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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.

# HIS MAJESTY'S GOVERNMENT

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*§ Members of the Government listed under more than one department*

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*23 January 2023*

THE
PARLIAMENTARY DEBATES
(HANSARD)

IN THE THIRD SESSION OF THE FIFTY-EIGHTH PARLIAMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
COMMENCING ON THE SEVENTEENTH DAY OF DECEMBER IN THE
SIXTH-EIGHTH YEAR OF THE REIGN OF

HER LATE MAJESTY QUEEN ELIZABETH II

**FIFTH SERIES** **VOLUME DCCCXXVII**

SIXTH VOLUME OF SESSION 2022-23

# House of Lords

*Monday 23 January 2023*

*2.30 pm*

*Prayers—read by the Lord Bishop of Durham.*

## REUL Bill: Trade Unions and Workers' Rights

*Question*

*2.36 pm*

*Asked by* ***Lord Balfe***

To ask His Majesty's Government what discussions they have had with trade unions concerning changes to workers' rights proposed in the Retained EU Law (Revocation and Reform) Bill.

**The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con):** My Lords, the Department for Business, Energy and Industrial Strategy is responsible for labour relations and works closely with trade unions. Engagement is essential for developing and delivering our policies and, during the pandemic, helped to support jobs and keep workers safe. For example, the unions and business worked together to help to deliver a package of economic support through the job protection retention scheme, which protected millions of jobs.

**Lord Balfe (Con):** I thank my noble friend for his reply but it is not an Answer to the Question, which was whether the Government had discussed this proposed legislation with the trade union movement, 2 million of whom vote for the party on this side of the House. Does he agree that it would be a good idea to talk to the trade union movement about this? Until that has happened, would it not be a good idea for those parts of the legislation that provide for worker protection not to be revoked without further representation?

**Lord Callanan (Con):** We engage with the trade unions regularly. There have been a number of meetings in recent weeks, particularly about strike action, but the retained EU law Bill is not about workers' rights; it is about retained EU legislation and the consequences that will flow from that. However, there will be a full opportunity to debate that in the House in the near future.

**The Earl of Kinnoull (CB):** My Lords, the Explanatory Notes for the Bill when it was introduced in September last year said confidently in the overview at paragraph 16 that there were 2,400 pieces of legislation involved. The Explanatory Notes for the introduction to this House say that there are 3,200. First, I wonder whether any of the 800 bits of legislation that have turned up in the interim affect workers' rights. Secondly, how confident is the Minister that 3,200 is the final number?

**Lord Callanan (Con):** We are of course continuing to do detailed work on this matter. There will be an opportunity to debate that in full in the House in the near future, and I am sure that the noble Earl will want to make his contribution on that. We will update the dashboard shortly.

**Lord Fox (LD):** I will follow on from the question from the noble Earl, Lord Kinnoull. How many members of the Minister's team are currently out there working on this Bill? How many of them are looking for the lost legislation that seems to be appearing every day? How many members of his department are being used for that purpose rather than working on industrial strategy, which is what it is there to do?

**Lord Callanan (Con):** I do not have a precise number but there are of course a number of civil servants working on the legislation that is before Parliament and has been discussed extensively in the House of

[Lord Callanan]
Commons. Every department is engaged in looking through its EU legislation to see what is there. Obviously most of the main pieces have been identified, but sometimes there are obscure Acts and regulations that they are still discovering.

**Lord Woodley (Lab):** My Lords, unfortunately the Minister has selective amnesia, and that is very worrying. This appalling Bill places many of our precious and hard-fought-for employment rights on the chopping block to be axed at the whim of the Secretary of State and, frankly, that is shameful. The Tory manifesto promised that Brexit would allow us to raise our standards in workers' rights and not diminish them at all. Can the Minister give a cast-iron guarantee that, come 1 January, workers will keep their rights to holiday pay, TUPE protection, parental leave and of course protection for pregnant part-time workers? In fact, will he confirm that no existing employment rights will be weakened or, worse, scrapped?

**Lord Callanan (Con):** The noble Lord has a good line in hyperbole but, as normal, he is absolutely wrong. UK employment rights do not depend on EU law. I will give him some examples. UK workers are entitled to 5.6 weeks of annual leave; in the EU, it is only four weeks. We provide a year of maternity leave, with the option to convert it to parental leave; the EU minimum is just 14 weeks. Our labour standards are some of the highest in the world. We are proud of that, and it does not depend on what the EU does.

**Lord Cormack (Con):** My Lords, we placed an arbitrary date on Brexit, and we got the Northern Ireland protocol. Did we not learn the lesson that to place an arbitrary date and say that all this must be done by the end of this year is flying in the face of common sense?

**Lord Callanan (Con):** I thank my noble friend for his view on that. I am sure we will have a full debate on the proposed sunset date for regulations. I do not think the system with the Northern Ireland protocol is the same as the Bill.

**Lord Hannay of Chiswick (CB):** My Lords, does the Minister agree that, rather than the sledgehammer approach that this Bill takes, it might be more sensible if the Government simply proceeded with bits of law where they could produce better law than exists in the European Union? Could that criterion be imbedded in all the choices?

**Lord Callanan (Con):** That criterion is imbedded in all choices. The whole idea of the REUL Bill is that we can have a proper look at EU retained law, change its status, see what is appropriate for the UK and what is not, and what can be removed and improved. That is the fundamental purpose of the Bill, but I am sure we are going to have all these discussions as the legislation proceeds.

**Lord Watts (Lab):** My Lords, why are the Government so obsessed with making workers' rights worse than they are now? Will he answer the question asked by my noble friend Lord Woodley? Why will he not give a guarantee that no workers' rights will be diminished by this legislation?

**Lord Callanan (Con):** I thought I had answered the noble Lord, Lord Woodley, but let me repeat the point for the noble Lord, Lord Watts, who obviously was not listening closely. UK employment rights do not depend on the European Union. Let me give him some more examples of how our rights are better than in the EU. The right to flexible working for all employees was introduced in the UK in the early 2000s; the EU agreed such rules only recently. The UK introduced two weeks of paid paternity leave in 2003, but the EU has got around to that only recently.

**Baroness McIntosh of Pickering (Con):** My Lords, given that most of the directives and regulations within the EU retained law Bill fall within the brief of Defra, will my noble friend commit to employing more experts in this field, even on a temporary basis, who will be able to take a view as the Bill proceeds and before its implementation?

**Lord Callanan (Con):** I will leave the appropriate Ministers to commentate on what is happening in Defra. The noble Baroness is right that a lot of retained EU law belongs in Defra. I am sure Defra is looking very closely at what can be changed, modified or repealed as we speak.

**Baroness Chapman of Darlington (Lab):** My Lords, this is a dangerous way to proceed. It is very unlikely that the Government have thought through what they want to do with these 3,000 or maybe 4,000 pieces of legislation. It is also unlikely that in this House, in the three days the Government have so far suggested that we should have to consider them, we should be successful in doing our jobs as effectively as we might like. Will the Government please think again about the rash, foolhardy way they are going about rewriting important rules on workers' rights?

**Lord Callanan (Con):** I can see that we will have lots of interesting debate when this legislation arrives. The noble Baroness is wrong; we are not just considering all the regulations in the timescale she identified. If the regulations need to be updated, then each will of course come to this House for consideration, as all secondary legislation does.

**Lord Howell of Guildford (Con):** My Lords, my noble friend the Minister probably needs a touch of support on this matter. Is it not the position that, if we were to take these 3,000 to 4,000 regulations and really examine the aspects of each one, after 40 years of being members of the European Union, that would take us years and not one year? Also, do we even have the capacity as a Parliament to deal with the complexities of such an enormous range of law changes?

**Lord Callanan (Con):** My noble friend makes an important point. The concern now from the Opposition for all these regulations is touching, but of course they did not show such concern when they were introduced into UK law without any consideration in the first place.

**Baroness Wheatcroft (CB):** My Lords, has the Minister recently read or listened to the speeches of Tony Danker, the director-general of the CBI? He is very clear that his members do not want this legislation; that they find it, even as potential legislation, damaging to their markets; and that, should it go ahead, it will undoubtedly shrink the market further for British exports, which have suffered enough already.

**Lord Callanan (Con):** I have not seen the comments which the noble Baroness attributes to the director-general of the CBI, but I will certainly look at them. However, I am not sure how our repealing redundant pieces of legislation in this House affects overseas markets.

**Lord Tugendhat (Con):** My Lords, as there are different ways of encouraging growth, is it not absurd to carry out an exercise that adds uncertainty to both sides of industry and creates a barrier to initiative?

**Lord Callanan (Con):** All new legislation provides some uncertainty until it has been agreed by Parliament. I will put it another way: if there are redundant acts on the statute book and overregulation, that is good for business and industry. Of course we will consider each of those items of regulation in turn and look at them closely. We will repeal those that can be repealed and will improve and modify those that can be improved or modified.

## Afghanistan: Girls and Women

*Question*

*2.47 pm*

*Asked by* ***Baroness Gohir***

To ask His Majesty's Government what representations they have made to the Taliban concerning its commitments to allow Afghan girls to go to school and Afghan women to work.

**The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con):** My Lords, the latest announcements banning Afghan women from universities and aid work represent a further violation of the rights and freedoms of Afghan women and girls, and they have no religious or moral basis. We are working with the United Nations, NGOs and other donors to understand the impact of the bans and to ensure that lifesaving humanitarian assistance continues wherever possible. Alongside international partners, we will also continue to press the Taliban directly to lift those draconian decrees.

**Baroness Gohir (CB):** I thank the Minister for his response. While we are waiting for the Taliban to shift their stance on women's rights, what is plan B? Women are being erased from public life and are starving. My understanding is that there are some in the Taliban leadership willing to talk about women's rights. Are there plans for the Government to make an official visit to Afghanistan, to talk directly with the Taliban on women's rights? Also, are there plans to talk to the countries that have a good relationship with the Taliban, for example by convening a meeting with the various stakeholders? Ambassadors in London, particularly from Muslim-majority countries, could be brought together for a meeting. Are there plans to convene such a meeting?

**Lord Ahmad of Wimbledon (Con):** My Lords, I assure the noble Baroness that we are doing all the above. Indeed, from the time of the Taliban's takeover, we have engaged directly with neighbouring countries. We are working directly with the United Nations. In fact, earlier this morning, I met with Sima Bahous and Amina Mohammed, the Deputy Secretary-General of the UN, who had just returned from visits to Afghanistan and the near neighbourhood. I am dealing with various Muslim countries directly, including the OIC, on engagement. We are also engaging directly with the Taliban; a number of visits have been made by our chargé from Doha, and those will continue.

**Lord Collins of Highbury (Lab):** I recognise that the Minister addressed this issue in the Statement last Thursday, in which he mentioned the visit of the Deputy Secretary-General. Could he tell us a little more about her reaction to her meetings in Afghanistan and what possibility there is to pursue dialogue? He also mentioned the Organisation of Islamic Cooperation, which is critical to reaching out to other Islamic countries. Can he tell us whether he has met that organisation directly on this issue?

**Lord Ahmad of Wimbledon (Con):** On the noble Lord's second point, I have met Tariq Bakheet directly in Jeddah—"Tariq" is a good name to have on these things—and we continue to engage directly with the OIC. The Deputy Secretary-General and the director of UN Women were both there, together with the SRSG. They went to Herat, Kabul and Kandahar and met a range of Taliban Ministers. About 40% of 50% of those involved with the NGO sector, for example, are women, so they made the case very powerfully for the need for that to continue. There has been some progress; for example, we have seen women doctors and nurses returning to the health sector. However, the situation is quite dire and they left Afghanistan very clear about the picture there. As we have said before, much of the power centres on the Emir in Kandahar, and his edict seems to be final.

**Baroness Hodgson of Abinger (Con):** My Lords, widows and women who head households are now confined to their homes because they are unable to go out without a male escort. How can we ensure that aid will reach them, because people are starving there at the moment in this very cold winter?

**Lord Ahmad of Wimbledon (Con):** My Lords, first, I pay tribute to my noble friend's contribution in the field of working with Afghan women. I know that she recently met a series of Afghan women leaders, as did I. We are working with the United Nations and other agencies. There has been a pause on non-essential, non-humanitarian support, but we are also looking at workarounds. For example, in certain provinces—about 26 of the 36—there has been some movement where health workers have been allowed back. Martin Griffiths, the head of OCHA, is currently in Kabul and we will also be meeting him to establish what channels are open to us.

**Baroness Hussein-Ece (LD):** My Lords, I commend the Minister for being personally very committed and active on this issue, but can I probe him a bit further on the ban by the Taliban on women being seen by male doctors? Of course, women are being banned from education as well. The impact of that will literally be a death sentence for many women and their children, as well as elderly dependants. What is happening about women who need medical assistance and help? How is medical help reaching those women and families if they are being denied treatment by male doctors?

**Lord Ahmad of Wimbledon (Con):** My Lords, first let me tell the noble Baroness what we are doing with certain NGOs which are still operational. The concept of mahram is where a woman has to be accompanied by a male relative or near-relative. Even some of the NGOs have been working through that as a workaround while there have been restrictions, to ensure that women are seen and provided with the support that they need. The Deputy Secretary-General made another point that is particularly pertinent; I do not think we will see the Taliban retracting on the decrees, but they certainly seem open to workarounds, where I think there is some progress to be made. That said, the situation remains very dire.

**Lord Singh of Wimbledon (CB):** My Lords, the Minister said in his earlier reply that the cruel and arbitrary treatment of women and girls had no religious justification. In view of that, and knowing what the Taliban are doing with their misunderstanding of Islam, could the Minister and the Government prevail on Muslim leaders around the world to condemn this sort of behaviour in forthright terms? The silence is deafening.

**Lord Ahmad of Wimbledon (Con):** My Lords, I assure the noble Lord that we are doing exactly that. What better example could there be, perhaps, than seeing the Deputy Secretary-General of the United Nations—the second most senior person in international, multilateral organisations, herself a hijab-wearing Muslim—together with Sima Bahous, the leader of UN Women, also a Muslim, being part of the UN high-level delegation that attended? What that demonstrated to the Taliban directly was not just that they must engage women but that women must be pivotal to any society progressing. In every progressive society, irrespective of what the religion is, that is essential to ensure that society is progressive and that people prosper.

**Baroness Sugg (Con):** My Lords, the Taliban are still hunting down women who held public positions. Recently, the ex-MP Mursal Nabizada was killed. Can my noble friend the Minister tell me whether there is anything we can do to help these women—these human rights defenders—who are in such danger in the country?

**Lord Ahmad of Wimbledon (Con):** My Lords, I join my noble friend, and I am sure all of us, in expressing abhorrence at these actions, which, literally, as my noble friend said, identify individuals. First and foremost, we must protect their identity. That is why, with some of the NGOs we are supporting on the ground, particularly some of the women's charities, we are we working directly with them, but, in the detail we sometimes provide, at their behest and for their protection, we do not share those details. We are also working directly with women leaders. My noble friend Lady Hodgson and I met separately with some of the women leaders who were directly involved with the Government. I think that also provides a very important conduit to the kinds of priorities that are needed for woman representatives, be they human rights defenders or, indeed, ex-politicians within Afghanistan.

**Lord Purvis of Tweed (LD):** My Lords, the UK is one of the biggest funders of the World Bank's Afghan trust fund, which is the means by which the Taliban govern and are delivering services. What reassurance can the Minister provide that British funds are not being used directly by the Taliban for their discriminatory policies?

**Lord Ahmad of Wimbledon (Con):** My Lords, we have to be stringent in that. I agree with the noble Lord that we need to ensure that there is due diligence on the ground to ensure that that happens. I cannot guarantee that every single pound and dollar from that trust fund has not been utilised in some shape or form by the Taliban, but that funding is getting through. We are working with international partners on the ground. We can further enhance this by ensuring that the partners we are working with also have their verification processes. This is a strange conundrum: providing humanitarian support, health support and educational support is vital. Why should the people—the woman and girls of Afghanistan—suffer? We need to work through the barriers that the Taliban are putting in front of us.

**Lord Johnson of Marylebone (Con):** My Lords, my noble friend the Minister mentioned that the Taliban might be open to workarounds—

**Baroness D'Souza (CB):** I thank the noble Lord. First, is the Taliban group that undertook negotiations in Doha still intact, does it still have any power, and are the Government in touch with it? Secondly, would the Minister say whether the FCDO is prepared to increase the number and amount of cash transfers to those most in need, given through the various NGOs, local and otherwise?

**Lord Ahmad of Wimbledon (Con):** My Lords, on the noble Baroness's second point, I also reflect on the contribution of the noble Lord, Lord Purvis. We must ensure that any money or support we provide, particularly when it comes to cash transfers, gets through to the people who need it. The systems and structures in Afghanistan at the moment are extremely fragile. We must look at innovative ways to ensure that we can get over some of these barriers. Technology provides an example, and perhaps that pre-empts the question of my noble friend Lord Johnson, who was going to come in. We need to look at innovative way of delivering both cash transfers and education as well. I think that may well be the way forward.

## Levelling Up: Funding Allocation
*Question*

*2.57 pm*

*Asked by* ***Lord Liddle***

To ask His Majesty's Government what progress they have made with the allocation of Levelling Up funding.

**Lord Liddle (Lab):** My Lords, I beg leave to ask the Question standing in my name on the Order Paper, and I declare my interest as a member of Cumbria County Council.

**The Parliamentary Under-Secretary of State, Department for Levelling Up, Housing & Communities (Baroness Scott of Bybrook) (Con):** My Lords, levelling up is one of the driving missions of this Government. We are delighted to announce the outcome of the second round of the levelling up fund, which has seen £2.1 billion award to 111 bids that we know will stimulate growth and benefit communities across the United Kingdom. This builds on the success of the first round, which saw £1.7 billion award to 105 successful projects across the UK, to drive regeneration and growth in areas that have been overlooked and unappreciated for too long,

**Lord Liddle (Lab):** I thank the Minister for her reply. I think many of us on this side of the House were delighted that the Government were making levelling up a priority to deal with the growing regional inequalities in our country. However, the Prime Minister made no reference to levelling up as one of his priorities in his new year speech. The announcement last week was slipped out without any Statement in the House of Commons, as though it was slipped out in shame. The grants awarded appear to have no coherence or consistency and owe much to political jobbery. Do the Government still believe in levelling up? If they do, what on earth do they mean by it?

**Baroness Scott of Bybrook (Con):** My Lords, we absolutely still agree with the whole project of levelling up. I just need to say that, of all the bids, the north-west—this will please the noble Lord opposite—had the highest number of successful projects and was second in funding per capita; Wales was top and the north-east was third. I suggest that that is putting the money where it is required.

**Lord Young of Cookham (Con):** My Lords, I quite understand why the Government wanted to kick-start the levelling-up policy with these centrally allocated grants, but looking ahead, and given the commitment in the levelling-up White Paper to usher in a revolution in local democracy, should not these funds in future be added to the block grant given to the increasingly large local authorities set up under the Bill and then local people could decide what their priorities are, with local councillors accountable to their local electorate?

**Baroness Scott of Bybrook (Con):** My Lords, competitive funding can be a very effective tool for protecting value for taxpayers' money. Competitions such as the levelling-up fund can also support fair and transparent awards of funds and drive innovation, but I understand my noble friend's concerns and the Government have committed, within the levelling-up White Paper, to reducing the complexities of local government funding.

**Baroness Pinnock (LD):** The Minister has just said that competitive funding is an effective way of accessing this funding pot. There were 525 bids in this latest round; only 111 were successful; that means 80% were not successful. Each bid is estimated to cost £30,000 to make; that is £12 million of hard-pressed council funding basically wasted on bids. Can the Minister not find a more effective way, such as devolving the money to local authorities, so that this money is not wasted when it is desperately needed?

**Baroness Scott of Bybrook (Con):** My Lords, this is capital funding. There were 111 successful bids this time; before, there were 105 successful bids; and there will be a third round. If we added all this money and gave it to local authorities, I do not think there would be enough for the large infrastructure projects—projects that people are very happy to be delivering and projects that local authorities have put forward because they are important to their people. I think this is the way to do it.

**Lord Morgan (Lab):** My Lords, is the problem here not so much a social one as a constitutional one? Is it not, in fact, an abuse of the power of prerogative that Governments should hand out money in this party-political way, a way that is not transparent?

