations surrounding football.

Those are my points and questions. It is good that I am in the company of people who are very thoughtful about this, because I think safety and security of football fans is a very high priority in the organisation of that sport. We cannot afford to relax our vigilance, because in the past we have had spectacularly awful things happen to football fans and it has taken many years for families and communities to have a sense that they have justice on their side, so we need to get this right. If we do, there is a prize: that the enthusiasm that fans enjoy for their team will have full expression and we can return to the time when, certainly behind the goals, fans commonly used to stand. I am grateful to colleagues for their comments, and I look forward to hearing what the Minister has to say in response.

4.51 pm

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Lord Parkinson of Whitley Bay) (Con): I too am grateful to the noble Lord, Lord Faulkner of Worcester, for securing the opportunity for this debate. The order has returned licensed areas of standing spectator accommodation to the top tiers of domestic football. The statutory instrument in question has now come into force but, as the noble Baroness, Lady Hoey, said it is a historic moment of significant change, and I know that it is a field of great interest to many Members of your Lordships' House.

Your Lordships' House maintains a close interest in matters of sports ground safety, keeping a keen eye on the safety of our football stadia and on the work of the Sports Grounds Safety Authority, which regulates and advises us on this issue. It has done so since its inception as the Football Licensing Authority, at a time when, as noble Lords reminded us, we as a nation needed to apply some urgent focus to safety in our sports grounds—particularly to spectator safety at our football stadia following a number of very serious incidents which had raised many questions about the safety of the people enjoying a day at the match.

With the establishment of the Football Licensing Authority, the Secretary of State retained a power to issue directions regarding the nature of seated accommodation, and with that the all-seater policy was established—the requirement that clubs playing in the top two tiers of English football provide seated accommodation, and that they should remain all-seater at whatever tier of competition they find themselves playing in. The all-seater policy has played its part in the overall improvement of safety at football grounds, through which we have seen the game appeal to a broader range of people and, mercifully, reduced the occurrence of serious crowd safety issues. But in the intervening years a number of factors pressed the case for change. While the all-seater policy has been very successful, "persistent standing" represented a stewarding challenge in distinct areas of stadia which had simply not been designed for spectators to stand safely. The all-seater policy caught in its scope only clubs promoted to the Championship and has not permeated throughout the entirety of professional football. Clubs in the same league are constrained by different ticketing offers but must safely manage the expectations of visiting fans. Various stadium infrastructure options are now available to provide safe standing. While this will always remain a safety policy—noble Lords are right to accentuate the importance of safety again today—the calls from fan groups for choice in how they watch the game were notable. Supporter groups have campaigned on this issue for many years, and the Football Supporters' Association in particular has been an important partner.

The order, laid earlier this year, is a significant milestone. It comes after several years of careful and evidence-driven policy development, which reflects the different forms of safe spectator accommodation that we are now assured may be delivered with comparable or, indeed, with improved levels of spectator safety.

The potential for licensed standing accommodation had been discussed over several Parliaments but, as the noble Lord reminded us, the Conservative manifesto of 2019 outlined a clear commitment

"to work with fans and clubs towards introducing safe standing".

With sensible caution—we promised progress rather than necessarily completion of the process—we have been careful to balance moving quickly with the gathering of evidence, consulting the people involved and shaping a responsible policy response.

As noble Lords will know, the Government launched an early adopter programme for licensed standing in seated areas on 1 January this year. The programme was implemented to test the practicalities of safety in areas of standing spectators—whether areas struggling with persistent standing could be mitigated with the installation of appropriate infrastructure to support near-continually standing supporters, and stewarding strategies that permitted standing in these areas of the ground. This programme offered the opportunity to

[Lord Parkinson of Whitley Bay]
test the approach over the remainder of the 2021-22 football season in stadia already equipped with, or prepared to invest in, appropriate supporting rails in some limited test areas of their spectator accommodation.

The programme included five early adopter clubs: Cardiff City, Chelsea, Manchester City, Manchester United and Tottenham Hotspur. While their vested interests cannot be denied, it remains extremely welcome that an appropriate cohort of football clubs was prepared to engage in this programme with no guarantees as to the outcome. Their investment in and openness to the project was critical, and we would not have come to enacting a significant change in the legislation governing sports grounds safety without their enthusiastic involvement.