**Baroness Scott of Bybrook (Con):** My Lords, we give this money out in a very transparent way: it can all be seen on GOV.UK, and 45% of all funding from the first two rounds was given to local authorities run by the Opposition parties. I would have thought that was quite fair.

**The Lord Bishop of Durham:** My Lords, I welcome the new devolution deal that has been done for the north-east and look forward to the appointment of an elected mayor for the region. If this devolution deal goes ahead, which I trust it will, can His Majesty's Government clarify what proportion of the estimated £4.2 billion of investment into the region will be truly new money that the local new mayor can allocate out?

**Baroness Scott of Bybrook (Con):** I thank the right reverend Prelate for that question and I will have to give him a written answer: I do not have that information on the north-east devolution deal.

**Lord Lexden (Con):** What are the implications for Northern Ireland? Is it receiving its fair and proper share of the funding? Will it be spent in Belfast and throughout the Province for the benefit of all sections of the community?

**Baroness Scott of Bybrook (Con):** My Lords, a very fair amount of money went out to all the devolved authorities across the country and it will be up to the local authorities that put in a bid as to how that money is spent, according to the projects that they bid for.

**Baroness Hayman of Ullock (Lab):** My Lords, local authorities have recently complained about the Government's proliferation of competitive funding pots creating a system beset by fragmentation, inefficiency and complexity. Does the Minister really think that the best way to do levelling up is to force struggling councils to constantly compete just to get the investment they desperately need?

**Baroness Scott of Bybrook (Con):** My Lords, we do not know of a better method for capital funding. There is not just the levelling-up fund but a suite of funding going out to local authorities for capital projects, including the towns funds, the community ownership funds, the freeports and the UK shared prosperity fund, which is given out in terms of percentages.

**Baroness Armstrong of Hill Top (Lab):** My Lords, many people see child poverty as the measure of where levelling-up funding should be targeted. Why then in the north-east did no authority north of the Tees get anything? What do authorities such as County Durham have to do to be recognised by the Government?

**Baroness Scott of Bybrook (Con):** My Lords, the north-east got the third-highest level of funding per head of capital across the country. It is up to local authorities to bid for their priorities; I am sorry if they did not get them, but if they did not bid for them then I hope they will do so in the third round.

**Lord McLoughlin (Con):** My Lords, the very fact that so many local authorities tried to bid for levelling-up funding shows that there is an appetite in the country for it and for these projects. Will His Majesty's Government ensure that the successful schemes are shovel-ready and that we will see them delivered in a timely manner?

**Baroness Scott of Bybrook (Con):** My noble friend is absolutely right. That is one of the issues that the Government will have looked at. We wanted projects that were ready to go so that services and infrastructure would be delivered for people as soon as possible.

**Baroness Bennett of Manor Castle (GP):** My Lords—

**Lord Shipley (LD):** My Lords—

**Lord Wigley (PC):** My Lords—

**Lord Grocott (Lab):** My Lords—

**Baroness Williams of Trafford (Con):** My Lords, it is the turn of the Green Party.

**Baroness Bennett of Manor Castle (GP):** I will follow on from the number of questions about the methodology for levelling up. This funding is allocated according to criteria set by the Government and is judged by government Ministers in Westminster. Is this what they call devolution?

**Baroness Scott of Bybrook (Con):** My Lords, the devolution part of it is that local authorities have the money to put forward their specific issues for which they need funding. It is not necessarily Ministers; they are tested against criteria that have been set up, and those that come highest up against the criteria will get the funding.

## Rape: Operation Soteria

*Question*

*3.07 pm*

*Asked by* ***Baroness Chakrabarti***

To ask His Majesty's Government what are the most recent rape (1) reporting, (2) prosecution, and (3) conviction, rates in England and Wales; and how many forces have rolled out Operation Soteria.

**The Parliamentary Under-Secretary of State, Home Office (Lord Sharpe of Epsom) (Con):** My Lords, the most recent statistics show that 70,600 rape incidents were recorded by the police in the year to June 2022; there were 2,326 prosecutions for rape and 1,019 convictions. Nineteen police forces and nine CPS areas are participating in Operation Soteria and informing the development of new national operating models for the investigation and prosecution of rape. These models will be available to all forces and CPS areas from June 2023.

**Baroness Chakrabarti (Lab):** I am grateful to the Minister for that Answer, but recent Home Office research, including under Soteria, revealed a dismal picture of police attitudes towards rape complainants and whether they are at fault for the crimes committed against them. British women are reeling from Couzens and Carrick. Is it not time that the Government took this problem out of the long grass and legislated for police vetting, training and disciplinary reform?

**Lord Sharpe of Epsom (Con):** My Lords, I spoke from the Dispatch Box last week on the review into dismissal processes. We talked a lot then about vetting and the various changes that have been made to both the vetting processes and the vetting verification processes, which are being advanced. Operation Soteria pioneered a new model which will effectively put the needs of victims above those of suspects. The initial evidence is that it is working. Avon and Somerset Police was one of the pioneering forces; it has reported an increase in its adult rape charge rate from 3% to over 10%. I do not think that is good news but it is progress.

**Lord Lexden (Con):** Does all this not underline the need for urgency in sorting out the deep-seated problems which are constantly coming back from the Metropolitan Police? My noble friend referred last week, and has mentioned again today, to a review lasting four months, I think it is. We need changes now. Home Office officials should have been working towards a conclusion—a conclusion that we should reach before the lapse of four months.

**Lord Sharpe of Epsom (Con):** I thank my noble friend for that. As I explained from the Dispatch Box last week, the Home Office believes it is necessary to obtain evidence and make sure this is an evidence-based review in order to deliver the correct outcome for those police forces. As regards the Met, I attended a speech given by the Met Commissioner last week. He indicated the change in the Met's thinking towards serious sexual offences, saying:

"we are targeting men who prey on women and children. The figures are far from where we would like them to be but the number of rapists we bring to justice is increasing."

He went on to expand on some innovative use of data and technology which is helping him. I think the Met is making serious progress.

**Lord Paddick (LD):** My Lords, does the Minister not agree with me and Professor Betsy Stanko, who carried out a review of rape investigation in the Metropolitan Police, that victim satisfaction is the most important measure for judging police performance against rape? Is it being measured?

**Lord Sharpe of Epsom (Con):** My Lords, I can only go back to quoting the statistics that I just gave to the noble Lord. I have not heard of the professor who the noble Lord refers to. As I said earlier, the pioneering police forces in Operation Soteria are reporting an improvement in these cases, though I think it is probably a little too early to tell. I of course agree that the victims should be paramount in this.

**Baroness Jones of Moulsecoomb (GP):** My Lords, Operation Soteria sounds fantastic and I support all of its aims, but the fact is that there is a long way to go, is there not, particularly within police forces? For example, in the year up to last April, nine in 10 formal allegations against Greater Manchester officers resulted in no misconduct action. That is a huge gap in culpability and responsibility. Are the police getting more funding for this?

**Lord Sharpe of Epsom (Con):** My Lords, we have put a lot of funding into the police, as the noble Baroness will know. The Ministry of Justice has allocated significant funds towards victims' groups, and so on and so forth. In the year ending June 2022—and this comes off the back of the last rape review—the police recorded an increase in rape offences of about 20% compared to March 2020. Eighteen months into implementing the rape review action plan, we have seen some improvements: the number of adult rape cases referred by the police to the CPS was up 96%; the volume of adult rape cases charged by the CPS was up about two-thirds; and the number of adult rape cases reaching court was up 91%. Progress is being made—not quick enough, I agree.

**Lord Ponsonby of Shulbrede (Lab):** My Lords, for the Minister's information, Professor Betsy Stanko wrote the Operation Soteria report. One of the things she recommended in that report was the improvement of data quality. It may sound mundane, but it is at the heart of improving police force quality and the response to sex and rape allegations. One of the central points she made was that the data was unevenly recorded across the country. Does the Minister agree that this should be seen as a priority to try to do better for victims, who are not getting the justice they deserve?

**Lord Sharpe of Epsom (Con):** I agree with the noble Lord and thank him for the clarification—the professor predated me, obviously. Operation Soteria is bringing together all aspects of policing and CPS work with regards to rape cases. It is elevating the status of the victims above those of the suspects, which I would argue is long overdue. As part of that, and in order to validate the work of the operation, it is clear that data collection has to be uniform across the country. It will be available to be rolled out in June, as I say, across all police forces, but it is showing signs of improvement.

**Baroness Burt of Solihull (LD):** My Lords, Operation Soteria is described as having exposed the underbelly of policing, which, as we know from the David Carrick statement only last week, is not a pretty sight. I welcome the Minister's comments about the national rollout. I also endorse what the noble Baroness, Lady Chakrabarti, said about proper policing and vetting. In addition to that, would the Government please consider discipline reviews, taking the legal process out of it and restoring discipline back to police chiefs themselves?

**Lord Sharpe of Epsom (Con):** As the noble Baroness will be aware, that is part of the terms of reference of the review into dismissals that was announced last week, as I talked about at the Dispatch Box. It will deliver its results in four months. I have to tell the noble Baroness to wait until then.

**Baroness Blower (Lab):** My Lords, following on from a question that several noble Lords have asked, could the Minister give us further assurance in this House about the importance of victims' voices being heard, and that they are heard to be satisfied with what is being done by the police force investigating the crimes against them? If there is an issue with the quality of data, can he advise the House that, when we are looking at that, we will look at what the victims are saying?

**Lord Sharpe of Epsom (Con):** Absolutely—I can give that assurance. I am also going to go on to one of the reasons why it was a little difficult in the past to prosecute some of these cases; it was to do with the attrition of victims from the process. In the year ending June 2022, 62% of adult rape offences ended up not being supported for further police action because the victim withdrew. There were a number of complicated reasons for that but, obviously, it is necessary to collect the data which supports that.

**Lord Pannick (CB):** My Lords, Professor Betsy Stanko's report on Operation Soteria, which was published on GOV.UK last month, had two other key findings in addition to those mentioned by the noble Lord, Lord Ponsonby. She found that investigators and other police staff lack sufficient specialist knowledge about rape and other sexual offending. She also found that disproportionate effort has been put into testing the credibility of the victim, and that there is a need to

[Lord Pannick]
rebalance investigations to include a more thorough investigation of the suspect's behaviour. Can we see action on both of those points?

**Lord Sharpe of Epsom (Con):** Action is being taken on both of those things. The noble Lord is completely right about specialist knowledge, and this finding is now being applied in South Wales Police and the Met, two of the pioneering forces in Operation Soteria. Structural changes have been introduced in Durham, another of the pioneering forces. That has improved shift patterns, supervisor ratios and so on, which will enhance officer and organisational capability.

**Lord Bach (Lab):** My Lords, one reason why so many victims pull out of proceedings is the backlog in cases being heard. Could the Minister talk to his colleagues in the Ministry of Justice and point out to them again that the danger of these backlogs and the damage they do go right back to why the figures on rape are so poor?

**Lord Sharpe of Epsom (Con):** I will happily do that.

## Children Seeking Asylum: Safeguarding

*Private Notice Question*

*3.18 pm*

*Asked by* ***Lord Scriven***

To ask His Majesty's Government what action they are taking to safeguard unaccompanied children seeking asylum, and prevent them going missing from hotels.

**Lord Scriven (LD):** My Lords, I beg leave to ask a Question of which I have given private notice, and in so doing point out my interest as a vice-president of the Local Government Association.

**The Parliamentary Under-Secretary of State, Home Office (Lord Murray of Blidworth) (Con):** The rise in small boat crossings has meant that we have had temporarily to accommodate children in hotels while local authority accommodation is found. When a child goes missing, a multiagency missing persons protocol is mobilised. Many of those who have gone missing are subsequently traced and located. We must end the use of hotels, and as such we are providing local authorities with children's services the sum of £15,000 for every eligible young person they take into their care from a UASC—that is, an unaccompanied asylum-seeking child—hotel by the end of February 2023.

**Lord Scriven (LD):** My Lords, I thank the Minister for that Answer. As the chief constable of Great Manchester Police has said, these vulnerable young people are going missing after they have been snatched by those involved in drug crime and child sex trafficking. Experts indicate that the present system is not working as well as it should and suggest one major change that the Home Office could implement. That is that the Home Office becomes the corporate parent of those young people until such time as the local authority has completed the assessment and arrangements have been made. Will the Home Office look into that and implement it?

**Lord Murray of Blidworth (Con):** There are many reasons why children go missing from care generally. This is true also of unaccompanied asylum-seeking children. We are not in a position—and it would be wrong—to make generalisations regarding the reason for their going missing. I will take back to the department the suggestion that the Home Office could become a corporate parent.

**Lord Trefgarne (Con):** My Lords, what is the minimum age at which an unaccompanied minor can apply for asylum?

**Lord Murray of Blidworth (Con):** There is no minimum age for application for asylum.

**Lord Alton of Liverpool (CB):** My Lords, is it not deplorable that over an 18-month period, some 600 unaccompanied children have disappeared from this hotel and some 79 are still missing? What can the noble Lord tell us about the fate and the plight of those missing children? What were their countries of origin? What safeguarding is now in place at that hotel? Most importantly of all, the noble Lord has said the use of such hotels will be phased out, so how long will that take?

**Lord Murray of Blidworth (Con):** I thank the noble Lord for his question. Clearly, the statistics he cited are not entirely correct. Let me put on record what they are. The Department for Education collects data annually on the number of looked-after children in England, as well as missing, unaccompanied asylum-seeking children. The Home Office has no power to detain unaccompanied asylum-seeking children in those hotels, and we know that some of them go missing. Many of those who have gone missing are subsequently traced and located, as I have already said. The numbers are as follows. Over 4,600 children have been accommodated in hotels since they were opened in July 2021. Of the 440 missing episodes—the term "episode" is used, as some children go missing and are then located but subsequently go missing again—all have been male save for four who have been female. Two hundred of the children remain missing, and only one of them is female; 88% are Albanian nationals and 13 are under the age of 16. The average length of stay in hotels for UASCs is 18.23 days. I am afraid I cannot give an exact answer to the second part of the noble Lord's question, on how long it will be until we can phase out the use of hotels. Our hope is to phase them out as soon as we can.

**Baroness Armstrong of Hill Top (Lab):** The people I have spoken to who have been to visit the hotels have come away very anxious about the lack of knowledge or ability of anyone around or outside the hotel in safeguarding; and, as the Minister has just said, they cannot detain children. They know that predators are around, and we know that predators are one step ahead in terms of trafficking and indeed child sex abuse of most of the organisations that are around to safeguard. This is a huge issue. It is a shaming issue,

and I hope the Government take it very seriously and work very hard to make sure that trafficking, as we now know it, is not being fuelled by the policy around children unaccompanied in hotels.

**Lord Murray of Blidworth (Con):** I can assure the noble Baroness that the Home Office takes very seriously the safeguarding of the young people who are in the hotels. Their safety and well-being are our primary concern. As I have already said, we have no power to detain them; however, children's movements in and out hotels are monitored and recorded. They are also accompanied by support workers when attending organised activities and social excursions off site, or where specific vulnerabilities are identified.

When a young person goes missing, the missing persons protocol is followed, led by our directly engaged social workers. We have a protocol called "missing after reasonable steps", which enables children's homes and supported accommodation placements to have more ownership over the missing episodes of children in their care. It is a set of forms that helps with safeguarding, planning and prevention prior to a child being reported missing; it also encourages lines of inquiry, as is expected of a person with responsibility for that child. When used correctly, similar protocols in police forces have safely reduced the number of missing episodes from placements by 36%.

**Lord Touhig (Lab):** My Lords, as I speak at this minute, thousands of unaccompanied asylum-seeking children across Europe are suffering. They are being abused and trafficked. They are self-harming; indeed, as a report from the Council of Europe, which I took part in, showed, a number have taken their own lives. These refugee children not only need our protection; they are entitled to it. Can the Minister say whether he agrees with that and whether this issue will be at the core of the Government's approach to looking after them?

**Lord Murray of Blidworth (Con):** I can assure the noble Lord that, as I have already said, the safeguarding and welfare of these children are among the department's top priorities.

**Lord Lexden (Con):** How frequently are checks made on the hotels, and by whom?

**Lord Murray of Blidworth (Con):** As I hope I have made clear, responsibility for the inspection of the hotels rests with the borders inspectorate. The hotels have been inspected in the past year. It is appreciated that hotel accommodation is a temporary means of accommodating children. As I hope I have made clear, we try to make those stays as short as possible and ensure that the accommodation is of the highest quality possible.

**The Lord Bishop of Durham:** My Lords, I thank the Minister for the care with which he is responding today; it is appreciated. Can he say how well qualified the social workers and others are to support unaccompanied asylum-seeking children, because there are particular issues around them? Would it not be better if we had a system of placing an advocate for each child, who could help them through the system, as soon as they arrive?

**Lord Murray of Blidworth (Con):** Clearly, the move into hotels is as swift as we can make it once the unaccompanied asylum-seeking child comes to the attention of the authorities. The hotels have staff consisting of team leaders and social workers, all of whom are fully trained and able to work with the young people. All the children receive a welfare interview, which includes questions designed to identify any potential indicators of trafficking or safeguarding issues. I assure the right reverend Prelate that the steps are taken seriously among the staff of the hotels to assist the children in so far as they can.

**Baroness Hamwee (LD):** My Lords—

**Lord Austin of Dudley (Non-Afl):** My Lords—

**Baroness Williams of Trafford (Con):** My Lords, I think it is the turn of the Liberal Democrat Benches, then we will be delighted to hear from the noble Lord.

**Baroness Hamwee (LD):** I thank the noble Baroness. I hope that the Minister will be confirmed in his pursuing of my noble friend's point about corporate parenting by the chorus of approval that the suggestion received. Sadly, children going missing from care is not a new issue, as the Minister said. What is being learned from the two situations? What information and experience are being swapped, including on identifying the fact that traffickers, criminals and other dodgy people are hanging around outside different establishments hoping to catch a hold of their victims, as I shall call them as well as children?

**Lord Murray of Blidworth (Con):** I thank the noble Baroness for her question. An important feature of the hotel accommodation specifically provided for UASCs is the security for each hotel facility. Clearly, that security then matches the layout of each hotel and, as I say, residents are asked to sign in and out. Any suspicious activity identified by the security contractors is reported to the police and should be investigated by them if they think that there are grounds to do so.

**Lord Austin of Dudley (Non-Afl):** My Lords, the Minister has just told us that, on his own figures, hundreds of children have gone missing. Has he asked his officials what investigations that department has made to find out where they have gone, who they are with and what risks they face?

**Lord Murray of Blidworth (Con):** I hope that, as I have already set out, as with children's homes more generally, when there is a missing person episode, the missing person protocol is followed, which involves investigation by the police. The Home Office is obviously not in a position to replace the police in that investigatory task and, accordingly, that is how the children are identified when they can be.

**Lord Coaker (Lab):** We are all horrified by what we have heard and read about these cases of children going missing—I will say "kidnapped"—from some of these homes. Is it true that the Home Office were warned months ago about these problems? Is it true that the Home Office ignored those warnings and failed to act? If so, that is a failure of the state to act as a parent. With Home Office sources denying that these children have been kidnapped, can the Minister at least confirm that the department accepts legal responsibility for their safety now, even if it did not in the past?

**Lord Murray of Blidworth (Con):** Certainly, the department does not know of any cases of kidnap. The reports in the media over the weekend are of course the subject of investigation within the Home Office but, at the moment, nothing like that has been reported to us to my knowledge.

**Baroness Butler-Sloss (CB):** My Lords, as a matter of law, the children are in the care of the local authority of the particular hotel, so I am not sure about corporate parenthood. It may be a very important situation, but I suspect that it is not a legal situation. What is perhaps more important is the Government giving additional money to the local authorities where these hotels are to get foster parents and homes for the children so that they do not stay in hotels.

**Lord Murray of Blidworth (Con):** I entirely agree with the legal analysis by the noble and learned Baroness. As I hope I made clear in my earlier Answer, further money is provided—I mentioned £15,000—to each local authority in relation to the unaccompanied asylum-seeking child.