With a number of clubs enlisted, the Sports Grounds Safety Authority formally commissioned an independent evaluation of the early adopters programme, which included a full roster of on-site observations across all participating clubs. The evaluation built on areas of relevance highlighted in an earlier evidence review and on the wider hypotheses of crowd dynamics in different configurations of spectator safety.

The authority published an interim report from this study on 23 April this year, which confirmed that

"Installing barriers or rails in areas of persistent standing in seated accommodation continues to have a positive impact on spectator safety",

particularly in mitigating the risk of a progressive crowd collapse, by limiting forwards and backwards movement. This confirmed the belief of some experts in relevant areas, but the opportunity to have this configuration observed in situ, in real match-day environments, offered a compelling platform from which to commit to an evolution of approach in the regulation of sports grounds safety regulation.

On 24 May, we laid a Written Ministerial Statement, which indicated that, on the basis of these findings, the Government were "minded to" change the existing policy to allow all clubs currently subject to the all-seater requirement to introduce licensed standing areas for the start of the 2022-23 football season, provided they met strict criteria set by the Sports Grounds Safety Authority. The Statement was clear that any change to the existing all-seater policy would remain contingent upon the final evaluation report confirming the findings of the interim report.

CFE research subsequently provided the SGSA and DCMS with the final evaluation report. This concluded that the trial of licensed standing areas had been a success in both home and away sections. Given the positive impact on the safety of fans and the lack of any evidence that it increased disorder or anti-social behaviour, the report recommended that all clubs, in consultation with the SGSA and safety advisory groups, be given the opportunity to implement licensed standing areas and that the necessary amendments to the legislation be made as soon as possible.

The report also highlighted a number of other positive impacts of installing barriers or rails, also consistent with the previous research findings of the SGSA itself. These include: celebrations being more orderly with no opportunity for forwards and backwards movement; the risk of injury and the danger posed to others from spectators standing on seats or on the backs of seats being significantly reduced; egress from stadia being more uniform; it being easier to identify pockets of overcrowding in these areas; barriers making it harder for spectators to move towards segregation lines; putting stewards in more locations without affecting sightlines; and barriers offering stability for people moving up and down aisles and gangways. The final report also noted that operating licensed standing areas has the additional benefit of removing

"the need for safety teams to make spectators sit down, thus reducing potential conflict between staff and spectators",

while also enhancing the match-day experience of spectators.

On the basis of this carefully considered programme of work, the Government subsequently laid the statutory instrument which retained the all-seater policy by default. Within this, the SGSA has the leeway to set appropriate criteria for areas where stadia subject to the policy may permit standing accommodation. With that, we have met, and indeed, exceeded our manifesto commitment of 2019; subject to meeting exacting criteria, clubs may now apply to offer areas of licensed standing accommodation for spectators throughout the Football League.

The noble Lord, Lord Faulkner, raised a number of important specific questions on the management of these licensed standing spaces, and I am pleased to say that the criteria which the SGSA has set for licensed areas directly addresses many of the points which he has highlighted today. However, to cover those briefly: meaningful engagement with the safety advisory group must be demonstrated, as must a plan for continued engagement with it throughout the season; there must be no negative impact for other spectators, and specifically for spectators with disabilities—we are always happy to engage on feedback, but provision for all supporters is key to the criteria set out for standing areas; and appropriate stewarding must be in place. The detail of what this looks like and the resulting broader management of spectators will of course vary from ground to ground, but what will remain common is the careful oversight of grounds adopting safe standing areas.

Level Playing Field, with which the noble Lord is associated, and many others, have been important parties in helping us to develop this policy. These licensed standing areas are relatively few in number and their compliance to the criteria will be closely monitored. However, the continued input of Level Playing Field, supporters' groups and other advocates for accessible stadia remains very welcome, whether that is with their club, the SGSA or directly with the Government.

The noble Lord highlighted the importance of accessibility for spectators, and we particularly welcome the continued efforts of Level Playing Field in convening spectators with accessibility needs and for advocating for them in football—and in other sporting areas. All-seater stadia have contributed a lot to the needs of many spectators, and we hope that standing areas will offer choice and reinforce the improved experience that all-seaters can offer those who wish to or need to sit. I should say that Ministers have met Level Playing

Field as this change has been introduced, and we welcome its continued engagement in ensuring that it has no unintended consequences for any fans.