**Baroness Fox of Buckley (Non-Afl):** My Lords, I have listened carefully to the answers given. Having read the lurid headlines and newspaper reports, I was under the impression that people trafficking of these young people was a given. It is possible that I am confused, so can the Minister clarify that there is no evidence of what has happened or why these children have gone missing? If there is no evidence, is it not attendant on all of us in this place not to allege what we do not know to be true as though it were fact?

**Lord Murray of Blidworth (Con):** The noble Baroness is very perceptive. Unfortunately, there is a temptation to adopt the most lurid interpretation but, as I said a moment ago, there are many reasons why children go missing. There is no basis on which to make generalisations as to those reasons.

## Neonatal Care (Leave and Pay) Bill

*First Reading*

*3.34 pm*

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

## Employment (Allocation of Tips) Bill

*First Reading*

*3.34 pm*

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

## Pensions Dashboard (Prohibition of Indemnification) Bill

*First Reading*

*3.34 pm*

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

## Shark Fins Bill

*First Reading*

*3.35 pm*

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

## Government of Wales (Devolved Powers) Bill [HL]

*Order of Commitment*

*3.35 pm*

*Moved by* ***Lord Wigley***

That the order of commitment be discharged.

**Lord Wigley (PC):** My Lords, I understand that no amendments have been set down to this Bill and that no noble Lord has indicated a wish to move a manuscript amendment or to speak in Committee. Unless, therefore, any noble Lord objects, I beg to move that the order of commitment be discharged.

*Motion agreed.*

## Electric Vehicle Battery Production

*Commons Urgent Question*

*The following Answer to an Urgent Question was given in the House of Commons on Wednesday 18 January.*

"Britishvolt entering into administration is a regrettable situation, and our thoughts are with the company's employees and their families at this time. The Government are entirely committed to the future of the automotive industry and promoting EV capability. As part of our efforts to see British companies succeed in the industry, we offered significant support to Britishvolt through the automotive transformation fund on the condition that key milestones, including private sector investment commitments, were met. Unfortunately, the company was unable to meet these conditions and as a result no ATF funds were paid out. Throughout the process, we have always remained hopeful that Britishvolt would find a suitable investor and we are disappointed that this has not been possible. We want to ensure the best outcome for the site, and we will work closely with the local authority and potential investors to achieve this.

The automotive industry is a vital part of the UK economy, and it is integral to delivering on levelling up, net zero and advancing global Britain. We will continue to take steps to champion the UK as the best location in the world for automotive manufacturing as we transition to electric and zero-emission vehicles.

Despite what the party opposite may claim, we are not giving up on the automotive industry: on the contrary, our ambition to scale up the electric vehicle industry on our shores is greater than ever. We are leveraging investment from industry by providing government support for new plants and upgrades to ensure that the UK automotive industry thrives into the future. Companies continue to show confidence in the UK, announcing major investments across the country including: £1 billion from Nissan and Envision to create an EV manufacturing hub in Sunderland; £100 million from Stellantis for its site in Ellesmere Port; and £380 million from Ford to make Halewood its first EV components site in Europe. And we will continue to work through our automotive transformation fund to build a globally competitive electric vehicle supply chain in the UK, boosting home-grown EV battery production, levelling up and advancing towards a greener future."

*3.37 pm*

**Lord Lennie (Lab):** My Lords, 12 months ago, £100 million was made available by the Government to Britishvolt to help unlock the necessary private finance and the company's future. Ministers were falling over themselves boasting about how they were supporting 3,000 highly skilled direct jobs and a further 5,000 jobs in the supply chain in the north-east of England. But the money never materialised, and we all now know the consequences. Does this signal the end of the Government's green industrial revolution, at the expense of these jobs and the key role they would have played in the electric vehicle industry and the wider decarbonisation of the UK's economy?

**The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con):** No, is the short answer to the noble Lord's question. Of course, before we make any government money available, we do the appropriate due diligence. As a result of this work, the funding was designed so that agreed milestones had to be achieved for the company to draw down substantial amounts of taxpayers' funds. In the event, it was not able to meet those milestones, so the money was not handed over. I am sure the Opposition would like us to be careful with public money. If the alternative had happened and we had handed over the funds and the company had still gone into administration, I am sure the noble Lord would have been on his feet demanding an inquiry into why we had been so careless with public funds.

**Lord Naseby (Con):** My Lords, given that, as I am sure my noble friend agrees, gigafactories are a vital part of our industrial infrastructure going forward, is there not a case for publicly stating that they must be home grown and for calling together successful UK companies such as Rolls-Royce and BP, and entrepreneurs such as Sir James Dyson, to try to find a structure that will take this forward? Unless something like that happens, is it not a fact that it will result in imports from China?

**Lord Callanan (Con):** The Government stand willing to talk to any manufacturers that want to establish such facilities. There have already been a number of excellent investments in the UK, supported by the automotive transformation fund. The site in Cambois that was going to be developed by Britishvolt remains available. Subject to the decisions of the administrators and the local authority, we very much hope that a project can be taken forward there.

**Baroness Randerson (LD):** My Lords, the collapse of Britishvolt is a symbol of the Government's failure to create an industrial strategy to fill the void left by Brexit. It is about much more than the loss of one potential factory, because it threatens the future of the UK car-manufacturing industry as a whole. The SMMT and the Advanced Propulsion Centre estimate that we need 90 to 100 gigawatt capacity by 2030 to supply the electric vehicle industry. Current capacity is 2 to 2.5 gigawatts, so rapid expansion is urgently needed. There is a forest of gigafactory projects throughout Europe. Why does the Minister think those Governments have succeeded, while our Government have failed to create the industry needed? What discussions have the Government had in recent weeks with UK-based vehicle manufacturers, which are seriously concerned about the current void?

**Lord Callanan (Con):** We have constant discussions with UK motor manufacturers and of course, we are always available for further discussions with companies that want to bring forward projects. The noble Baroness, as usual, is completely wrong. Already there have been substantial investments in this country. On 1 July 2021, Nissan and Envision announced a £1 billion investment to create a north-east EV hub. The site will produce a projected 100,000 battery-electric cars each year. Ford has committed a total of £380 million to make Halewood its first EV component site in Europe. Pensana received an in-principle offer of government support for its £145 million factory near Hull to make metal for magnets. So, this investment is coming. Of course, it was disappointing that the Britishvolt project was not successful, but the site remains an excellent one for this investment. Subject to discussions with the local authority and the administrators, we hope it can be taken forward.

**Lord Liddle (Lab):** My Lords, what does the Minister anticipate the future of Jaguar Land Rover to be if there is no battery factory to supply it in the UK?

**Lord Callanan (Con):** Jaguar Land Rover has an exciting future. It is an excellent company, providing brilliant vehicles that are exported all over the world. I am sure that it wants to make sure that its supply chain is appropriately robust.

**Lord Walney (CB):** What would the Government do differently in future? What have they learned as a result of this failure—or is the Minister's position genuinely that it is just one of those things, and these things happen?

**Lord Callanan (Con):** I think we acted appropriately. We agreed a grants award with this company, and we very much hoped that that project could be taken forward. It was a substantial amount of grant aid, but appropriate due diligence was done. The company produced a business plan and we set out an agreed series of milestones that it needed to meet, including securing the necessary private investment, before the public funds could be released. Unfortunately, it did not manage to achieve that. As I said in response to the noble Lord, Lord Lennie, noble Lords would have criticised me if we had released the funds and the company had then gone into administration.

**Lord Forsyth of Drumlean (Con):** Jaguar Land Rover and Mini are iconic examples of British culture and manufacturing. How can the Minister be satisfied with new Jaguar Land Rovers only being supplied with one key because the company does not have chips, and with electric Minis being made in China? Surely this cannot be right, and the Government need to get a grip on this.

**Lord Callanan (Con):** I know that my noble friend has personal experience of problems with his keys, and I hope they are resolved. That is not intended as an obscure comment—his is a genuine complaint, and I know it will be resolved. Of course, it is always regrettable if manufacturing is outsourced overseas, but the UK car industry has been successful in the past, and we have one of the biggest car industries in Europe. A massive programme of transformation is required in the industry as we move towards more electric vehicles, but I am sure that the industry will rise to the challenge.

**Lord Fox (LD):** My Lords, the Minister, given his intimate knowledge of the trade and co-operation agreement, will know that there is an important clause relevant to this. In 2024, the rules of origin for electric vehicles change, increasing the need for local content. Because batteries make up so much of electric cars, we cannot achieve that local content without batteries being built in this country. Will the Minister tell the House whether his department speaking to the other relevant departments in government to reopen this negotiation? Is it this Government's intention to push back the commencement date of this clause, because without doing so, we have a really serious problem here?

**Lord Callanan (Con):** Like the noble Lord, I am familiar with the rules of origin provisions of the TCA. There was a lot of debate about this at the time, and we continue to keep an eye on it. Of course, there are discussions across government. One of the reasons for setting up the automotive transformation fund was to attempt to get more of these gigafactories into the UK, and we stand ready to talk to any other prospective investors to do that.

**Lord Sikka (Lab):** My Lords, since 2016, UK car production has nearly halved. Honda has closed its factory in Swindon and BMW is moving production of its electric Mini from Oxford to China. We really need to make sure that we have good infrastructure, especially when it comes to electric batteries. With that in mind, would the Government consider bringing Britishvolt into public ownership? That is the only way to make sure we have a viable local player.

**Lord Callanan (Con):** I note the noble Lord's nostalgia for the great, successful British industries of the 1970s under public ownership, but I do not think that is a viable suggestion. Government has proved that it is not good at running businesses and industry—we should leave that to the private sector, with appropriate government support where required.

**The Lord Bishop of Durham:** My Lords, the Minister loves the north-east, just like I do, and has noted that this is an extremely suitable site. Is not part of the problem that the return on investment is a very long way forward, so will the Government consider upping the amount they are willing to commit upfront to enable production on this site?

**Lord Callanan (Con):** The amount of money on offer here was very considerable. I am not going to get into details of commercial negotiations but as I said, we stand ready to talk to any potential investor in that site or any others. The right reverend Prelate is right that this is one of the best sites in Europe for such a facility: it has the right shape, connections and location. We are optimistic it will be taken forward, but as the right reverend Prelate will understand, I am not going to get into commercial negotiations at this point.

## Trade (Australia and New Zealand) Bill

*Committee*

*3.47 pm*

*Relevant document: 11th report from the Constitution Committee*

### *Clause 1: Power to implement government procurement Chapters*

*Amendment 1*

*Moved by* ***Lord Lennie***

**1:** Clause 1, page 1, line 10, leave out subsections (2) and (3)

Member's explanatory statement

This amendment prevents regulations being made in relation to cases falling outside the scope of procurement Chapters of the FTAs.

**Lord Lennie (Lab):** My Lords, Amendment 1 would prevent regulations being made in relation to cases falling outside the scope of the procurement chapters of the free trade agreements. The noble Lord, Lord Purvis, will speak to Amendments 6 and 19 in this group.

Amendment 1 would remove subsections (2) and (3) from Clause 1. Clause 1 provides a power for appropriate authorities to make regulations for two purposes. Subsection 1(a) allows an appropriate authority to make regulations for the purpose of implementing the government procurement chapters in the FTAs. Subsection 1(b) allows an appropriate authority to make regulations for the purposes of making other changes for matters arising out of, or related to, the government procurement chapters in the FTAs.

The Explanatory Notes state:

"Clause 1(2) allows the regulations under subsection 1(b) to be made also for cases falling outside the scope of the government procurement Chapters to provide for general application",

and that

"Clause 1(3) clarifies that a case is outside the scope of a government procurement Chapter if that Chapter does not impose an obligation on the UK in respect of that case, i.e. it is not an obligation owed specifically in the Chapter … The effect of subsection 1(b) read with 1(2) is that certain changes made to domestic law to implement the UK-Australia FTA, i.e. in respect of the rules in the text of the government procurement Chapter … can apply generally and not only to suppliers from Australia. This will ensure procurement regulations remain uniform and coherent by not imposing different or conflicting procurement procedures on contracting authorities for procurements covered by the FTA, and ensure the UK can implement its obligations in the FTA in a way that is consistent with the UK's other international procurement obligations."

This explanation makes sense; it is of course important that procurement regulations remain uniform and coherent.

Our intention with this amendment is simply to probe the scope of this, as it reads as almost limitless. Can the Minister tell me whether any case could be outside the scope of the Government's procurement chapters? Are there any limits on this? What is a "case" defined as?

**Lord Purvis of Tweed (LD):** My Lords, I will speak to Amendments 6 and 19 in this group. The questions posed by the noble Lord, Lord Lennie, in moving Amendment 1 are very sensible. I look forward to the Minister's reply.

According to today's press, we are now 15 years behind on the commitment that we would reach £1 trillion of trade within a decade. It is now estimated that the target set by the coalition in 2012 will not be achieved until beyond 2035. This highlights the fact that we are starting to see the consequences of the significant non-tariff barriers introduced by this Government over recent years. Therefore, it is vital that mechanisms are as streamlined as possible for procurement and the rest of the trade agreements.

Amendment 6 is designed to probe the discrepancies in threshold levels in the Government's procurement legislation, currently going through the House of Commons and which has been through scrutiny in the House of Lords. It probes why they are different for those seeking procurement opportunities for Australia as compared with those seeking them here at home. If you are a business seeking to bid for procurement in the UK, you now have to operate under quite a markedly different approach from that if you are looking for procurement opportunities within Australia.

I welcome the Minister's letter to noble Lords, which he promised at the end of Second Reading and fulfilled. It highlights what we knew: that, factually, there is a difference in the threshold levels. The letter simply states that Australia was not willing to have the same thresholds as us, and so we simply said that we would have its thresholds. What did we get in return? If this is a concession to Australia then surely we got something in return as far as access is concerned.

The report on the agreement from the Australian Parliament's treaties committee makes for interesting reading, as does our own report from the House of Lords International Agreements Committee. The Australian report is 225 pages long and can be summarised as: "We got a good deal." Our House of Lords report, which is 36 pages long, can be summarised from our point of view as: "No, we didn't."

The Australian report highlights the fact that the Australians wanted to maintain their levels of thresholds—that was very clear. Thresholds are important; a considerable amount of scrutiny that we did on the procurement agreement was about whether the procurement would be below or above the threshold. If it is below the threshold, the reporting mechanisms, the contracts approach, and the way that schemes or pooled contracts can be put together are different. So we now have a higher rate for Australia.

At Second Reading, I raised the fact that this was done by subcentral contracting bodies. The Minister's letter to me says that in effect I was wrong in saying that Australia was unique, because Canada has the same approach as Australia's—but not for subcentral levels. The agreement that we rolled over for Canada for the CETA agreement, has the lower threshold, and we have now gone to the higher one. We are simply trying to find out what we got in return for providing a concession to Australia over the threshold levels. The higher threshold means that there will be extra complexity for businesses.

Amendment 19 is simply a probing amendment on the point that was raised earlier on the Procurement Bill by the noble Lord, Lord Lansley, which was simply trying to seek protections. If we try to change this Bill and its mechanisms for the good, those changes will be protected by the Procurement Bill, which, as the Committee will be aware, will automatically repeal this one. We have the rather ridiculous situation that we are in Committee for a Bill that will be automatically repealed by a Bill that is going to go into Committee in the House of Commons. This is a mechanism to try to protect any of what we do. On that basis, I hope the Government might be minded to accept Amendment 19, or indeed they might have their own mechanisms or commitments, so that we are not wasting our time in Committee.

**Lord Lansley (Con):** My Lords, three important issues arise from the limited number of amendments here, and I want to say something about each of them.

I shall start with the last amendment, Amendment 19. The noble Lord, Lord Purvis of Tweed, referred to the debates on the Procurement Bill, in which many of us participated. We are in a situation where the Procurement Bill will in due course repeal this legislation. We can see the timing a little more readily now: all being well, we should complete the passage of this Bill and I hope it might reach Royal Assent if not by the end of February then certainly very early in March.

The Procurement Bill in the other place still has a substantial amount of work to be done, and doubtless it will return here with amendments. That being the case, I suspect it would be rash to assume that it would pass before late May at the earliest, especially since the Session is to run longer. The Procurement Bill brings its provisions into force two months after the Bill itself is enacted, so in my view we could be in July at the earliest, and maybe in August or September, before the relevant provisions and the repeal take effect.

[Lord Lansley]

That being the case, there seems to be a perfectly good rationale for this Bill being used to create the necessary regulations. One matter that we did not get quite clear in our previous discussion is that this Bill, once enacted, can be used to make regulations. Those regulations will subsist even though this Act will subsequently be repealed by the Procurement Act, as it will become. So there is a purpose in passing the regulations in the meantime. There is a particular purpose, which I will not trespass into, relating to the relationship with Scottish legislation. The fact that this Bill can be used to make those regulations is particularly helpful.

The noble Lord, Lord Purvis of Tweed, knows that I agree with the proposition that, if an amendment were to be made in this House to this legislation, it would be inappropriate for it to be automatically repealed. However, we secured assurances from my noble friend Lady Neville-Rolfe to the effect that the Government under those circumstances would make whatever changes might be necessary to the Procurement Bill in another place. I am hoping that my noble friend Lord Johnson of Lainston will have a similar briefing and a similar reassurance to give us.

*4 pm*

As it happens, I do not think we need to amend this Bill. I do not see the case for it and so far the amendments I have seen probably do not warrant it. If we can pass it unamended, it can reach Royal Assent—the sooner, the better. I do not subscribe to the view that our International Agreements Committee's report can be characterised quite as the noble Lord, Lord Purvis of Tweed, put it. There are things we know could have been asked for and potentially secured that were not secured. My particular hobby horse, as members of the committee will know, was geographical indications. It seems absurd that we are waiting on the European Union to secure GI protections in Australia and then we might have the benefit of them subsequently.

The structure of the FTA shows that we believe in tariff liberalisation and in the liberalisation of and greater market access for services trade and the mobility of persons. We secured some significant progress on that. The overall benefit relatively to the Australian economy is anticipated to be greater than for our economy. It does not mean we have lost out, just that there are limitations on the access and the market benefits we might secure. With the greatest respect to the noble Lord, Lord Purvis of Tweed, I do not think that Amendment 19 is necessary. I hope that the reassurances will show that.

Amendment 1, which was well explained by the noble Lord, Lord Lennie, gives a power for the regulations to extend beyond the cases in the procurement chapters. From what I understand, changes are called for through these two FTAs which would impact the way in which the UK exercises its procurement activities to other countries.

There are three areas. The first is where there are unknown contract values. I have managed to track this down in the Australia deal. It makes it clear that, where there are unknown contract values, it should be regarded as a covered procurement. Secondly, there are notices relating to procurements. I assume that this is about the structure of electronic notices, but it is not very clear what it relates to. Clearly, there is some updating on electronic notices for procurement in any case. I found substantial references to that in both procurement chapters. The third relates to the termination of awarded contracts. I hope that my noble friend, if he has not got it immediately to hand, will reference where the changes to the termination of awarded contracts are. These are required under one or the other of these two FTAs, which would require us to change our overall procurement practices. I cannot see them in either of the two procurement chapters in the FTAs.

I will respond to the noble Lord, Lord Lennie. Since the Government are very clear on the reasons they might want to go beyond the Australia and New Zealand cases and make the rules non-discriminatory, because they will be the same for other treaty state suppliers in due course, that is a logical extension of the power. Of course, if Ministers were to misuse the power—the implication of the amendment is that they have a power and could misuse it—it is our responsibility to look at statutory instruments presented. If they are a misuse of that power and go beyond what is necessary for the purpose stated, we can pray against them. It is not our job simply to pass them, and we might choose to do that. But I suspect that this is not the Government's intention, nor should we really be that worried that it will happen. What is proposed in the legislation seems very straightforward.

Amendment 6, tabled by the noble Lord, Lord Purvis of Tweed, is about thresholds. Unlike with the other amendments, now things do get complicated. As far as I can see, the point that the noble Lord did not make is that the thresholds set in a procurement Bill are aligned with the thresholds under the government procurement agreement—a WTO agreement. To that extent, they apply in relation to the entities in the parties to that agreement, which are central government entities. It seems to me that the point about the Australia and New Zealand procurement agreements is that they go beyond what is available to us under the WTO GPA; for example, with Australia in particular, that means regional entities.

I cannot speak for the Australians, but it is clear that they decided that they wanted the availability of procurements in their regional entities to have a higher threshold applied to them, to which we would then have access. Of course, the same thresholds would then apply back to our subcentral entities. I do not really need to judge whether that is reasonable on their part; what is sufficient for these purposes is that that is what they asked for and they get the same benefit in relation to us. We therefore all get a benefit in access to procurements below the federal level in Australia—and, to some limited extent, in New Zealand—for additional entities. It would be, in my view, impossible for us, through the legislation, to seek to impose on Australia or New Zealand thresholds that are different from those that were agreed in the FTA. Indeed, if we were to try to do what the noble Lord, Lord Purvis of Tweed, is suggesting, we would effectively constrain ourselves back to what is available under the WTO general procurement agreement

and remove a significant part of the available benefit to us—so I just do not think we can go down that track.

**Lord Purvis of Tweed (LD):** I am very grateful to the noble Lord; as usual, he is extremely perceptive. The point I am seeking to make is that, under the GPA, subcentral and regional bodies are covered. We have existing arrangements under the previous EU rules for subnational bodies, and we currently have subnational special drawing rights with the EU. My question is: what impact will the higher threshold that we have conceded to subregional bodies within Australia have on those businesses? I fear that it means a great deal of complexity, so, for us to say back to the Government that they should be having discussions with Australia to bring the thresholds down, rather than just give up, would make sense for British businesses.

**Lord Lansley (Con):** Well, obviously, if we were in the course of further discussions through the Joint Committee arrangements on the free trade agreements to modify the agreements so as to reduce the thresholds, I imagine that there would be some benefit to our businesses—but that is not the position we are in at the moment. I certainly do not see that we can arbitrarily and unilaterally impose different thresholds through our legislation. The Minister will have to confirm if I am correct, but I did not understand it to be the case that the WTO general procurement agreement gives us existing access to entities in Australia's procurement below the federal level. I stand to be corrected if I am wrong about that, and I have no doubt that the Minister will have the briefing to tell me if I am wrong. For those purposes, I just do not agree with Amendment 1 as moved.

**The Minister of State, Department for International Trade (Lord Johnson of Lainston) (Con):** My Lords, I am delighted to be speaking in what is my first Bill Committee in your Lordships' House. I start by saying how grateful I am for the engagement that I have had with the noble Lords, Lord Lennie and Lord Purvis, since Second Reading of this important Bill. I am also grateful to them for tabling the amendments in this group. I also thank my noble friend Lord Lansley for those extremely helpful interjections.

As we have heard, this group deals with how the Bill impacts on the UK's procurement rules, both now and under the Procurement Bill, which is currently awaiting Committee in the other place, once it is enacted. I recognise the concerns raised by noble Lords on protecting UK contracting authorities and the importance of the discussions we are having in this Committee. Having listened to the contributions of noble Lords today, I hope to reassure the House that these amendments are not required. Perhaps I may begin by thanking this House's International Agreements Committee for its valuable scrutiny of the Australia deal, the report on which stated:

"The Government has been broadly successful in incorporating its objectives on procurement into the agreement and we welcome the procurement chapter."

On Amendment 1, on general effect, in the name of the noble Lord, Lord Lennie, I reassure the House that these powers cannot make changes beyond what is necessary to implement the procurement chapters of the Australia and New Zealand agreements, while ensuring that the UK procurement system continues to function. I think my noble friend Lord Lansley covered that in his comments. Rather than conferring unnecessary powers on the Government, Clause 1(2) and (3) ensure that, when the regulatory changes are made, they do not have the effect of creating a separate, parallel set of regulations for Australia and New Zealand suppliers alone. This is the concept of conformity.

As a member of the WTO Agreement on Government Procurement—the GPA—the UK, as has been discussed, has a most favoured nation obligation to not discriminate in its treatment of businesses from different parties to the GPA. To meet this obligation, the changes needed to the procurement rules resulting from the Bill need to apply to all GPA parties, as I think we have also discussed. This is laid out in the Explanatory Notes, which, for useful repetition, I restate:

"This will ensure procurement regulations remain uniform and coherent by not imposing different or conflicting procurement procedures on contracting authorities for procurements covered by the FTA, and ensure the UK can implement its obligations in the FTA in a way that is consistent with the UK's other international procurement obligations."

The Bill will lead to a wider range of protections for tendering parties and, ultimately, better value and choice for our procuring entities. The changes will make the system simpler, which is something all parties desire.

Turning to Amendment 6 on the equalisation thresholds, I understand the concerns of the noble Lord, Lord Purvis, about these agreements placing additional burdens on suppliers—and, frankly, contractors or contracting parties—by having a different threshold to that in the UK's procurement regulations. I have great sympathy with his objective. However, I hope to persuade the noble Lord that his amendment is unnecessary and, in doing so, show that the UK can meet its market access commitments in both the Australia and New Zealand free trade agreements and can bring these agreements into force.

Amendment 6 proposes that no regulations can be made in respect of subcentral procurements that are valued above the threshold amount specified for such procurement in the Procurement Bill. The value I have here is 200,000 special drawing rights. By not allowing any regulations to be made for subcentral procurement with a value in excess of the threshold amount, the UK would not be able to give effect to its market access commitments—my noble friend Lord Lansley covered this very successfully—for all subcentral procurement under the UK-Australia FTA, because the threshold for subcentral procurement is 330,000 SDR; or any subcentral procurement under the UK-New Zealand FTA, valued at 200,001 SDR or more.

Having different thresholds—after our discussions, I took this away and investigated it—between parties is commonplace in the GPA, as we have discussed. For example, as I believe I mentioned in the letter sent to the noble Lord, at subcentral level the UK has a threshold of 200,000 special drawing rights, as do New Zealand and Japan, while Canada and Australia have a threshold of 355,000 special drawing rights.

On the question of whether the different threshold values between the UK rules and the FTA present a burden to UK contracting authorities, let me reassure

[Lord Johnson of Lainston]
the Committee that, under the current UK procurement rules, the only threshold that contracting authorities need to worry about is the one in the UK rules. That is the core point. This is because the SDR thresholds set out in the FTAs themselves determine the contracts that, in the event of an Australian or New Zealand supplier wanting to challenge a UK procurement procedure, are eligible to be addressed by UK domestic courts. So, effectively, this simply allows the concept of challenge.

*4.15 pm*

If the procurement in question is not covered by the UK-Australia FTA, including by not meeting the SDR threshold in the FTA, then an Australian supplier would not be eligible to make a challenge. To explain further, and this is important, the measures involving procurement thresholds do not involve in any way, any changes to the activities of procuring parties. They are simply levels at which Australian suppliers can challenge procurement processes in the event of so-called unfair, or what we may describe as discriminatory, treatment. I think we can assume that procuring parties would not wish to design tenders that need to be challenged in this way, since that would go against any practice of good government in any event.

In our trade agreements, the UK wants other countries to match the threshold level that we have in our domestic system, so where a party keeps a higher threshold in the GPA or in an FTA, as has been discussed, the UK typically raises the corresponding threshold in the trade agreement in response. This is the case in the UK-Australia FTA. To reassure the noble Lord again, this does not increase the burden on UK suppliers or government bodies.

**Lord Purvis of Tweed (LD):** I am grateful to the Minister for giving that information. I would just like to get this clear in mind. If a local authority in the UK—a combined authority, say, or subnational authority—sets its procurement scheme, operating under the Procurement Bill, at the £213,000 level, which is 200,000 SDRs, it can operate below or above the procurement threshold. Is the Minister saying that an Australian firm can challenge that regional authority on the basis that, under the agreement, for the Australian firm the threshold is higher? Is that understanding correct?

**Lord Johnson of Lainston (Con):** I thank the noble Lord. I am not 100% clear on the point he is making. Thresholds are set at whatever is negotiated. Any contract above the level of the threshold is protected from discriminating or unfair practices. Any contract below the threshold is not protected in the same way, in terms of challenge in the courts. It would be unusual for any contracting authority to design its tender to make sure it was not allowing an Australian or New Zealand contactor, or indeed any other contractor, to be below the threshold. The point is it does not make any difference to their thresholds.

**Lord Purvis of Tweed (LD):** I will not pursue the point much further, but as we discussed during the Procurement Bill, one of the points about thresholds is that companies will not know that the procurement exists; they can be exempted as far as the Procurement Bill is concerned—that is the point of the thresholds. So an Australian firm could challenge an entire scheme on the basis that it would not be aware of the procurement that is happening in that area because of the non-reporting requirements below the threshold. I will not pursue the point any further, but I hope that, as a result of any regulations that come out of the Bill or the Bill itself, there will be guidance to businesses on how to operate with procurement. If those areas could be spelt out in guidance, I think that would be quite helpful. I will certainly read the guidance, because I am finding part of it difficult to understand myself.

**Lord Johnson of Lainston (Con):** I thank the noble Lord. As I say, this does not change the process in any way. It is simply about protection for people bidding for contracts. In terms of advertising for contracts, the UK threshold levels remain the same—whatever they may be, given the various national or subnational governmental entities. That does not change. So for a local council tendering for, say, printing services, it makes no difference to its actions whatsoever. The only thing it does, from an Australian or New Zealand tenderer's point of view, is that they may decide the threshold for them that affords additional protection to not incur unfair or discriminatory practices. Frankly, I think it is a highly unlikely situation that any contracting authority would try to bend the rules in order to ensure that Australian and New Zealand contractors could be excluded. That simply would not occur, in my mind. It does not require any additional work; it is simply about the challenge on unfair practices in tendering. That is the reason why the thresholds are set, and they reflect the same thresholds that were offered at national and subnational levels in Australia. That is the reason they are set at that level.

I am happy to go into more detail at a later date. Certainly, I am delighted to work with any Members of the Committee on this but, as I say, it is much simpler than it sounds. It is, in some respects, given the efforts prescribed for local authorities and authorities tendering, not relevant from their point of view.

Amendment 19, in the name of the noble Lord, Lord Purvis, addresses concerns around what would happen to any amendments to the Bill that might be passed during scrutiny by noble Lords. The noble Lord, Lord Purvis, raises an interesting point, and I was extremely pleased that my noble friend Lord Lansley explained the position very clearly and takes a strong interest in this—I am very grateful for his interventions. I have enjoyed the intellectual discussion, by the way, and I think this is precisely the sort of matter that this House is purposed to investigate: these are complex issues and we are absolutely right to be discussing them.

I understand the noble Lord's point that this may appear, on the surface, an unconventional way to legislate; however, we have pointed out the importance of getting these agreements into force, as my noble friend Lord Lansley mentioned. No one in this House would want to delay the benefits conferred on our consumers, business and government by waiting unnecessarily for a later piece of legislation. It would

be unfair to our citizens and also, in my view, against the spirit of the FTAs with our sister nations of Australia and New Zealand. Indeed, I met the Australian Agriculture Secretary and the high commissioner last week and they both expressed their keen desire to see this agreement brought into force as soon as possible. I also know that the Labour Front Bench met these individuals, I believe on the same day, to discuss the agreement.

The sense of urgency is also present within industry. I am sure noble Lords will remember the clear and powerful message from the British Chambers of Commerce during the evidence it presented before the other place's Public Bill Committee:

"Overall, we want to see the agreements ratified as quickly as possible."—[*Official Report*, Commons, Trade (Australia and New Zealand) Bill Committee, 12/10/22; col. 8.]

Returning to the core point, and recognising this novel approach, I repeat again the quotation given earlier. My noble friend Lady Neville-Rolfe made an important commitment that, if noble Lords were to amend this Bill, the Government would look to ensure that any necessary changes might be made to the nature of the repeal during the passage of the Procurement Bill in the other place. I personally reiterate this clear commitment today.

I hope I have provided the noble Lords, Lord Lennie and Lord Purvis, with enough reassurance on the Government's position on these matters, and I therefore ask them not to press these three amendments.

**Lord Purvis of Tweed (LD):** Before the Minister sits down, I ask for a final point of clarification and then I will shut up on this group. If the Bill passes, does that mean that we have implemented our domestic legislation in order to say to the Australians and the New Zealanders, through a diplomatic note, that we have put in place our domestic legislation so that this agreement can come into force? Or is that at the point when the regulations under the Bill are made? If it is the regulations, then, as I understand it, one of them will depend on what the Scottish Government and the Scottish Parliament will want to do, because there will be a concurrent power. Just for clarification, is it this Bill or the Procurement Bill, whichever the sequencing, or is it the time when the regulations are made?

**Lord Johnson of Lainston (Con):** I thank the noble Lord for his comments. This is one reason why we are pressing ahead with the Bill: it is part of the process that will lead to the agreement coming into force. I will cover this later in Committee, I am sure, but there are other legislative acts that need to be brought into force, to enable the entire agreement to function, at which point we will have the entry into force of the FTA—a moment we are all, frankly, much looking forward to.

**Lord Kerr of Kinlochard (CB):** Before the noble Lord sits down, can I ask him about his reassurance to the noble Lord, Lord Lennie, on Amendment 1? He said we need not worry about Clause 1(2) because Clause 1(1) can be used only in cases arising from these two trade agreements. I think I follow the Minister's argument—until I turn to Clause 2. Clause 2 seems extremely permissive and says one can make provision, general or specific, or

"make provision for different purposes or areas".

Can the Minister expand on his assurance to the noble Lord, Lord Lennie, and assure me that the Bill as a whole, not just Clause 1(2), cannot be used for purposes other than to deal with cases arising as a result of the two free trade agreements?

**Lord Johnson of Lainston (Con):** I thank the noble Lord for that intervention. I think I have made my position clear that any concomitant actions following on from this Bill will relate specifically to the matters necessary for bringing it into force. Pursuant powers—this is an important commitment—are very much linked to what we would describe as minor and specific issues. They could relate to changes in government departments' names, such as the Department for Culture, Media and Sport adding "Digital" to its name. The effective implementation of that in the agreements is relevant in these texts, so it would be confined to errors such as that. I know that we will discuss the concept the noble Lord raised regarding Scotland later in Committee, so I will be delighted to go into more detail on that then.

**Lord Lennie (Lab):** My Lords, the problem is that the Bill does not say that. That is the point being made by the noble Lord, Lord Kerr. I thank noble Lords who have spoken: the noble Lord, Lord Purvis, on his two amendments and the noble Lord, Lord Lansley, for a lot of helpful clarification. Given any future misuse of power through statutory instruments, our super-affirmative proposal later will no doubt be supported, because that will make the scrutiny of the Bill that much more thorough than is intended as we speak. The Minister said that no powers beyond these FTAs are proposed by the Bill, but it does not say that—it indicates that there may be powers in other places that we need to watch for. However, with that, I beg leave to withdraw my amendment.

*Amendment 1 withdrawn.*

*Amendment 2*

*Moved by* ***Lord Lennie***

**2:** Clause 1, page 1, line 15, at end insert—

"(3A) Regulations under subsection (1) may not be made before completion of such public consultation as the appropriate authority considers appropriate with the relevant—

(a) Scottish Ministers,

(b) Welsh Ministers,

(c) department of the Northern Ireland Executive, and

(d) representatives of the English regions."

Member's explanatory statement

This amendment requires a consultation before regulations implementing the procurement Chapters can be made.

**Lord Lennie (Lab):** My Lords, this amendment would require a consultation before regulations implementing the procurement chapters could be made. It would require that consultation to involve the relevant Scottish Ministers, Welsh Ministers, the department

[Lord Lennie]
of the Northern Ireland Executive, who are not currently sitting, and regional representatives in England, as the appropriate authority considers appropriate.

Colleagues in the Welsh Government have stressed the importance of improving the process by which the devolved Administrations are consulted and formally engaged in trade deal negotiations. Labour is committed to working to improve the negotiation process to better engage with them and we are calling for a commitment from the UK Government to undertake nation-specific impact assessments on trade deals. These two steps would ensure a clear understanding of the implications and opportunities for each part of the country from any new deals—a common-sense step to make sure that new deals are as good as they can be for the whole of the UK in the era of individual trade deals.

**Lord Thomas of Cwmgiedd (CB):** My Lords, I will make one brief observation. It seems a deficiency in our processes for negotiating important agreements of this kind that there is no mechanism, as in so much else, for ensuring that we remain a united country. The Government of the United Kingdom also represent the views of the devolved nations. Although it is very important for the United Kingdom that it is seen to be an honourable state that carries through what it negotiates, and although I support this amendment, I also support what was said by the noble Lord, Lord Lennie—that this has been designed after the horse has bolted. Hopefully, we can do something before the horse bolts next time.

**Lord Howell of Guildford (Con):** To follow that intervention, we seem to be crawling along the edge of the quagmire, which arises all the time, between reserved powers and devolved powers: whether reserved powers have implications for devolved powers and whether some devolved powers and the actions following from them have implications for the whole of the United Kingdom.

*4.30 pm*

I would like clarification on one point. As I understand it, the Scottish and Welsh Governments have refused to give consent for this Bill. In order that we can steer the Bill in the right direction, can the Minister clarify what he thinks the basis of the withdrawal of consent is based on? Is it just the procedure: that the consultation ought to have taken place, even though industrial policy is a reserved matter and even though external treaties and their implications are reserved matters—because it is reckoned that something creeps over, as it were, into the devolved area? Or is it because there is a basic objection rooted in the idea that Scottish farming, Scottish industry and Scottish trade are separate and should have some separate considerations under a treaty of this kind? Or is it because there is a general objection to these things being in the reserved area when they should be in the devolved area? Unless we can get a clear view on that, I think there is going to be a difficulty. The requirement which we are going to come to, I think, in other amendments about when consent should be given and how consultation should be applied and pursued is going to continue to colour and taint this Bill and its proceedings.

**Lord Johnson of Lainston (Con):** My Lords, this has continued to be—and I am not just talking about the words we have exchanged today—a very important debate on devolution and the role of the devolved Administrations in our trade agenda. I am grateful for the interventions from the noble Lord, Lord Howell, and the noble and learned Lord, Lord Thomas. They were very helpful in order to clarify the mind and work through some of the rationale behind the situation we are in.

I will make an important point that may help answer some of the questions. We do not operate a federal structure. We have one Government where there are devolved powers to nations, regions and other authorities. Treaty-making and foreign policy is necessarily a national endeavour, benefiting all. It is this coherence of a national structure that gives us negotiating strength and desirability as a single market access point which enables us to pursue our free trade agenda—something which, I believe, this whole House is united behind. All regions benefit from this process, above and beyond their own specific interests; the sum of the parts is greater than the constituent. We should not confuse the actions here, either. Treaty-making is the reserve of the UK Government. Finally, it would be unfair on our treaty partners not to act in good faith in taking forward legislation which implements these agreements by the most efficient means possible.

Amendment 2, in the name of the noble Lord, Lord Lennie, would require public consultation with devolved Administrations and representatives of English regions before making the secondary legislation which implements the UK-Australia and UK-New Zealand FTA procurement chapters under Clause 1. I know the noble Lord also mentioned the impact assessment, which, if it is okay, I will address in the following section.

Your Lordships will be aware that the Minister for Trade Policy chairs the Interministerial Group for Trade, previously known as the Ministerial Forum for Trade. This forum provides an opportunity for discussion on all matters of trade policy, including the implementation of UK free trade agreements. This group, by the way, last met on 9 January, so very recently. It is not the only opportunity for ministerial discussions and there are frequent bilateral meetings between Ministers. In addition to ministerial engagement, discussions with devolved Administrations at official level have totalled hundreds of hours across both the UK-Australia and the UK-New Zealand FTAs. This includes frequent updates by chief negotiators and detailed discussions on draft text. We are aiming to create—and believe we have—free trade agreements that benefit our nation in its entirety, and factoring in the requirements of each nation is at the very core of our work. In the case of procurement chapters, in both the UK-Australia and UK-New Zealand FTAs, we have found common ground between the UK Government and devolved Administrations in our objectives in the negotiations on this matter. I believe the honourable Member Dame Nia Griffith remarked during the Public Bill Committee in the other place:

"On procurement, the Welsh Government go as far as to say that there may be scope for businesses in Wales to take advantage of the provisions included in the UK Government procurement agreement, and that some Welsh interests in procurement were

protected during the engagement with the Department for International Trade."—[*Official Report*, Commons, Trade (Australia and New Zealand) Bill Committee, 18/10/22; col. 77.]