The noble Lord, Lord Faulkner, also reflected on the fact that it might be perceived that we have changed public policy in line with those spectators who are "persistent standers". Our research has now demonstrated that alternative policies may deliver the same, or improved, aim of spectator safety. With appropriate licensed infrastructure in place, at the expense of the club, spectators who wish to stand may now legally purchase a ticket to do so, and we can permit this in the knowledge that they are doing so in a safe environment. Safety should remain the prime objective, as it does in this statutory instrument.

The noble Lord, Lord Addington, asked some questions on specific numbers and the density of crowds. I should reiterate that this is not a return to terracing. The criteria for standing areas have been carefully crafted following the existing evidence and new observations from the early adopter areas. Standing areas will maintain the same density of crowd; here we are talking about allocated places assigned to ticket holders, and feedback from the police on appropriately monitoring stewarding has been reflected in the criteria more generally.

Lord Addington (LD): My Lords, I was concerned with making sure that the barriers are sturdy enough to resist any crowd surge. That surge—the movement forward—is the danger. Can the noble Lord give us a little detail of when we will find out what that testing was so we can be absolutely sure of this? Also, if, as I understand it, there will be only one row, have there been tests to make sure that that will always be kept in place?

Lord Parkinson of Whitley Bay (Con): I am grateful to the noble Lord for the clarification. If it is helpful, I will write with some technical detail, as what he is asking is probably best covered in a letter setting out some of the technical specifications.

It is perhaps an interesting point to add that UEFA, which has consistently also maintained an all-seater policy for its competitions, is now conducting its own review into the feasibility of licensed standing areas. UEFA will engage with relevant parties in the UK and other UEFA nations that routinely have standing accommodation available in its domestic competitions.

The noble Lord, Lord Bassam, asked about the consumption of alcohol in view of pitches, an issue covered by the fan-led review. I know that he looks forward to a full response on that from the Government, which will be coming in due course. I shall check whether the document that he mentioned has been deposited in the Library, and, if not, I shall ensure that it is.

In conclusion, the statutory instrument does not change the overarching approach to sports ground safety. Safety remains the primary factor in whatever type of spectator accommodation is offered; the measure that we are debating today does not draw our interest in that to a close. We must not rest on our laurels with any aspect of stadium safety, but I am confident that in the Sports Grounds Safety Authority we have an expert body that will ensure that our approach evolves and remains world-leading for many years to come.

Lord Bassam of Brighton (Lab): I am sorry to get to my feet again, but the Minister has not dealt with my points on the five-yearly review periods and the criteria for design, and so on, although I appreciate that the technical stuff may be better dealt with in correspondence. Could he reflect on those two points?

Lord Parkinson of Whitley Bay (Con): If I may, I shall add the response to the five-year review to the letter setting out the technical details on the criteria. As I say, I remain confident that in the SGSA we have a suitable authority. I know that noble Lords will remain vigilant on this important issue, as rightly they should.

5.06 pm

Lord Faulkner of Worcester (Lab): My Lords, this has been an interesting debate, and I am grateful to all noble Lords who have spoken, particularly the Minister, who has done well to address the questions that I have put to him. As a bit of a veteran on these matters—I have explained some of my past back in the 1980s and 1990s, not as a hooligan but as somebody attempting to deal with hooliganism, particularly through the medium of sports ground safety—I am very heartened that the safety of spectators and everybody who uses stadiums is paramount in the Government's thinking, as it is in the thinking of the other political parties.

I am particularly grateful for the contribution from the noble Baroness, Lady Hoey, who was Sports Minister quite a long time ago when I was deputy chair of the Football Task Force, which came up with a series of recommendations. Some of those recommendations are relevant to another debate, on which I shall engage with the Minister over the coming weeks, on football regulation. It was a matter of great regret that the football authorities on that occasion, particularly the Premier League and the Football League, resisted the wise recommendations of the taskforce on regulation. We will come back to that.

One of the central aspects of the policy discussed in this debate is the fact that the Sports Grounds Safety Authority is clearly the lead body in making sure that all our sports grounds are safe. I had the privilege of taking through a Private Member's Bill—it was a government handout Bill in the Commons—through your Lordships' House which converted the Football Licensing Authority into the SGSA. The things that it could do as a result of that were, first, to make its expertise available to other sports bodies, not just football; it has been involved with rugby, tennis, cricket and horseracing. It has also been able to sell its expertise to sports bodies overseas, if they require expert advice. I am sure that, if UEFA is looking at this matter, it would be well advised to draw on the expertise of the SGSA in drawing up its plans.

I appreciated what the Minister said about the involvement of Level Playing Field. I shall report back to it on this debate—and maybe I shall need to write to him, but he has given very good answers on that

[Lord Faulkner of Worcester]
issue. We will hold our breath and hope that this new approach, or milestone as he has described it, in dealing with ground safety and spectator amenities, can work, and that people can stay safe.

We know that demand for the change is considerable, but it is important that the freedom that comes with it is not abused and that we do not go back to the sort of terrible problems at football grounds in the 1980s and 1990s that I remember so well. I am grateful to my noble friend Lord Bassam of Brighton, the noble Lord, Lord Addington, the noble Baroness, Lady Hoey, and the Minister.

Motion agreed.

Subsidy Control (Subsidies and Schemes of Interest or Particular Interest) Regulations 2022

Considered in Grand Committee

5.11 pm

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

That the Grand Committee do consider the Subsidy Control (Subsidies and Schemes of Interest or Particular Interest) Regulations 2022.

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, these regulations were laid before the House on 20 October 2022. The Subsidy Control Act 2022 provides for a new, UK-wide subsidy control regime. The new regime will enable public authorities to give subsidies that are tailored to their local needs and that drive economic growth. It does this while minimising distortion to UK competition and investment.

Section 11 of the Act enables the Secretary of State to make secondary legislation to define subsidies and schemes of interest and of particular interest. For subsidies or schemes that meet the definition of a subsidy or scheme of interest or of particular interest, Part 4 of the Act establishes the mechanism for their referral to the Subsidy Advice Unit, the SAU, a new unit established in the CMA. Voluntary referral will apply to subsidies or schemes of interest. Subsidies or schemes of particular interest will be subject to mandatory referral.

Upon the referral of a subsidy or scheme, the SAU will evaluate the public authority's assessment of compliance with the subsidy control requirements and a report will be published with its findings. This light-touch review constitutes an additional layer of scrutiny for subsidies and schemes that have greater potential to lead to undue distortion and negative effects on competition or investment in the UK, or on international trade or investment.

During the Bill stages, the Government committed to seek further feedback on the terms of these regulations before laying them. Between March and May 2022, the Government therefore ran a full public consultation setting out their intended approach to the criteria and definitions. Respondents to this consultation expressed broad support for the proposed approach. The Government's response to the consultation was published in August 2022.

On the criteria of monetary thresholds, these regulations define subsidies and schemes of interest and of particular interest using a clear set of criteria. They are based, first, on simple and transparent monetary thresholds. Subsidies of above £10 million, or which cumulate with other related subsidies to above this threshold, are subsidies of particular interest. Subsidies between £5 million and £10 million are generally subsidies of interest. However, if they are awarded in a sensitive sector they are subsidies of particular interest.

Sensitive sectors are areas of economic activity in which there is a record of international trade policy disputes, evidence of global overcapacity within the sector or evidence that one or both of these features will apply to the sector in future. Subsidies in these sectors are subject to the lower monetary threshold of £5 million, to be defined as a subsidy of particular interest because they have a greater potential for substantial distortion, even at lower values. A list of these sensitive sectors is in the regulations.

The monetary thresholds are cumulative. As such, a subsidy of £4 million may be above the threshold for a subsidy of particular interest if the recipient has already received a related £7 million subsidy within the last three financial years. In addition, the regulations set out a minimum value for a referral of £1 million. This means that where related subsidies accumulate above the £10 million threshold for subsidies of particular interest, public authorities will have to refer the most recent subsidy only if that subsidy exceeds £1 million. This feature of the regime was included following consideration of consultation responses and will have the effect of avoiding referrals to the SAU of very small subsidies.

I now turn to the second element of the criteria: specific categories of subsidy. Subsidies designed to rescue an ailing or an insolvent enterprise are subsidies of interest, and restructuring subsidies are subsidies of particular interest. This reflects the fact that both rescue and restructuring subsidies have a greater potential to cause excessive levels of market distortion. Since rescue subsidies are time critical—given that the enterprise may require the subsidy urgently or else go out of business—the Government propose to define them as subsidies of interest and are thereby subject to only voluntary referral. Restructuring subsidies will generally not be subject to these time pressures and so it is appropriate for the SAU to review them before they are given. The final specific categories of subsidies are those that are explicitly conditional on relocation of the recipient within the UK. These subsidies are prohibited entirely unless they have a beneficial effect on economic or social disadvantage in the UK as a whole. Subsidies in this category are subsidies of interest if they are of £1 million or below and are subsidies of particular interest if they are above £1 million.