As we move toward implementing these agreements, there have already been preliminary discussions on the drafting of secondary legislation. This Government will continue conversations with the devolved Administrations as drafting progresses, in keeping with the Bill's passage. I also remind the House of the commitment we have made never to use the power in Clause 1 without consulting the devolved Administrations first. I restated this commitment at Second Reading, and I assure noble Lords that this is a sincere commitment that His Majesty's Government will honour.

On consulting the English regions, they do not have the same role in implementing legislation and these agreements as the devolved Administrations. Given our approach, as demonstrated to date, to engagement in all areas and with the industry and other stakeholders, and given our commitment to continue to consult with appropriate authorities on the use of the power in Clause 1, I believe that the amendment is unnecessary. This was also the conclusion when similar amendments were tabled in the other place. I therefore ask the noble Lord to withdraw the amendment.

**Lord Purvis of Tweed (LD):** Before the Minister sits down, may I ask about the interaction of this Bill and the Procurement Bill and the commitments on consultation? We know that Clauses 1 to 4 of this Bill address devolved areas for Wales and Scotland, and that this Bill introduces the concurrent mechanism. The former Secretary of State, Anne-Marie Trevelyan, said that regulations made under these powers that relate to devolved competencies would not be made concurrently without seeking the consent of the devolved Parliaments or, at the very least, consulting with them. If this Bill is repealed by the Procurement Bill and these elements of the Procurement Bill do not apply to Scotland, what is left of the consultation mechanisms for the devolved Administrations in this Bill? They would be repealed by the Procurement Bill.

**Lord Johnson of Lainston (Con):** I always thank the noble Lord, Lord Purvis, for his academic approach to these debates, and I am grateful to him for those points. The former Secretary of State was right when she said that we were seeking consent; the Government have sought consent, and we have consulted. Regarding the relationship between this Bill and the Procurement Bill, I am not sure what the relevance of consultation is in relation to Scotland. A number of the actions in this Bill will continue, since they are not being cancelled by the Procurement Bill. I understand that the Procurement Bill will retain the other parts of this legislation. Certainly, we have committed very clearly to making sure we seek consent and consult.

Without prolonging this debate, I think it is essential—I have said this before—that we engage with everyone in this country and all the devolved nations to ensure that we create trade deals that benefit them. I am sure the noble Lord will be aware of and celebrate the opportunities that his own food and drink industry will have under these new agreements. We are reducing tariffs on a great variety of spirits so that industry can sell more at lower prices or use that additional income to market its goods. All the manufacturers I have spoken to were extremely positive about those measures, which will, I am pleased to say, directly benefit Scotland. The intention here is to create powerful free trade agreements that work for the entirety of the United Kingdom. As a result of that, it makes absolute sense—not just in the specific legislative format but in a fundamental negotiating sense—that these are reserved powers for the United Kingdom, and that we have the opportunity to implement them.

**Lord Howell of Guildford (Con):** I do not want to be academic, but I am still not entirely clear on what basis the consent is being withheld from the Scottish or Welsh Governments, even though I gather that it is not necessary—in the end, it will just go ahead anyway. What can be done to overcome some of the inevitable additional ill feeling that seems to wander generally over the division between reserved and devolved powers, in order to make this Bill sweeter than it will otherwise be? Otherwise, we will just be left with a bad feeling in the air and a sense that things are being steamrollered through because the precise letter of the law of the devolution agreements, devolution law and all the preceding legislation of preceding centuries says so. I am not sure that this is good enough if we are going to build a good relationship in the future between the two nations of England and Scotland, and the Principality as well.

**Lord Johnson of Lainston (Con):** I thank my noble friend for his comments. Consent is either given or not given. For the reasons why, he must make inquiries of the various Assemblies that have not given their consent and ask them why they are not supporting this free trade agreement, which I think will bring them enormous benefits. We remain committed to the consultation process in all our activities. Frankly, it would probably be impractical not to do so in any event.

**Lord Lennie (Lab):** My Lords, I am grateful to the noble and learned Lord, Lord Thomas, and the noble Lord, Lord Howell, for their contributions. On the question that the noble Lord, Lord Howell, asked and the Minister tried to answer, the withdrawal of consent is probably a consequence of the lack of consultation—not necessarily the quality of the agreement but the lack of involvement in its development. This amendment is trying to obviate that for the future, so that if there is a formal consultation, it is seen to have taken place, and then an agreement on behalf of the UK is reached and can be properly explored—or not—throughout the UK. However, consent could not then be withheld by Parliament or an Assembly in one of the parts of the UK. That seems to me the main benefit of the amendment, but for now, I will beg leave to withdraw it.

*Amendment 2 withdrawn.*

*Amendment 3*

*Moved by* ***Lord Lennie***

**3:** Clause 1, page 1, line 15, at end insert—

"(3A) Regulations under subsection (1) may not be made before completion of a review by the Trade and Agriculture Commission of the potential impact of the procurement Chapters on industry in the United Kingdom."

Member's explanatory statement

This amendment requires a review by the TAC before regulations implementing the procurement Chapters can be made.

**Lord Lennie (Lab):** This is a bit like a jack in the box; I apologise. There are a number of amendments in this group in my name, which I will briefly run through. There is also an amendment from the noble Baroness, Lady McIntosh, and four, I think, from the noble Lord, Lord Purvis. They will explain theirs as we get into it.

Amendment 3 requires a review by the TAC before regulations implemented in the procurement chapters can be made. Amendment 4 requires an impact assessment on employment and human rights and climate change to be published before regulations implemented in the procurement chapters can be made. Amendment 5 requires a regional impact assessment to be published before regulations implemented in the procurement chapters can be made. Amendment 8 requires an impact assessment within 12 months, and every three years thereafter, of regulations made under Clause 1. Amendment 9 requires a regional assessment of the impact on farmers of the procurement chapters. Amendment 11 requires an NHS impact assessment of the procurement chapters. Amendment 12 requires a review of the negotiation of the procurement chapters. Amendment 13 requires a climate change impact assessment of the procurement chapters. The final Labour amendment, Amendment 14, requires a labour rights impact assessment of the procurement chapters.

All these amendments require impact assessments addressing different areas of the procurement chapters of the Bill. While predictions can be made, they are generally vague and broad, and specific impact assessments would not only give better insight into the deals but help learn lessons for future deals. We have tabled amendments requiring assessments across specific areas that are particularly pertinent to the deals. On employment and labour rights, while agreements do make reference to workers' rights and labour standards, a prospective Labour Government would seek to establish a gold standard of workers' rights in trade deals. Also, it is unacceptable that the Government have failed properly to engage with workers' representatives through the negotiation process, as union members are best placed to outline many of the tangible impacts of trade policy.

The TAC has noted that the agreement

"does not contain commitments to ILO core conventions and an obligation for both parties to ratify and respect those agreements. Rather it contains a much weaker commitment to just the ILO declaration".

Labour is concerned about the precedent this may set, especially for ongoing and future trade deals with countries that have significantly worse protections than the UK. UK agri-food producers are concerned that

"the Agreement increases UK market access for food produced in ways that would be illegal in the UK, making for unfair competition."

The National Farmers' Union has been critical of the impact the trade deal may have on farming, saying:

"We see almost nothing in the deal that will prevent an increase in imports of food produced well below the production standards required of UK farmers".

It continued:

"There is little in this deal to benefit British farmers."

It is little wonder that Australia's former negotiator at the WTO said:

"I don't think we have ever done"

a deal as good "as this."

*4.45 pm*

The Government's own impact assessment shows a £94 million hit to our farming, forestry and fishing sectors, as well as a £225 million hit to our semi-processed food industry. The Government claim that they are trying to mitigate this with tariff-free access being phased in over several years but what is being done is totally inadequate. For beef and sheepmeat, the phasing-in period is 15 years, but the quotas being set by the Government for imports from Australia are far higher than the current level of imports. On beef imports, for example, Japan negotiated a deal with Australia where it limited the tariff-free access in the first year to 10% on the previous year; South Korea achieved something similar, limiting the increase to 7%. However, this Government have negotiated a first-year tariff-free allowance of a 6,000% increase on the amount of beef that the UK imports from Australia. On sheepmeat, in the first year of the deal, the Government have conceded a 67% increase in the tariff-free quota.

The cross-party International Trade Select Committee set out that it is

"disappointed that the Government has not acted on the suggestion that liberalising agri-food trade under UK trade agreements should be conditional on imports meeting … UK food production standards."

It went on to call on the Government to say

"what it will do to monitor unfair competition for UK producers resulting from agri-food liberalisation—and how it will act to mitigate adverse consequences for UK producers' interests, and UK consumers' wishes and choices, from such competition. We are concerned about the potential undermining of voluntary food production standards in the UK as result of agri-food liberalisation under the Agreement. The Government must say what it will do to monitor, and potentially act on, this."

I turn to climate change. It is deeply concerning to see that vital commitments made to this House on climate change in relation to the Australian trade deal are not being upheld. Alok Sharma, the COP 26 president, said in the Commons that the Australia deal

"reaffirms both parties' commitments to upholding our obligations under the Paris agreement, including limiting global warming to 1.5°."—[*Official Report*, Commons, 1/12/21; col. 903.]

However, the final deal as negotiated does not uphold this important direct commitment. There is a damaging climb-down by the Government that represents a significant missed opportunity. The UK must be a world leader in tackling climate change, not only to deliver on our own environmental obligations but in recognition that this is a key, growing market for international trade. As a result, all our trade deals would be greatly enhanced through properly addressing the issue and setting out an ambitious joint plan for action. Britain should seek to be a world leader on climate technology; this must be a core part of our trade policy.

On the NHS, the general stance is that we think it should be off the table. Any assessment to be made is about making sure that this is the case, and not just going through the back door. Can we have some reassurance on this?

I turn to negotiation. On 14 November, in a general debate on the Australia free trade deal, George Eustice—who as Secretary of State for Defra was involved in the negotiations on the deal—said:

"since I now enjoy the freedom of the Back Benches, I no longer have to put such a positive gloss on what was agreed … unless we recognise the failures the Department for International Trade made during the Australia negotiations, we will not be able to learn the lessons for future negotiations … The first step is to recognise that the Australia trade deal is not actually a very good deal for the UK … it has to be said that, overall, the truth of the matter is that the UK gave away far too much for far too little in return … In my view the best clause in our treaty with Australia is that final clause, because it gives any UK Government present or future an unbridled right to terminate and renegotiate the FTA at any time with just six months' notice … What lessons should we learn? First, and most important, we should not set arbitrary timescales for concluding negotiations."—[*Official Report*, Commons, 14/11/22; cols. 424-25.]

Those are damning criticisms from the Minister of the outcomes achieved by his then Government of this trade deal and of the wider strategy being pursued by the Government on international trade.

The chaos in the Conservative Party has caused severe delays to the promise of free trade agreements. It has cost the UK economy billions in potential export opportunities. The 2019 manifesto pledged that, by the end of 2022, 80% of UK trade would be covered by free trade agreements, including an agreement with the USA. The reality now is that these deals are far from complete, damaging exporters and the wider UK economy. Lessons must be learned around how the Government have conducted these negotiations and the lack of voice given to vital stakeholders in the UK, including the trade unions, during negotiations.

All of this is vital. We have learned from the UK Government that they are starting negotiations with other countries and trading blocs, including the CPTPP and its 11 countries, which the UK applied to join in 2021. The negotiations were to be concluded by the end of 2022; I do not know how far on we are, but an update would be helpful. Negotiations with the US started in May 2020, but a federal agreement is not expected soon. The Government have signed up to a memorandum of understanding. There is no current trade agreement between the UK and India, and negotiations started on 17 January 2022. We do not have a free trade agreement with any of the six states in the Gulf Cooperation Council—Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the UAE; negotiations started in 2022. Negotiations were launched with Israel on 20 January 2022, to update the existing UK-Israel agreement which largely replicates the agreement that Israel has with the European Union. When new deals are not in place, the majority of trading arrangements largely replicate those agreements that were in place when we were a member of the European Union.

The noble Lord, Lord Purvis, will speak to the other amendments in the group, but I would welcome the Minister's observations on these critical points.

**Baroness McIntosh of Pickering (Con):** My Lords, I am delighted to follow the noble Lord, who moved so eloquently his amendment. I lend my strong support to his Amendment 3, which encapsulates a discussion that was held at Second Reading by a number of noble Lords around the Chamber and previous legislation that we debated a year or two ago. I warmly welcome my noble friend the Minister to his place and am glad he has the opportunity to present this Bill in Committee.

It was very clear that the Trade and Agriculture Commission should have a role, and that the timing and sequence of that role in relation to trade agreements, or in this case procurement agreements, is absolutely vital. I look forward to my noble friend's response to Amendment 3 and the other amendments tabled by the noble Lord, Lord Lennie. I particularly associate myself with Amendment 3.

Amendment 7 in my name is a probing amendment. I draw the Committee's attention to the Department for International Trade's impact assessment for this free trade agreement, particularly page 32, to which the noble Lord, Lord Lennie, also referred. Having been in touch with the Wine and Spirit Trade Association, I accept that it will be a beneficiary of this agreement going forward, provided that a chapter is included after the association agreement. It harks back to when we joined the European Economic Community in 1973 and were told that we would get cheap booze. Here we go again; it seems to be a relic of that time.

What is stark about table 3 on page 32 is the figures on food. Agriculture, forestry and fishing will take a change of minus 0.35%, a tumble of £48 million over 2019 figures; and, furthermore, semi-processed foods will take a tumble of 1.16%, which is a £97 million fall in equivalent growth value added. What is the issue that this Government have with farmers' role in producing food, particularly in increasing the level of self-sufficiency? We are hovering around the 60% mark. Given the fact that we have a war on our borders, it is absolutely vital that we look to improve our food self-sufficiency. This has been recognised by my right honourable friend the Prime Minister, who remarked at the time of the leadership contest hustings last summer, which seems an awfully long time ago:

"We know that farmers are concerned by some of the trade deals we have struck, including with Australia. A Rishi Sunak-led Government will make farmers a priority in all future trade deals … We will maintain the highest standards of animal welfare, environmental protection and food safety."

The problem that I have with the procurement aspect of the Bill—and with the Procurement Bill itself and the trade agreement with Australia and New Zealand—is that it is completely asymmetrical on farming, forestry, agriculture and processed foods. As the noble Lord, Lord Lennie, suggested, this goes to the safeguards. Normally, we have infinite safeguards: they are not time-barred. The noble Lord referred to these being between 11 and 15 years in length. For what reason are these safeguards time-barred? This breaks with tradition in other trade agreements, procurement agreements, or whatever the Minister wants to call it. It has been incredibly difficult to table amendments, so I really feel quite pleased that I have an amendment that passed go on this.

The reason that I referred particularly to lamb and beef in proposed new subsection (1) in Amendment 7 is that they are the two sectors where our farmers stand to lose out. Also, for 18 years I represented an area next door to where these are the prime products, and I grew up in the even more upland area of Teesdale.

[Baroness McIntosh of Pickering]
I am concerned about these two products in particular, as well as the other £48 million that we are going to lose in this sector.

We were told at the time of the general election that our food standards in this country would be respected, and not lowered for imported food. For what reason are we seeking to reverse that commitment given in 2019? In the next group of amendments, we will talk about the concerns of the Food Standards Agency, which were flagged up in its annual report for 2021—but why should we accept products, particularly lamb and beef, that do not meet the production and food safety standards in this country, and why are we not having permanent safeguards instead of those that are time-barred? I have a further question before I get too carried away: why are the tariffs harmful to British farmers and favouring New Zealand and Australian farmers?

**Baroness Bakewell of Hardington Mandeville (LD):** My Lords, I apologise for not being present during Second Reading. At that time, I was suffering from Covid and was confined to my home. Noble Lords will be pleased to hear that I am now recovered and testing negative.

Amendments 7, 9, 15 and 17 in this group deal with the impact on British farmers and the environment. I will speak to Amendments 15 and 17 in the name of my noble friend Lord Purvis of Tweed, to which I have added my name and which relate to the chapters on farming and the environment.

*5 pm*

The farming community in the UK is undergoing a period of considerable change and stress. Some of that is due to the effects of the war in Ukraine and the supply of grain, and it is also due in part to the shortages of chemicals and fertilisers. Mostly, however, it is due to the changes in farm payments on the withdrawal of the CAP, coupled with the slow rollout of the environmental land management scheme. We on these Benches fully support the aims of ELMS. A change in the system of payments for farming is long overdue. However, the way in which it is being handled by the Government, with the CAP being phased out before many aspects of ELMS are fully published and costed, has led to confusion and uncertainty among the farming community. Many farmers are keen to enter aspects of ELMS, but find insufficient information available for them to make a decision.

The UK has some of the highest animal welfare standards in the world. These standards are not mirrored in other countries. In Australia and New Zealand, some animal- welfare practices exist that would not be acceptable here. Excellent animal welfare comes at a cost, and our farmers are extremely diligent in maintaining standards. There is extreme concern that imports of inferior animal products and goods from Australia and New Zealand will be cheaper and will therefore undercut our excellent British farming produce. The noble Baroness, Lady McIntosh of Pickering, has already referred to the effects of this on farmers. Are the Government so desperate to have trade deals with countries outside of Europe that they are prepared to see our British farmers go to the wall in order to fulfil their ideology?

Amendment 15 would provide a safeguard in the form of impact assessments for livestock, arable and upland farmers, including those who are tenant farmers and those who run family farms. I am sure that the very large and conglomerate farms will be able to adjust to the import of cheaper, lower-quality produce. They have the quantity and capacity to do this, but it will be much more difficult, if not impossible, for those farmers who currently operate on the edge of viability, especially upland farmers. The production and publication of impact assessments will be vital to provide assurance for the farming community.

As a current member of the Secondary Legislation Scrutiny Committee, I am aware of the Government's reluctance to provide impact assessments if they can possibly avoid it. However, in this case, it is absolutely essential—a necessity—that impact assessments be very fully drawn up and published. If the Government are committed to ensuring a thriving agricultural industry of our own, the Minister will agree to this amendment. I have also added my name to Amendment 17, which calls for impact assessments on environmental standards, food standards, animal welfare standards, and biodiversity.

Environmental standards, supported by the environmental targets, are currently the hot topic in this House. There are no fewer than three regret amendments tabled against three of the six environmental targets. Water will be debated later this evening, biodiversity later this week and particulates next week. The remaining three will be debated tomorrow afternoon. It is clear that all four of the categories in Amendment 17 are high on the agenda of both national and local politicians. The public are also extremely concerned. Both animal welfare and food safety feature high up the public agenda. Young people across the board feel that they have been let down by previous generations in loss of biodiversity and environmental standards. It is important to reassure the public and give them confidence in this vital aspect of the Bill by committing to impact assessments, with a publication date within six months of the passing of this Act.

I do not see this group of amendments as doing anything other than enhancing and improving the Bill. They will not wreck the Bill, but they could make a considerable difference to how the public and farming communities view the implementation of the Bill, and I hope the Minister will agree.

**Lord Lansley (Con):** My Lords, it may be that I am not paying sufficiently close attention, but it struck me as rather odd that the starting point was a discussion of the advice that was given to the Secretary of State on 13 April last year by the Trade and Agriculture Commission in relation to the Australia deal and on 16 June last year to the Secretary of State on the New Zealand deal. The purpose of that advice was to answer a number of questions. To characterise them generally, they were, "Do these agreements undermine our statutory protections and our ability to protect animal welfare and human health?"—and, to characterise again, the short answer in each case was "No, it does not". So it seems me that the starting point, not least of Amendment 3, is undermined. It seems wholly unreasonable to ask for a report from the Trade and

Agriculture Commission when the TAC has already had the opportunity to give its advice to the Secretary of State.

The second thing that is missing from the debate so far is that Ministers have been very clear, not least in the letter that I think was sent to the International Trade Committee in the other place and to our International Agreements Committee, that they are committed to a monitoring report on both these agreements every two years and to a comprehensive evaluation five years after the coming into force. Some of these amendments look for earlier and more frequent reporting. I have to say, earlier reporting seems to be misplaced. It is going to take time to understand the impacts of these agreements, not least because, for example, the tariff rate quotas that are available for some of these products have not yet been absorbed, so the starting point for thinking about what is the base case for the impact of the agreements must at least allow for the possibility that, in the absence of the agreements, there might have been some increased importing from Australia and New Zealand using existing TRQs.