These regulations also apply to subsidy schemes. A subsidy scheme will set out parameters under which subsidies may be given under it. Under the terms of the Subsidy Control Act 2022, the assessment of compliance with the subsidy control requirements will

be carried out for the whole scheme rather than for each subsidy subsequently given under that scheme. As such, if a subsidy of particular interest can be awarded under a scheme, that scheme is a scheme of particular interest and is subject to the referral procedures. The same principle applies to schemes of interest. Any referral will occur once at scheme level. Subsidies given under schemes will never be referred to the SAU.

In conclusion, these regulations set out in clear and easily understandable terms the definitions and criteria for the categories of subsidies and schemes that will have greater potential to lead to undue distortion and negative effects on competition or investment within the UK or on international trade or investment. To ensure the effective functioning of the UK's new subsidy control regime, these subsidies and schemes will be subject to an additional layer of pragmatic scrutiny by means of voluntary and mandatory referral to the Subsidy Advice Unit. I commend these regulations to the House.

Lord Bassam of Brighton (Lab): My Lords, I am very grateful to the Minister for her careful exposition: she must have mentioned the word "subsidy" several hundreds of times in that short explanation, and no doubt I will too.

The subsidy regime proposed by the Bill allows for quicker and easier subsidies to be granted to businesses which, of course, we on our side support, not least because we think it may well assist in the push for growth in the economy. What I would like to understand from the Minister is her responses to a number of questions. It is important that the additional steps in this instrument do not undermine the overall effect. Will those additional steps be reviewed from time to time?

While the Bill itself lacks transparency and accountability in key areas, we felt that the Lords amendments improved those issues, although significant issues remain. The new subsidy control regime will identify subsidies and schemes that have greater potential to lead to undue distortion and negative effects on competition and investment within the United Kingdom or on international trade and investment.

These subsidies and schemes should be subject to more in-depth assessment by the public authority before they are given and, in some cases, they will need to be referred to the new Subsidy Advice Unit within the CMA for additional scrutiny and review of the public authority's assessment. How many referrals does the Minister expect to be made? Are the Government confident that the SAU will be adequately resourced to deal with them and will this be reviewed from time to time as well?

The Act provides for the following subsidies and schemes to be subject to additional scrutiny before they are given or made: subsidies or schemes of interest as defined in the regulations, which may be referred to the SAU by the public authority giving or making the subsidy or scheme and over which the SAU has discretion, over whether to accept the referral; and, of course, subsidies or schemes of particular interest as defined in the regulations, which must be referred to the SAU by the public authority giving or making the subsidy or scheme. In those circumstances, it seems that the SAU must accept all referrals of subsides or schemes of particular interest.

The SAU's review will scrutinise the public authority's assessment of the subsidy or scheme and publish a report, which may include non-binding recommendations of ways in which the assessment or the subsidy design itself may be improved. What criteria will the SAU be considering? Will it have particular and specific priorities? Upon acceptance of the referral, I understand that, under normal circumstances, the SAU will publish its report within 30 working days. Can the Minister explain what the process will be following publication of the report?

These regulations define which subsidies and schemes are

"subsidies and schemes of interest or particular interest".

They set out general monetary thresholds which, as the Minister has explained, will determine whether a subsidy or scheme is of interest or of particular interest. Subsidies granted outside of sensitive sectors are of particular interest if they are over £10 million. All other subsidies of between £5 million and £10 million which do not meet the SoPI criteria are SoI. At what point does that kick in? Lower monetary thresholds seem to apply to subsidies granted in sensitive sectors. Will these sectors be subject to change or review at all? These will be subsidies of particular interest if they are over £5 million. Can these subsidies be assumed to be more likely to have a distortive effect than those of equivalent value granted outside of sensitive sectors?