The third thing I want to say is about George Eustice, who I like. We have worked together, and I enjoyed working with him, but I have to say two things. Number one, if you subscribe to my view of collective responsibility—I see former Ministers in their places—it does not stop when you leave the Government subsequently. You subscribe to collective responsibility when you enter into government and you enter into collective decision-making. In my view, I stick to that—even, in my case, extending it to my coalition friends. If George Eustice did not agree with the decision that was made in relation to either of these agreements, the time to leave the Government and to leave collective responsibility was then, not at a subsequent point when he is on the Back Benches.

The second point to make about him—clearly, he said things that people will say are interesting for the future, not least on the setting of deadlines, while the Government have moved away from that idea—is that the principal argument he made about the risks associated with the agreement and food standards was the risk of the importation of hormone-fed beef. His argument that this was a risk was only because we might subsequently enter into the CPTPP and, under it, we might be subject to an investor state dispute resolution that would force us to dispense with our ban on the import of hormone-fed beef. These are extremely unlikely propositions. As the TAC made absolutely clear, despite the fact that a proportion of beef cattle in Australia are fed hormone growth promoters, none of them—nor their products—may be imported to this country, because we have a ban. So the risk presently does not arise.

**Baroness McIntosh of Pickering (Con):** That is the heart of the problem—as we will go on to consider in the next set of amendments. Since we left the European Union, there have been no checks at our frontiers to show to what extent the meat coming into this country observes the criteria to which my noble friend referred.

**Lord Lansley (Con):** My noble friend simply makes the point that the Government should implement the legislation that exists. We have no need to change the legislation to ban the import of hormone-fed beef or the use of hormone growth promoters on beef imported into this country, since the legislation already exists. The point is its implementation—and messing about with this Bill does not change that at all.

I have one final point. As I turn to the CPTPP and sheep farmers, I should say that my sister-in-law is a sheep farmer in north Wales. She may take a view about the New Zealand agreement, principally because of lamb imports, but she has never mentioned it to me. She probably thinks that it is a pretty remote risk compared with the many risks that she has to put up with on a daily basis.

I am UK chair of the UK-Japan 21st Century Group; my noble friend Lord Howell, who is sitting on the Front Bench, was one of my predecessors. My Japanese friends tell me that we are making good progress on our potential accession to the CPTPP. There are clearly issues. In this context, if one were critical of the Government, it would be on the risks associated with the precedent of tariff liberalisation—to the extent that it was offered in these agreements—being used by other counterparties as a basis for their negotiations, not least through the CPTPP. They may seek that in the schedules that they are looking for from us before we are allowed to accede to the CPTPP. Notwithstanding that reservation, in the view of my Japanese friends, other aspects of the negotiations stand a fair chance of being completed in the first half of this year.

On the basis of what the Government have already said about impact assessment and reporting in the future, I think the amendments in this group in particular are not required.

**Lord Kerr of Kinlochard (CB):** My Lords, I rather agree with the noble Lord, Lord Lansley. There are two points to bear in mind, particularly about the agricultural concern. First, Australia is a very long way away; and, secondly, the big market for Australia and New Zealand is due north of them in East Asia, not over here.

I do not see even the hill farmers in Britain suffering seriously. I do not think that this will be a major target market for Australia and New Zealand. Let us remember the scale. This is a very marginal agreement. It is not a bad deal, but it is certainly not a big deal. It will not change much in our economy; even on the Government's own estimates of the increase in GDP that might result as a consequence of these two agreements, it is really marginal.

So I am very doubtful about calling for a raft of impact assessments; it seems to me that that is not really necessary. The one amendment that might be necessary is Amendment 18, in the name of the noble Lord, Lord Purvis of Tweed, which takes us back to procurement standards. I can see a case for that, but not for looking sectorally across the agreements and calling for impact assessments in every case.

It would be reassuring if the Government could say something about the non-precedential nature, in their view, of the agricultural agreements with Australia and New Zealand. We read that the Canadians and the Mexicans are pricking up their ears and asking for the same terms that we have given to Australia and New Zealand. Those countries are much closer, and a

[Lord Kerr of Kinlochard]
major target market for both is Europe. If one were to look beyond them to, say, Brazil, Uruguay or Argentina, then I would say that the hill farmers in Britain would have a real reason to be concerned, if the Government were to follow the precedent of their deal with Australia and New Zealand, which is going to come in slowly, over time, and will be pretty marginal in its economic effects. If that were to be applied to trade with Canada, Mexico, Brazil, Uruguay and Argentina, there would be very serious effects on UK agriculture.

What we most need from the Government is not an impact assessment of the effect of the deals that they have done but an undertaking that, since very different considerations would apply, they would do very different deals with other future partners.

*5.15 pm*

**Lord Howell of Guildford (Con):** My Lords, I am going to focus on Amendment 5 as well, regarding the impact issue. I agree very much with the conclusion of the noble Lord, Lord Kerr, who has just spoken, but—I hope this does not sound too contrary—for the opposite reasons to those that he gave as to why we should not put too much faith in impact assessments. My opposite reason is that, far from this being a tiny issue that will not lead to very much, I think this opens a gateway into the gigantic trade expansion that is now going on throughout Asia, in which we simply have to be more deeply involved. I know we are trying to get into the CPTPP and other trade arrangements. We have to do so, and this is part of the gateway. I think this is a very big issue, not a very small issue.

At the same time, one's faith in impact assessments in this House is pretty limited. Your Lordships will all have seen the report from a Select Committee, about a year ago, saying that impact assessments left a lot to be desired. They are particularly difficult when dealing with speculation and suppositions about how trade may develop in a very fast-changing world, and that has been recognised for some time. If we are now moving on, as Amendment 5 suggests, to impact assessments not only for the devolved nations but for the entire packet of English regions, the chances of getting anything in these assessments even faintly right in relation to the different regions in this country, with all their variety, is very slim indeed. The need for this huge exercise, which would take a great deal of work and a great deal of speculation, is not the point at all; we just want to get on with the purposes of the Bill.

I must apologise to noble Lords: I should have said when I spoke earlier that I have a sort of interest in all this, in that I am a member—just about coming to the end of my membership—of the excellent Constitution Committee, which produced a very interesting report on the proceedings in which we are involved now. It really is worth reading, and worth reiterating that that committee said that your Lordships should call on the Government and the Minister

"to explain during the progress of the Bill, rather than at third reading, what efforts it has made to secure consent and the reasons why, in its view, this has so far proven impossible."

It does not say so but I think that is referring to Scotland. I do not know what kind of informal or other kind of consent has been achieved in the differental discussions with the regions, and with people outside England, that the Minister has already mentioned, or what prospects there are of getting those turned into good support and consent.

The Constitution Committee report also concluded that we ought to

"encourage the Interministerial Group for Trade to endeavour to ensure that, where devolved matters are affected, the making of any statutory instruments designed to implement these agreements, and any future free trade agreements"—

that is very relevant to what my noble friend Lord Lansley has just referred to—

"adhere to the principles of intergovernmental relations set out by the review."

These are important matters and they ought to enter into our discussions at an early date, because if we do not get these things right this time then we certainly will not get them right on future occasions either.

**Baroness Humphreys (LD):** My Lords, I apologise for not having spoken at Second Reading on this Bill. I am afraid that, like many others including my noble friend, I failed to dodge a couple of viruses and their aftermath recently.

I am grateful for the opportunity to speak briefly on this group, and in particular to support Amendment 15 in the names of my noble friends Lord Purvis of Tweed and Lady Bakewell of Hardington Mandeville. This amendment reflects the concerns of UK farmers and has a particular relevance to Welsh farmers. It seeks to ensure that the Secretary of State reports on the impact of the procurement chapters on different types of farmers and farms. Here, for the first time in my nine years in this House, I find myself slightly at odds with the noble Lord, Lord Kerr.

With the trade deal set to provide a mere 0.08% boost to the UK economy, it appears that both New Zealand and Australia, with economies many times smaller than ours, are set to benefit. New Zealand, for example, will have access to a UK market of some 67 million people if it chooses to, whereas our farmers will find New Zealand, with its market of some 5 million people, a much less attractive prospect. Both New Zealand and Australia will have almost unfettered access to UK markets. This places UK and Welsh farmers at significant risk, with apparently almost nothing gained in return.

For those of us who live in Wales, there is an additional impact that will not appear in the list contained in this amendment but is nevertheless important to us—the impact on the Welsh language. Some 42% of our farmers speak Welsh, as opposed to 19% of the general population. They are the guardians of our language, traditions and culture. Anything that impacts on the viability of our farming communities will eventually impact on our language.

Our farmers are concerned about their futures and, as a recent edition of *Farmers Weekly* reported, this concern has resulted in a large reduction in the level of support for the Conservatives among UK farmers. Where 72% of farmers in 2020 said that they would vote Tory, now only 42% would do so. One supposes this result reflects the reality of "getting Brexit done" on our farming communities and fears for the future of farming. However, this is an opinion poll; what we need is hard evidence.

The Minister can perhaps suppose that this trade deal will be a great success; I can suppose that it poses a significant threat to our farming communities. Only a comprehensive impact assessment, such as the one called for in Amendment 15, can provide us, as legislators, with the evidence we need to justify our positions and decisions. Like my noble friend, I hope the Minister will agree to this amendment.

While I have the Minister's attention, could I ask him to further comment on his assertion that eating New Zealand lamb is better for the environment than eating lamb from around the UK? Imported lamb from New Zealand can be produced to lower standards than our own foods, using methods that are unacceptable here. This is why my preference has always been for the taste and quality of Welsh lamb over New Zealand lamb. I fail to see how importing lamb from half way around the world makes that lamb better for the environment than locally produced and sourced lamb. Welsh lamb is among the most sustainable in the world, produced using non-intensive farming methods and high standards of husbandry. When the Minister responds to this group, would he care to take the opportunity to offer Welsh and UK farmers a few words of support in recognition of the work they do to produce such high-quality produce?

**Lord Purvis of Tweed (LD):** My Lords, it is a pleasure to follow my noble friend. I agree with 99% of what she said—the 1% is that lamb from the Scottish Borders could even just edge Welsh lamb. But I will allow the Minister a life-raft after what he said at Second Reading: he does not necessarily need to choose between Scottish and Welsh lamb, he just needs to say that he will back British producers over Australian and New Zealand producers. He is the British Trade Minister, so he needs to bang the drum for our sectors.

We have heard from the noble Lord, Lord Lennie, on whether George Eustice's comments were in breach of the compact made in accepting everything bad that is done by your Government once you leave office. The noble Lord, Lord Lansley, is scrupulous in doing that and protecting the previous record.

I turn to the point made by the noble Lord, Lord Kerr, on impact assessments. When it comes to the impact on some of our sectors, the Government themselves have touted the protective measures. They have indicated that this could go wrong and therefore that protective measures could be triggered. The NFU is quite clear that they are insufficient; nevertheless, Boris Johnson and others have said that there are protective measures and that we need not worry. So we need to know the baseline information about that—it needs to be transparent and open—otherwise we will not know whether we are getting close to understanding whether a triggering mechanism will be required or not.

As my noble friend Lady Bakewell indicated, we are starting from the basis that cattle and sheep production in the UK are having difficult times. I noticed, just this morning, from statistics on GOV.UK that this is the first time since 2012 that total UK meat production has

"decreased by 0.8% to 4.1 million tonnes."

That is a reduction in cattle of 4.6% and in sheep of 9.5%. The sectors are having a difficult time, for a whole set of reasons that have been indicated, and therefore the last thing that they needed was an agreement that did not sufficiently offer a degree of protection that there would be like-for-like competition.

As we all know, this was an agreement of liberalisation, but it was a liberalisation from our end and not theirs, because they were already liberalised. So the only opportunities that could arise would be if Australia or New Zealand either seek or want to capitalise on that. The Minister made the point at Second Reading—he made it very clearly—that it was unlikely that they would want to take all the quotas and capacity they have now secured; he said that it would be unlikely that that would be the case. However, that does not recognise, as the NFU and others have said in very clear briefings, that it is not just the overall volume of imports; it is also what kind of cuts and meats they are and what kind of competition exists.

One thing that, I confess, I had not noticed—it was subsequently drawn to my attention—is that, unlike normal practice, this is an agreement on shipped product weight; it is not an agreement on carcass weight equivalent. That is absolutely desirable for the Australians and New Zealanders; they want to ensure that the good cuts for our markets will be shipped in a way that is super-efficient and is not an overall carcass-equivalent weight. That means that every percentage point that they increase on shipped product weight that comes directly to our markets will have a disproportionate impact on our own ability to compete with that, because our farmers are ordinarily trading on a carcass weight equivalent basis. Unless I am incorrect, I understand that we trade with the EU on carcass weight equivalent, but we are giving Australia and New Zealand the advantage of trading on shipped product weight. I would be grateful if the Minister could say whether that is the case.

My second point is about the Government's own estimates, which say that we are likely to see a 5% contraction in the sheep sector and a 3% contraction in the beef sector. As the noble Baroness, Lady McIntosh, indicated when putting that in GVA terms, the NFU has calculated that that would result in £464 million lost to GVA. That is not an insubstantial sum when it comes to a sector that operates in some of our most remote and rural areas and, as indicated before, in areas that have received considerable challenge over recent years.

*5.30 pm*

That is notwithstanding the point that there will of course be some exporters who seek to take advantage of the Australian aspect. I think it was the noble Lord, Lord Lansley, who spoke earlier in the group on an area on which I did agree: geographical indications. The point was raised at Second Reading, with faint hilarity, that we are going to be able to protect our geographically indicated goods only once Australia has signed its agreement with the EU. I wonder whether the Minister is encouraging the talks between Australia and the EU to hurry up that agreement in order to accelerate the protections that we are looking forward to securing. I would be grateful if the Minister could state whether that is so.

[Lord Purvis of Tweed]

I mentioned earlier the really rather impressive report from the Australian Parliament with regard to environmental aspects, and why we need an impact assessment in this area. Just to preface this, I noted the remarks of the noble Lord, Lord Lansley, when it comes to trade and agricultural advice. I read that advice, as he would expect; it was carefully worded with the questions that the Secretary of State asked for advice on—including, for example, whether the FTA mandated a change in our law. Well, it does not, so when the TAC says that this FTA does not mandate a change in our environmental laws beyond what we have committed, of course it does not. But that is not necessarily the question that the noble Baroness, Lady McIntosh, and others have been asking. What they were asking was: what is the space between the bar we have set, which is high, and the level that Australia has, which some argue is lower, that we will trade within?

For example, the TAC indicated that it was unlikely that we would have hormone-growth beef imported, but it did not exclude it. Similarly, it did not exclude the possibility that pesticides and fungicides that we have banned but are used in Australia could be imported. It is about this space where they are able to export to us by using practices which we have banned, but we have not changed our legislation. It is just that the space which exists is that difficult area, and the TAC was more cautious in its conclusions concerning that area.

Let me quote from the Australian Parliament's report. Paragraphs 7.44 and 7.45, headed "Negotiating Objectives", are quite interesting. They state:

"Australia's negotiating objectives with regard to the environment were succinct: to 'ensure high levels of environmental protection, consistent with international agreed principles, standards and rules'.

Paragraph 7.45 states:

"The United Kingdom's … strategy for the AUKFTA was more comprehensive—stating it would use free trade agreements … to pursue strong environmental commitments and support the UK's aims in the low carbon economy. The strategy reflected a view Australia's environmental standards are not as high as the UK's. Many of the UK's identified negotiating objectives have been incorporated into the text of Chapter 22, though most were provisions often found in environment chapters, or incorporated using language such as 'shall endeavour' or 'shall strive', or committing the Parties to recognise the importance of such matters".

I am not sure how much hard bargaining was required—although I will defer to the noble Lord, Lord Kerr, who has done this a lot more than I have—to have agreement on both sides to recognise the importance of such matters, but it is there.

This led the Australian Fair Trade and Investment Network to tell the Parliament that

"the commitment to address climate change did not contain any specific targets on emissions reductions and is a soft, aspirational commitment … new articles on the circular economy, air quality, marine litter, and sustainable forestry were aspirational and not enforceable …the process for proving a breach of commitments on not weakening environment protections to encourage trade and investment had a high barrier".

So, where there is a concern, there is a high barrier to doing anything about it, while in other areas there are simply aspirational commitments. It is very important, across the whole breadth of these areas for our really important sectors—for beef and sheep in particular, as well as for the environment—that it is clear what the impact assessment is now and that we have clear reporting mechanisms.

This leads on to my Amendment 18, which I will jump to at the moment, which seeks a means by which one of the areas in the agreement that I welcome—the ability, quite particular to the Australia FTA, to include within our procurement social, labour and environmental standards—a mechanism to understand what those standards are and how they can be policed and clarity in guidance for our procuring authorities. The agreement also includes an environment working group; its processes must be public and it must regularly report on these issues, so we are seeking to help the Government facilitate that.

In Amendments 15 and 16, I refer to the impact on procurement. This is related because, currently, about 30% of Australia's procurement goes to SMEs, and under the new Albanese Government the policy is that it should be 20%—they overshoot that by a considerable degree and they are very happy with that. This is relevant to the threshold question because, if a sub-regional authority has maintained a high threshold, below which it does not need to advertise—say, an education authority in New South Wales with a contract for food or any kind of crop—how will our businesses know about it? That 30% carve-out for SMEs reduces the space where we will be able to compete. The Minister referenced that in his letter to me, and I am still scratching my head as to why the Government think that British SMEs will equate to Australian SMEs. I do not think that is the Australian policy; I think it is to encourage Australian SMEs, not British SMEs. I would be grateful if the Minister could clarify that point.

Finally, I agree very much with the comments from the noble Baroness, Lady McIntosh of Pickering. Rishi Sunak simply cannot get away with making a commitment and, when faced with the mechanisms to deliver on that commitment, ignore it. So clarity from the Government on how this Bill, with this procurement, will support British farmers is fundamental. I hope the Minister can be crystal clear on that when he winds up this group.

**Lord Johnson of Lainston (Con):** My Lords, I begin with an apology that I did not at the beginning declare or direct noble Lords' attention to my register of interests. There was a comment at Second Reading, and I hope I have ensured always that I am entirely transparent about my personal holdings, which I do not believe come into conflict with this debate. It is certainly worth ensuring that there is always full transparency, and I welcome any comments or question around that.

This has been a wide-ranging debate, and I thank noble Lords for their valuable contributions, particularly my noble friends Lord Lansley and Lord Howell, for their helpful support, and the noble Lord, Lord Lennie. This has been a broad debate about the free trade agreement between Australia and the UK and New Zealand and the UK. I am happy to cover some of those important points, but I start by taking the noble

Lords back to what I said at Second Reading: that this is a Bill about procurement specifically. It seeks to change the UK's current procurement regulations in a number of ways to implement commitments arising from chapter 16 of the UK-Australia and UK-New Zealand FTAs.

If noble Lords do not mind, I will go through them, because I think it is very relevant and important for this debate: after all, that is what we are debating in these amendments. These changes provide guaranteed legal access to Australian and New Zealand suppliers to the procurement opportunities covered by the FTAs, as we discussed earlier. They streamline the options for local government issuing notices for future procurement opportunities, which I think is current practice in large part and is right, in any event, for our own procurement update. They clarify that contracts of undefined value are in scope of the trade agreements. Again, I think most of us in this House will agree with that; contracting authorities trying to get around making sure they are covered by the procurement chapters by having unspecified contract amounts seems unreasonable, in my view. Having been, in my past, part of a small business tendering for these sorts of contracts, I think it is very important that that is clarified: it is extremely helpful, regardless of any trade agreement we enter into.

The Bill ensures that contracting authorities cannot avoid international commitments by terminating the contract process. This effectively means that if you think you are going to award a contract to a party that you do not like, for whatever reason, that is not according to the law, you can be challenged for that. Again, we would want those privileges afforded to us, and we, as good-government enthusiasts, would not want not to extend those privileges and rights to all contracting parties, frankly.

I think it is important for us to absorb those specific measures: it helps put the rest of these discussions in context. All these measures are logical improvements to our procurement system. They align with the Procurement Bill; they do not create additional work for tendering authorities, in the main; and they ensure that Australian and New Zealand suppliers are protected by our laws of fair play and good governance. They prevent unfair discrimination in contracting, and I believe the whole House approves of their ambition.

I turn to what noble Lords have raised in their amendments. On impact assessments, the Government have already published impact assessments. We have been discussing them. I have them here in my hand: they are weighty documents. These assessments, which were independently scrutinised by the Regulatory Policy Committee and rated as fit for purpose, include: assessments of the potential economic impact on UK GDP; the impacts on the nations and English regions; analysis on sectors of the economy and business, including small and medium-sized enterprises; and additional assessments on consumers, labour markets, environmental impacts and more. I am glad we have done these impact assessments: it has allowed us to have the debate, and we are well aware of the issues these impact assessments raise, which is why we have these debates. It has helped us, in turn, to ensure we negotiate the best possible deal for this country. So we have the impact assessments; they are alongside me now.

Additionally, as I reaffirmed at Second Reading, the Government have committed to undertake monitoring reports, and to an evaluation report within five years of entry into force of the agreements. These evaluation reports will cover a broad range of impacts across the whole agreement and will not be limited to the procurement chapters; it is very important that this is an impact assessment of the entire free trade agreement. To perform an assessment before two years, which I think has been suggested and was covered by the noble Lord, Lord Kerr, would clearly be of little value and would also be costly to the taxpayer. If we are to have impact assessments, they have to have enough time to run so that we can see what the impact is. Clearly, the Government and all of us as individuals are keen to learn what those impacts will be, and I believe that they will be extremely positive for this country. To perform another impact assessment now would simply replicate work we have already done to no effect. It would cost the taxpayer and would delay implementation of our agreements. I think that position is made relatively logically.

The scrutiny arrangements we currently have in place also cover procurement. By way of example, I repeat the eloquent words of the International Agreements Committee of your Lordships' House, which remarked in its report on our trade deal with New Zealand,

> "We welcome the inclusion of a procurement chapter that extends commitments above those provided for under the WTO Government Procurement Agreement."

I note that some of these amendments—specifically, Amendments 3, 4 and 5 in the name of the noble Lord, Lord Lennie, Amendment 7 in the name of my noble friend Lady McIntosh of Pickering and Amendments 15, 16, 17 and 18 in the name of the noble Lord, Lord Purvis of Tweed, and the noble Baroness, Lady Bakewell of Hardington Mandeville—are seeking further review prior to the regulations being made from the Bill. I will address this point later on in my remarks after setting out what we are doing in the thematic areas raised in this group. I think that is important: it is right to have a debate.

On agriculture and farming, I thank my noble friend Lady McIntosh for tabling Amendment 7. She has illustrated her passion for UK farming over the years and draws on her extensive experience of chairing the Environment, Food and Rural Affairs Committee in the other place. I also thank the noble Lords, Lord Lennie and Lord Purvis, and the noble Baroness, Lady Bakewell, for tabling Amendments 3, 9 and 15, which similarly focus on farmers. I hope that I can provide reassurance to them all as to why these amendments are unnecessary. I also thank the noble Baroness, Lady Humphreys, for her comments on this. Importantly, I encourage all noble Lords to enjoy locally sourced, grass-fed, delicious lamb, as I did last weekend in preparation for this debate.

*5.45 pm*

**Lord Purvis of Tweed (LD):** Was it from the UK?

**Lord Johnson of Lainston (Con):** It was locally sourced—that is my focus, but lamb from anywhere in the UK is delicious, as is all our produce.

[Lord Johnson of Lainston]

I reiterate my personal passion for and commitment to this important sector of our economy and the people in our farming and rural communities who work in it. This is one of the most special and unique features of our nation. As someone who grew up on a farm—many of my family are farmers and I spend what time I have, when not here working with noble Lords to promote our free trade agenda, on a farm—I can say that there is no one more sensitive to and aware of the effects of these changes on farmers and their communities. I continue to bang the drum for our agricultural products whenever I travel around the world.

It is important to emphasise that this Government consider agriculture a key part of UK trade policy. We have made this a key focus in designing these deals. British farmers are among the best in the world, and we want to ensure that farmers and producers benefit from the opportunities provided by UK FTAs, while ensuring that appropriate protections are in place for the most sensitive products. This is why we have invested so much in concepts such as farming advocates around the world and why I spend a great deal of my time trying to get investment into agricultural technology developments that will ensure that our farmers are equipped for the future and can profit fully from this work. We are a world leader in agricultural technology and new methods of planting, harvesting and husbandry. We need to repoint this important discussion—I hope to do so in future—to focus on the possibilities for the future as much as to protect the treasure that we already have.

I acknowledge the concerns that noble Lords have raised, most recently at Second Reading, pertaining to the liberalisation of agriculture, in particular that of beef and lamb. The Government have sought to balance the benefits of free trade for UK businesses and consumers with robust protections for our agricultural industry. Within the Australia and New Zealand agreements, the Government have secured a range of measures to safeguard UK farmers, which my noble friend Lady McIntosh and the noble Baroness, Lady Humphreys, wanted me to focus on in particular. I apologise if this is too detailed, but they include tariff rate quotas for a number of sensitive agricultural products, such as cheese and butter as well as beef and sheepmeat, product-specific safeguards for beef and sheepmeat from Australia, and general bilateral safeguard mechanisms that provide a safety net for industry.

The noble Lord, Lord Kerr, raised the very important point of whether this is a template for other free trade agreements. I stress that we look at every free trade agreement on its own merits; it is absolutely right that we should negotiate each one separately. What is in this agreement will not necessarily be replicated in other agreements, but I think that we have been very successful in the way we have structured these deals to provide safeguards and, as I have said in this Chamber before, the flexibility built into these FTAs to enable us to evolve the specifics over time. I hope that the broad concept and structure of how we enter these FTAs will be replicated and continue to be appointed as successfully as possible.

On agreements around agriculture and sensitive industries, we are clearly aware that every trade deal must be negotiated specifically to ensure that we get the best deal for this country. It is very important that we take the right amount of time to execute them. I hope noble Lords will join me in wishing our Secretary of State all speed in coming to sensible conclusions, while always ensuring that the quality of the deal is not sacrificed to try to conform to some arbitrary timeline. We want the best deals for the future, and it is important that they are specific to each country with which we sign treaties.

Within the Australia deal, the first measure—known as the tariff rate quota—lasts for up to 10 years. There was some discussion around this, so I would like to clarify it. Depending on the product, higher tariffs are automatically applied to imports above a certain volume threshold, known as the quota. The second measure—this is for the Australia deal—from years 11 to 15, is known as a product-specific safeguard, which has a broadly similar effect. It allows the UK to apply significant tariffs—for example, 20% for beef and sheepmeat—above a volume threshold. Additionally, on sheepmeat, if volume thresholds under tariff rate quotas in years 1 to 10, or product-specific safeguards in years 11 to 15, for sheepmeat are consistently filled, there will be an automatic reduction of the quota safeguards by 25%. That is very important. If we see a continued excess of imports in those products, we can then reduce the quota allowances to ensure that more pay higher tariffs. That is quite an innovative measure that has been put into these mechanisms.

**Baroness McIntosh of Pickering (Con):** My Lords, I think this goes to the crux of my amendment. The NFU has specifically requested an answer to why it is time-barred. It is 15 years, as my noble friend said, for beef and lamb, but for sugar it is only eight years and for dairy it is lifted after six years. Have there been time limits in previous agreements? I think probably not, given the EU.

**Lord Johnson of Lainston (Con):** I thank my noble friend for those comments. I do not know our previous treaty structures—those that were pre-EU were long before I was alive, but I am happy to see whether these have been replicated in other trade agreements. The point is that they are innovative, and they are designed to ensure that we can protect ourselves over a prolonged period of time, which I think is very important. We are not looking at immediate liberalisation in these sensitive areas; we are looking at having complex and well-thought-through mechanisms that protect our agricultural industry while allowing for the gradual liberalisation of our trade.

If I may carry on, it may clarify the answer to my noble friend's question. The third measure, a general bilateral safeguard mechanism, will provide a temporary safety net for industry if it faces serious injury from increased imports as a result of tariff liberalisation under the FTA. This applies to all products. This protection is available for a product's tariff liberalisation period plus five years, in order to allow domestic industries time for adjustment.

I hope the Committee is reassured to know that the New Zealand deal includes a range of tools to protect sensitive agricultural sectors in the UK. Tariff liberalisation for sensitive goods—for products such as cheese and

butter, as well as beef and sheepmeat—will be staged over time to allow time for adjustment. There are tariff rate quotas on a range of the most sensitive agricultural products. These limit the volume of duty-free imports permitted and, in the case of sheepmeat, will be in place for a total of 15 years. A general bilateral safeguard mechanism, which provides a temporary safety net for industry if it faces serious injury, or threat of serious injury, from increased imports as a result of tariff elimination under the FTA applies to all products.

I raised at Second Reading why we do not expect products from Australia or New Zealand to flood the UK market from the current low levels at which they are imported. I believe the noble Lord, Lord Kerr, also raised this. The fact is that, in kilogram terms, 80% of Australian beef and 70% of Australian sheepmeat exports in 2021 went to markets in Asia and the Pacific. We would expect any increase in imports into the UK to displace other imports, probably those from the European Union, rather than compete with UK farmers. I think this is very important in the sense of where we see these exports going. We can be reassured that the main market for Australia and New Zealand absolutely is, at the moment, Asia. Further, diversifying the potential source of imports will help UK food security.

I point out that New Zealand already has a significant volume of tariff-free access into the UK for sheepmeat, but last year used less than half of that quota. That means that New Zealand could already export more sheepmeat to us, tariff-free, but chooses not to. I think that is something that we should bear in mind. In many instances, the quotas—particularly for sheepmeat in Australia—are not being utilised by a significant margin. That should give us some reassurance.

During this debate, noble Lords—my noble friend Lady McIntosh in particular—have also raised concerns over standards of production in Australia and New Zealand, particularly in relation to animal welfare and the environment. This is a very important point on which I want to reassure noble Lords. We are proud of our standards in the UK, which, importantly, we have retained the right to apply and to regulate in future. The deals do not provide for any new regulatory permissions for imports. All animal products imported into the UK must continue to comply with our existing import requirements—including hormone-treated beef, which was and remains banned in this country.

I am very aware of my noble friend Lady McIntosh's comments about the Food Standards Agency. I will look into that, but I believe she is implying that there are no checks at our borders for imported meat products, and I would be completely surprised if that was the case. I will certainly look into it, but I am reassured by my officials that we run a coherent inspections regime, and that will not change. It is very important that we feel reassured that we have this regime. In fact, the reports I have read from the Trade and Agriculture Commission have referred specifically to that.

On animal rights and welfare—which is a particularly important issue to me personally—I spoke to Minister Watt, the Australian Minister for Agriculture, last week. In particular, I went to see him to discuss his commitment to this area, which he reiterated to me significantly. He also updated me on the progress of appointing a new inspector-general for animal welfare; I think the noble Baroness, Lady Bakewell, will be pleased to hear that.

The independent Trade and Agriculture Commission—a body my noble friend Lady McIntosh was instrumental in establishing—concluded on this point that the UK-New Zealand and UK-Australia FTAs do not affect the UK's statutory protections for animal and plant life and health, animal welfare and the environment, and in some areas actually strengthen the UK's right to regulate. It concluded in relation to the UK-Australia deal specifically that

"the FTA does not require the UK to change its existing levels of statutory protection in relation to animal or plant life or health, animal welfare, and environmental protection."

I raised these points at Second Reading, and I believe I used that quote then. I hope I have made it very clear that our standards and protections do not change on account of our FTAs with Australia and New Zealand—I ask all noble Lords, please, to hear this. The TAC continued:

"even to the extent that the FTA imposes greater trade liberalisation obligations on the UK, as it does, for example, by reducing customs duties, the UK not only has the same rights as it would under WTO law to maintain and adopt protections in the areas covered by this advice, but in relation to animal welfare and certain environmental issues it has even greater rights than under WTO law."

I take this opportunity to say that this is not the end of the agreements but the beginning. These deals also establish a forum for the UK to raise concerns, co-operate and share information under the FTA committee structure. This structure spans the whole of the FTAs. For example, the UK-Australia FTA provides for sub-committees covering technical barriers to trade, working groups on animal welfare, dialogues on legal services, and numerous other sub-groups and committees that will allow us, if we feel at any point that these FTAs have issues, to raise this with our trading partners formally or through other mechanisms to ensure that we come to a resolution.

I appreciate that I have gone into some detail—

**Lord Purvis of Tweed (LD):** I am grateful to the Minister for giving way. Since the noble Lord, Lord Lansley, mentioned the TAC letter to the Secretary of State when it reviewed the agreement, let me quote just one part, because I am having difficulty squaring what the TAC said and what the Minister has just said on environmental aspects of the agreements. The TAC report says that

"we determined that it was likely that products affected by the practice at issue would be imported in increased quantities under the FTA. This was true, for instance, of plant products produced using pesticides and fungicides that are not permitted, or being phased out, in the UK."

If the Minister is so clear, I do not know how it is possible that we will import under the FTA increased amounts of products which use things we have banned here.

*6 pm*

**Lord Johnson of Lainston (Con):** I always appreciate the noble Lord's interventions. Hopefully, I will cover this issue as I go through my notes. I will continue to go through these points because they are important,

[Lord Johnson of Lainston]
and it is important that noble Lords hear from me the relevance we place on these discussions. This really is the meat, as they say, of the free trade debate, although I do not see that it relates specifically to this Bill. I appreciate that I have gone into a lot of detail, but these are important issues. I am grateful to the noble Lord, Lord Purvis, for his comments and to the noble Baroness, Lady Bakewell, and my noble friend Lady McIntosh for tabling their amendments in the interests of our frankly brilliant farming communities. I hope I have to some extent been able to reassure them that their amendments are not required.

Turning to Amendments 4, 13, 14, 17 and 18 from the noble Lords, Lord Lennie and Lord Purvis, and the noble Baroness, Lady Bakewell, on environmental, social and labour considerations, I want to reassure the House that both the Australia and New Zealand FTAs include comprehensive chapters that cover labour and animal rights and commitments not to derogate from environmental and labour laws, to reaffirm our climate commitments under the Paris Agreement and to strengthen co-operation in a number of areas. The Government are committed to upholding the UK's high environmental standards, and we will continue to ensure a high level of environmental protection in our trade agreements.

These chapters also include commitments not to derogate from laws, regulations and policies in a manner that weakens or reduces the level of animal welfare protection as an encouragement for trade or investment between the parties. For example, the UK-New Zealand agreement contains the largest list of environmental goods with liberalised tariffs in any trade deal, supporting both countries' climate and environmental goals through trade policy. I think the noble Lord, Lord Lennie, touched on that—the importance of trying to ensure that we benefit in the area of net-zero in particular. We have that specifically in our treaties. Provisions included under these FTAs went further than both Australia and New Zealand had previously gone before.

I turn to the review of negotiation and Amendment 12 in the name of the noble Lord, Lord Lennie. This would create a duty of the Secretary of State to undertake and publish a review of the lessons learned from negotiating the procurement chapter. I agree that learning the lessons from negotiations is crucial to the UK getting the best outcome from them. Indeed, we already do this, so it is not necessary to create a statutory requirement to undertake such a review. All negotiations are different, as I have said, but my department is committed to learning from each negotiation and applying those lessons directly to its work, both in chapters and across negotiations. DIT has a continuous improvement team dedicated to learning lessons from trade negotiations. I am confident that this approach towards negotiating procurement chapters allows for high-quality chapters that work well for British businesses and consumers. I hope this provides reassurance to the Committee.

On SMEs, which are very relevant and relate to Amendment 16 in the name of the noble Lord, Lord Purvis, I reassure the Committee that the procurement chapters of both agreements include articles on facilitating the participation of SMEs in procurement. Both chapters also include provisions on continuing to co-operate with Australia and New Zealand to facilitate participation of SMEs over the lifetime of the agreements.

We worked very hard to ensure that SMEs were engaged before and during the negotiations. Indeed, Lucy Monks of the FSB gave evidence to the Commons on the engagement the Department for International Trade has carried out with SMEs. Hopefully, what she said is heard:

> "The Department for International Trade has been talking to us and other bodies about encouraging opportunities. It is an ongoing process."

I know the department is extremely keen to see these agreements brought into effect. We are very serious about our ambitions to support SMEs in trade, and we seek a dedicated SME chapter and SME-friendly provisions throughout all our trade agreements, as we have done in these ones. I am grateful to the noble Lord for raising this issue during the passage of the Bill; however, I do not believe his amendment is necessary, given what the Government are doing to support SMEs and appropriately assess the impact of our trade deals on this vital part of our economy.

In concluding, I wish to return to the point on impact assessments being required prior to any regulations being made. In addition to the reasons I gave earlier in relation to what the Government have already done on impact assessments in each area raised, requiring further assessments to be done before regulations can be made would delay the entry into force of these agreements, as I am sure noble Lords will agree. This would delay the point at which UK businesses and consumers could benefit from the advantages of these agreements with Australia and New Zealand—an outcome to which I simply do not believe your Lordships' House aspires.

We have covered a lot of ground in this debate, but I hope I have been able to demonstrate in each important area the wide range of work and analysis that the Government and other groups independent of government have done and will do to ensure that these specific issues are addressed. I ask noble Lords to withdraw or not press their amendments.

**Lord Lennie (Lab):** My Lords, that was a long one. We have been here for half an hour listening to the response on what is essentially a fairly simple set of amendments about impact assessments and reviews.

I start with the noble Lord, Lord Lansley, who brought up the behaviour of his right honourable friend George Eustice. I am quite grateful to George Eustice, because he wrote my speech for me when he was critical of this agreement to the degree that he was, but I would say that you are going to get that kind of discipline back into the Tory party only when it becomes a single party. There are at least three Tory parties continuously at war with each other. It seems to me that, as long as that continues, it is good for us but not so good for the Tories. We have been there before ourselves; we are not in that position now, thank goodness. We will see what happens with that one.

The Minister listed the areas where impact assessments have already been undertaken or are no longer necessary, but Labour's stand is that climate change, the NHS

and the regions were missing from that list. It seems to me that the purpose of an impact assessment in a trade agreement is to give a more precise prediction of what is expected in these areas from the agreement, then the reviews measure whether the impact assessment proved to be about right, wide of the mark or different. The Minister said that this does not set a precedent for other agreements, but it does, whether he likes it or not. Everyone will be looking at this agreement, as it is the first one, and will be looking to make predictions about their own position in relation to the UK as we come to trying to make agreements with those countries. The noble Lord, Lord Kerr, is right: the nearer we are to import products, the higher the risk for the UK. It is an obvious statement, but Australia is as far away as we can get. It does, however, have an impact. This agreement has a bigger impact than just the pounds and pence that it will produce for the UK and Australian economies.

With those remarks, I beg leave to withdraw the amendment; we will probably return to this issue at a later stage.

*Amendment 3 withdrawn.*

*Amendments 4 to 6 not moved.*

*Clause 1 agreed.*

*Debate on whether Clause 2 should stand part of the Bill.*

**Baroness McIntosh of Pickering (Con):** My Lords, in this little group, I will speak to why I query whether Clause 2 and Schedule 2 should stand part of the Bill. I will also speak briefly to Amendment 20, which I realise is in the name of the noble Lord, Lord Lennie. He beat me to it; I had asked the clerk whether I could table exactly that amendment. Rather than just deleting Schedule 2, the purpose of that amendment is to request that draft regulations

"be approved before a statutory instrument can be made in England, rather than allowing them to be annulled by a resolution of either House".

It really goes to the heart of the fact that, as we have seen, there are only skeleton outlines in this Bill of what the Government are seeking to achieve.

Clause 2 and Schedule 2 provide for different types of provision that could be made by regulations under Clause 1 where needed—for example, by consequential provision—and it gives effect to, in my case, not just Schedule 1 but Schedule 2. They retrospectively set out restrictions on the use of power by devolved authorities and provide for how regulations under Clause 1 can be made.

I refer particularly to Part 3 of Schedule 2, which states:

"The power to make regulations under section 1 in relation to … the government procurement Chapters of the UK-Australia and UK-New Zealand FTAs, or … any modification of either Chapter which requires ratification, is capable of being exercised before the agreement or (as the case may be) modification concerned is ratified."