The consultation received some 40 responses. Respondents seem to have included a broad range of stakeholders from across the UK, including charities, academics, members of the public, business representative organisations and trade industry groups, as well as local government and other public sector organisations, which is very welcome. A clear majority of respondents expressed broad and comprehensive support for the approach set out in the document and in the accompanying regulations. From my reading, some 73% of respondents agreed with most of the proposals set out by the Government.

In general terms, we have no problem with the approach, but I hope that the Minister will be able to answer the points that we and others have made during the consultation, and that I have made during my brief comments this afternoon.

Baroness Bloomfield of Hinton Waldrist (Con): I thank the noble Lord, Lord Bassam, for his valuable contribution to this very short debate. I shall aim to respond to as many of the points that he raised as possible.

I begin by reminding the Committee of the purpose of these regulations. They set out the clear definitions and criteria for the two categories of subsidies and schemes, which have been identified as having greater potential to lead to distortive effects. These are subsidies of interest or particular interest. As regards subsidies or schemes of interest, the public authorities giving or making these will have the option of referral to the Subsidy Advice Unit established within the CMA, while

[Baroness Bloomfield of Hinton Waldrist]
those public authorities giving or making the subsidies or schemes of particular interest must refer them to the Subsidy Advice Unit.

Upon the referral of the subsidy or scheme, the Subsidy Advice Unit will evaluate the public authority's assessment of compliance with the subsidy control requirements, and a report containing the findings will be published. These regulations set out definitions and criteria based on the two elements, clear monetary thresholds and specific categories of subsidy. I am confident that they strike the correct balance between protection from undue distortive and negative effects on competition or investment within the UK, or on international trade or investment, while being administratively simple for public authorities to apply.

In response to the noble Lord, who asked about the periodic review of these regulations, the Subsidy Advice Unit in the CMA will publish its first monitoring report in 2026. We will consider any improvements that we can make to the regulations and guidance in response to that report, or whenever the evidence calls for it. That will include definitions of sensitive sectors. The SAU may then make recommendations on changes to the list to the Secretary of State.

On the number of likely referrals, earlier this year the Government published an analytical document that considered this question. Based on past experience, the thresholds would have captured 15 subsidies or schemes of particular interest, and 11 subsidies or schemes of interest. The definitions and criteria for subsidies and schemes of interest and of particular interest have been very narrowly drawn, so that they capture only a small proportion of subsidies and schemes that have a greater potential to lead to undue distortion and negative effects. For subsidies and schemes of interest that are subject to voluntary referral, the SAU has discretion over whether to accept that referral. It recently consulted on its guidance, which included the prioritisation principles that it will use to inform its decisions to ensure that it is focusing its resources most effectively.

On SAU resourcing, which the noble Lord asked about, the SAU has recruited colleagues to ensure that it can fulfil its role in the new subsidy control regime, ready for January 2023. It has established a framework for referral processes to ensure that it can meet the demands placed on it, and has published guidance to that effect. The CMA was allocated funding of £20.3 million at the spending review in 2020 to establish three new functions, the subsidy control function being one.

The noble Lord asked about sensitive sectors and how they would be evaluated. Sensitive sectors are areas of economic activity in which there is a record of international trade policy disputes, evidence of global overcapacity in the sector or evidence that one of those features could apply. Subsidies to those sectors have a greater potential for distortion, even at lower values; that is why they are subject to a lower monetary threshold. The Government define these sensitive sectors in the regulations, by reference to a list of activities identified in the standard industrial classification of economic activities published by the ONS. In brief, they include copper, aluminium and steel; the manufacture of motor vehicles, motorcycles, air and spacecraft; the building of ships and floating structures; and the production of electricity.

To conclude, these regulations are key to the effective functioning of the new UK subsidy control regime. They define the small proportion of subsidies in schemes that will have greater potential to lead to undue distortion and negative effects and should be subjected to additional scrutiny by the Subsidy Advice Unit.

Lastly, I did not answer the question about the length of the referral process. The Subsidy Advice Unit must produce its report within 30 working days after providing a notice that the referral has been correctly received. This will be followed by a cooling-off period of five working days at the end of the process, if the subsidy or scheme was subject to a mandatory referral. However, the reporting period may be extended by agreement between the SAU and the public authority or by the Secretary of State, further to a request from the SAU.

If there are any additional questions that I have not answered, I shall do so in writing to the noble Lord. In the meantime, I commend these draft regulations to the House.

Motion agreed.

Committee adjourned at 5.29 pm.