Referring back to earlier debate as to why these regulations are particularly pertinent and important, especially now, paragraph 10 of the Food Standards Agency's *Our Food 2021: An Annual Review of Food Standards Across the UK*, its most recent review, says:

"New free trade agreements (FTAs) with Australia and New Zealand are in the process of being ratified at the time of writing. The UK Government has a statutory obligation to report to the UK Parliament on whether each FTA maintains statutory protections for human, animal or plant health, animal welfare or the environment. The FSA and FSS are providing advice on statutory protections for human health during this process."

In relation to food coming in from the EU, the report states:

"Analysis of compliance levels in import controls checks carried out between 2020 and 2021 shows that there has not been any meaningful change in the standard of imported goods as a result of either the pandemic or the UK's EU departure"—

so far, so good. It then states:

"The UK Government recently announced that full import controls for goods coming from the EU to Great Britain would be further delayed and replaced by a modernised approach to border controls by the end of 2023."

If my understanding is correct, until the free trade agreements take effect and the Procurement Bill and this Bill are enacted, most of the food will be coming directly and indirectly from third countries, Australia and New Zealand, through the EU.

The report goes on to state that, until the end of this year,

"the UK food safety authorities continue to manage risks through pre-notifications, which were introduced in January 2022 for certain high-risk food and feed imports, and through enhanced capability and capacity put in place as part of EU exit planning to detect and respond effectively to food and feed incidents".

The debate on this small group of amendments is simply to ensure that in what the report calls

"a particularly momentous period for UK food",

we are in a position to ensure that our food is safe. Every 10 years, there happens to be a food scare or health hazard. We had BSE in the 1990s, in the 2000s we had foot and mouth disease, and in 2012 we had the fraud of horsemeat being passed off as beef. This debate gives my noble friend the opportunity to assure the Committee that either the law is sufficiently clear as it is or that regulations will be made under Clause 2 and Schedule 2, to which I have referred, ensuring that sufficient checks are in place.

*6.15 pm*

Without checks at the frontier, we will be in a position of relying on our cash-strapped local authorities to do the checks on food outlets. These vary and include kebab parlours, supermarkets, restaurants and bars—everywhere serving foods. I would hazard a guess that the checks taking place at the moment are very patchy. As things march on, much greater pressure will be put on these checks.

Given that the Food Standards Agency has identified that we need presumably not just to recognise this new statutory obligation on the Government to report to the UK Parliament on whether each free trade area maintains statutory protections for human, animal or plant health, animal welfare and the environment but to be assured that it is done either at the point of entry or by local authorities, I would like to know what the mechanism will be and what resources will be made available, if indeed our local authorities are asked to do this. It will obviously pertain to food that is served and procured through our prisons, schools, hospitals and all such institutions.

[Baroness McIntosh of Pickering]

With those few remarks, I beg to move my opposition to the clause.

**Lord Lennie (Lab):** My Lords, I will speak to Amendment 10 and Amendments 20 to 35 in this group, which are consequential to it.

As the UK Government have prerogative powers to negotiate international agreements, Parliament has limited scope to make substantial changes to such an agreement, not least as it has already been formally signed, and opportunities to block ratification are therefore limited. As a result, it is of concern to see the Government waiting so late in the day before tabling the agreement to meet the statutory 21-day scrutiny period. It was not tabled until 15 June, which limited the time available for Members to scrutinise the Bill and for the International Trade Committee to publish its report. The Secretary of State for International Trade also failed to attend a meeting of the International Trade Committee to answer questions on the agreement on 29 June, despite a commitment to do so. This made it impossible for the committee to take account of her evidence on the new agreed date, 6 July, and still publish the report before the end of the scrutiny period.

Furthermore, it is shameful that Ministers have taken such a long time to conclude negotiations and long ago signed the trade deals but have not appeared before Parliament to give a full account. Ministers have been granted significant powers in the trade negotiations. The Labour Party will continue to push for more and wider scrutiny, so that parliamentarians and wider groups can properly impact on the process.

To help achieve this, our Amendment 10 and those that are consequential to it would bring in the super-affirmative procedure where an instrument is, or, as the case may be, regulations are, subject to the super-affirmative procedure. Under the super-affirmative procedure, a Minister presents a proposal for a statutory instrument and an explanatory statement. Committees in the House of Commons and House of Lords consider the proposal and can make recommendations. The Minister can then formally present or lay a draft of the statutory instrument under the affirmative procedure. We consider this necessary due to the limited other opportunities for scrutiny that come from legislation stemming out of negotiations, not least with the Procurement Bill changes that will limit this further and the Government's steps to avoid scrutiny.

Our other amendments would implement some of these steps individually, such as requiring draft regulations to be laid in advance, but without the requirement for committee consideration that the super-affirmative procedure would bring. Amendments 34 and 35 would sunset the ability to make regulations, either two years after the Bill passes or on the UK's accession to the CPTPP—which the Government said would happen last year.

**Lord Kerr of Kinlochard (CB):** My Lords, I have considerable sympathy with those who argue that the regulatory procedure is insufficient for looking at these regulations for all the familiar arguments, which I need not go into.

Our role in the House of Lords in relation to the negative procedure is nugatory. I do not think that that is quite right. The matters we are discussing are quite important, so I support Amendment 20. Part of my concern is that I am worried about Clause 2 itself. I have mentioned this before. I would be very grateful if the Minister would construe what Clause 2(1)(a) means. It says that:

> "Regulations under section 1 may … make provision for different purposes or areas".

What does "different" mean? Looking at it, I see that regulations under Section 1 must be provisions to implement the procurement chapters of these two agreements. So what are the "different purposes" mentioned in Clause 2(1)(a)? This is rather permissive drafting. I want to know what "different" means. Could "different" mean going beyond the scope of the procurement chapters in the free trade agreements with Australia and New Zealand? If it does mean that, we are giving the Government a pretty wide power in Clause 2. If it does not mean that, why is it necessary to have the language at all?

**Lord Johnson of Lainston (Con):** My Lords, I thank all noble Lords for their comments. I am delighted to respond to the thoughtful contributions we have heard—from the noble Lords, Lord Lennie and Lord Kerr, and my noble friend Lady McIntosh—on the issue of scrutiny and how regulations made under the Bill will be made.

Before I focus on the amendments themselves, I would like to draw attention to the beautifully short report published by the Delegated Powers and Regulatory Reform Committee on this Bill, on 11 January. Unlike my previous response, as has been alluded to, it was extremely short. The committee found that there was nothing to note on this Bill's use of delegated powers. The Government are of course extremely satisfied that the committee is content with the use of the negative procedure in the Bill.

I reiterate that the Bill is required to implement two free trade agreements that Parliament has already scrutinised. The scrutiny process under the Constitutional Reform and Governance Act was completed for the Australia FTA in July 2022 and for New Zealand in December 2022. We engaged extensively with Parliament throughout the negotiation process. For these deals, this included eight public progress reports during talks, including extensive information published at agreement in principle, and 12 sessions with the International Agreements Committee and the Commons International Trade Committee, both in public and in private with Ministers and/or officials, before and after signature. There were nine ministerial Statements—three oral and six written—and eight MP briefings, plus one on the Trade (Australia and New Zealand) Bill.

A programme of statutory instruments has been put in place to implement the agreements to ensure that the UK is not in breach on its entry into force in the following areas: rules of origin and tariffs, intellectual property, government procurement, immigration rules changes, and, for the New Zealand FTA only, technical barriers to trade.

The Government have long acknowledged that, due to their length, complexity and importance, FTAs warrant a bespoke framework of scrutiny, and our full

range of commitments is contained within the exchange of letters conducted last year between my predecessor, my noble friend Lord Grimstone, and the International Agreements Committee.

I turn to the specific issues raised by these amendments. It is the Government's view that the amendments would require disproportionate scrutiny of the regulations to implement what Parliament has already had the opportunity to scrutinise, including through noble Lords' scrutiny of this Bill. As it may be of interest to noble Lords, I can commit to sharing the draft procurement SIs ahead of Report. They will be in a draft version subject to change, due to consultations, as noble Lords can imagine, legal checks and recognising that the Bill is still undergoing scrutiny by your Lordships' House. I hope that the noble Lord, Lord Purvis, is satisfied by that.

**Lord Lennie (Lab):** In all the meetings and information provided in various forms throughout the process—and I accept that there was a lot—was any opportunity given for anyone to say no to any of it?

**Lord Johnson of Lainston (Con):** This is a consultative process designed to get as much as much input as possible into what is ultimately a negotiated outcome. As a House, we have the opportunity to vote on this Bill alone. I hope that we certainly will decide to support it, so I do not really understand the noble Lord's point, in the sense of people being able to say yes or no. We are voting on a piece of legislation that is extremely relevant to the execution of our free trade agreements, which is why, if I may be so bold, we have had a wide-ranging debate in this House on the issues behind the free trade agreements specifically relating to this Bill, which, I think we all agree, is particularly specific and without contention. My answer to the noble Lord is that we have had a huge debate and a very high degree of consultation and have followed more than the process laid out for scrutinising free trade agreements in Parliament and nationwide.

The noble Lord, Lord Lennie, will want me to be specific in my response to the amendments, but he will be glad to know that there are significantly fewer pages in my response to this group than in the previous response. There is precedent for the approach the Government have taken. Clause 1 of the Trade Act 2021 was used to implement the UK's accession to the WTO agreement on government procurement, the GPA, and the regulations made there were subject to the negative procedure, so that is important to note. Parliament had the opportunity to scrutinise the UK's accession to the GPA through the CRaG process before the subsequent regulations were made. This is the same situation we have here for the Australia and New Zealand free trade agreements. I am very comfortable in confirming that as the ultimate point.

Amendments 10, 21, 22, 24, 26, 28, 29, 31 and 33 relate to the super-affirmative procedure, which I believe the noble Lord, Lord Kerr, raised, and are tabled in the name of the noble Lord, Lord Lennie. This is the process used for statutory instruments when an exceptionally high degree of scrutiny is thought appropriate. An example is remedial orders, which the Government can use to amend Acts of Parliament should the courts find them in breach of the European Convention on Human Rights. That example seems significant, but I respectfully suggest that it is disproportionate to use this process to approve the minor technical changes needed to implement the procurement commitments in the Australia and New Zealand FTAs. It would also represent a significant use of parliamentary time when Parliament has already debated the fundamental issues.

Another important consideration is how the use of the super-affirmative procedure will lead to delays in these agreements entering into force, which I think we have all agreed is not desirable. Parliament has had sight of the Australia and New Zealand agreements for 13 and 11 months respectively. It is right that we take appropriate time to scrutinise these deals properly, but we must now get on with entering these agreements into force to ensure that UK businesses and consumers can benefit from the significant economic advantages as soon as possible. This is also the shared desire, as I stated earlier, of the Labour Governments in Australia and New Zealand.

In terms of modifications, there may be small changes to be made to the procurement chapters—for example, machinery of government changes. It is important to stress that the Government have no intention of making significant changes to these agreements. I have stated this before and do so again. The Government are proud of the Australia and New Zealand FTAs and have no intention of significantly modifying them in structural terms.

The amendments tabled by the noble Lord, Lord Lennie, also deal with the scrutiny of regulations made by devolved Ministers and regulations made by a Minister of the Crown jointly with a devolved authority. The increased level of scrutiny set out in the proposed amendments would be as disproportionate in the devolved legislatures as in the UK Parliament. The reasons I have already given are as applicable to secondary legislation made in Scotland, Wales and Northern Ireland as they are to secondary legislation made in Westminster concerning the specifics of secondary legislation relating to this Bill, such as technical changes relating to machinery of government changes.

*6.30 pm*

The time required for completing this level of scrutiny in each of the devolved legislatures would delay entry into force even further. This is not in the interests of businesses and consumers in Wales, Scotland or Northern Ireland. His Majesty's Government will continue to work closely and consult with the devolved Administrations. We have already covered comments about the approval we have received from the devolved nations for our high level of consultation.

Before concluding, I will cover some of the other points raised in the amendments. Amendments 34 and 35, in the name of the noble Lord, Lord Lennie, would ensure that the powers in this Bill will expire, even if provision under it is still required. The Bill is about implementing our commitments in the procurement chapters of the agreements, but it is also about maintaining our commitments. Therefore, any amendments that remove this power while it is still needed, frankly, cannot be accepted.

[Lord Johnson of Lainston]

While these amendments would permit the procurement chapters to be implemented, they would remove the power when it may be needed for modifications. We envisage that further modifications in the procurement chapters will relate mostly to simple machinery of government changes and the subsequent updating of lists of government entities. I stress the importance of those very specific points. It is also very unlikely that these changes would be made until the agreements have aged several years.

I must disagree with the premise of Amendment 35, under the terms of which the Bill would lapse when the UK joins the CPTPP. Bilateral free trade agreements such as those signed with Australia and New Zealand sit alongside multilateral agreements such as the CPTPP and the WTO Agreement on Government Procurement. The procurement chapters of the Australia and New Zealand agreements will not be superseded by the UK's accession to the CPTPP, whenever that may be. Accordingly, the powers in this Bill will still be needed when the UK has acceded to the CPTPP in order to implement future modifications to the Australia and New Zealand agreements.

I want now to address the question of whether Clause 2 and Schedule 2 should stand part of the Bill, as raised by my noble Friend Lady McIntosh, as these parts of the Bill ensure the proper functioning of Clause 1. Clause 2 ensures that the powers in the Bill can be exercised effectively—for example, by enabling any consequential provision to be made as necessary. This can be used to ensure consistency across secondary legislation. In addition, this clause is needed to set out how devolved Administrations can use these powers, as it enables Schedules 1 and 2 to have effect. On Schedule 2, the power in Clause 1 ensures that the UK can amend procurement regulations to meet its obligations under those chapters. Schedule 2 is necessary to specify how those changes can be made, by both a Minister of the Crown and a devolved authority.

My noble friend covered a number of other very important points in relation to standards and the importance of ensuring that we maintain the integrity of our borders. I assure her that I will personally look into the matters she has raised. I hope I will be able to reassure her that we maintain our borders to the highest possible degree of integrity.

**Baroness McIntosh of Pickering (Con):** I realise that my noble friend and I did not have the meeting last week that he very kindly invited me to, as I was involved in other legislation. Could he perhaps write to me on the two specific questions I have asked? First, how do the Government expect to fulfil their statutory duty to report on the new obligations under this Bill to maintain protections for human, animal or plant health, animal welfare and the environment? Secondly, how and where will the food be checked: when it is coming into the country, at the borders; or when it is being offered to be eaten?

**Lord Johnson of Lainston (Con):** I thank my noble friend for those comments, and I will be happy to respond to both questions in writing. She raises the very important point that, to have security and trust in these free trade agreements, we need to know that they are properly policed and monitored. I am completely with her on this, and I hope the reassurances I have already given will be seen as significant and can be passed on to my noble friend in the detail that she requires.

If I may come to a conclusion, I thank noble Lords again for their contributions, but I hope I have demonstrated that these amendments are not necessary, and I hope that I have provided further reassurance to noble Lords today. I therefore ask that the amendments not be pressed.

**Lord Kerr of Kinlochard (CB):** I still have not heard what "different" means in Clause 2(1)(a). I do not need to know now, but if I do not hear by Report, I shall be tempted to join the noble Baroness, Lady McIntosh, in arguing that Clause 2 should not stand part of the Bill.

**Lord Johnson of Lainston (Con):** I appreciate the comment made by the noble Lord. I am told that it refers to Clause 1(1)(b), which says,

"otherwise for the purposes of dealing with matters arising out of, or related to, those Chapters."

I am happy to have a more detailed conversation with the noble Lord about the specifics of the Bill at a later stage. As the noble Baroness mentioned, I have offered to all Members of this House to have one-to-one or group discussions about the agreement, and I have kept my diary open, but the meeting that I was so looking forward to last week was cancelled due to no one attending. I hope the next meeting that I arrange will have a few more people coming, since I look forward to the debate and am happy to be specific about the details.

**Lord Purvis of Tweed (LD):** I—

**Lord Johnson of Lainston (Con):** I am going to come to a conclusion and then I will hand back to the noble Lord.

I ask that these amendments not be pressed, and maintain that Clause 2 and Schedule 2 should stand part of the Bill.

**Lord Purvis of Tweed (LD):** Just before the Minister finally sits down, I wonder whether he might be kind enough to write to the noble Lord, Lord Kerr, and ensure that copies are sent. These powers are a perplexing issue. The Explanatory Notes say they are necessary for consequential elements, but that would be covered by Clause 1(1)(b). The Minister says we need these powers in the long term, but they are repealed by the Procurement Bill as soon as that Bill becomes an Act, because this Bill is superseded. There is no part of this Bill that is protected by the Procurement Bill; this Bill will be repealed entirely. I do not expect him to reply now, but, if he could explain that point in writing in advance of Report, that would be very helpful.

**Lord Johnson of Lainston (Con):** I appreciate that intervention, and I will certainly do so. I am happy to have further meetings on this issue. I thank the noble Lord for that comment.

**Baroness McIntosh of Pickering (Con):** I am grateful to all who have spoken and particularly to the Minister for responding.

Perhaps it is the advocate in me, but I have always worked better from a written brief. It would have been helpful for me to have had the meeting with my noble friend to explain my thinking behind the problems that I have with Clause 2 and Schedule 3. It would be helpful if he could reply to me with a copy to the noble Lord, Lord Kerr, and perhaps place a copy in the Library—at which point I will decide whether further action is required on Report. We have had a good debate on these super-affirmative regulations. I know this is something that the Law Society of Scotland has put forward at other stages of other Bills, so it has a lot of support on the right issues in the House.

What my noble friend said about the Delegated Powers Committee is right: there are a number of practitioners in the country who are concerned that the broad and unspecified powers to alter public procurement rules in the Bill should adequately reflect the values of transparency and openness that I know my noble friend is wedded to. With those few remarks, I withdraw my opposition to Clause 2 standing part of the Bill.

*Clause 2 agreed.*

*Amendments 7 to 19 not moved.*

*Schedule 1 agreed.*

***Schedule 2: Regulations under section 1***

*Amendments 20 to 33 not moved.*

*Schedule 2 agreed.*

*Clause 3 agreed.*

***Clause 4: Extent, commencement and short title***

*Amendments 34 and 35 not moved.*

*Clause 4 agreed.*

*House resumed.*

*Bill reported without amendment.*

## Environmental Targets (Water) (England) Regulations 2022

*Motion to Approve*

*6.40 pm*

*Moved by* ***Lord Benyon***

That the Regulations laid before the House on 19 December 2022 be approved.

*Relevant document: 25th Report of the Secondary Legislation Scrutiny Committee. Special attention drawn to the instrument.*

**The Minister of State, Department for Environment, Food and Rural Affairs (Lord Benyon) (Con):** My Lords, I beg to move that the draft environmental targets for water in England be approved. Water is one of our most precious natural resources. It is essential for human well-being, farming, food production and biodiversity.

I will briefly set out how the Government have massively increased action on water quality. We are tackling agricultural pollution at the source by doubling investment in catchment-sensitive farming and rolling out new schemes to reward sustainable farming. We launched our storm overflows discharge reduction plan to deliver the largest infrastructure programme in water company history, with £56 billion of capital investment by 2050. Through the Levelling-up and Regeneration Bill, we will place a duty on water companies in England to upgrade wastewater treatment works in nutrient neutrality areas to the highest achievable technological levels. Our new long-term targets will tackle some of the biggest impacts on our water environment by stimulating action towards our ambition in the 25-year environment plan of clean and plentiful water.

I turn to the amendment to the Motion, tabled by the noble Baroness, Lady Hayman of Ullock, which gave rise to this debate. The amendment raises concern about the level of ambition of this new set of water targets and the recent river basin management plans published by the Environment Agency. The targets we are setting are ambitious and will have significant impact. They will deliver tangible improvements to the water environment. We are going as far as we can as fast as we can, while balancing the costs to business and people's lives and complying with the Environment Act. I remind noble Lords that the Act says in Section 4:

"Before making regulations under sections 1 to 3 which set or amend a target the Secretary of State must be satisfied that the target, or amended target, can be met."

I absolutely reject the claim that existing deadlines for our commitments in the water framework directive regulations 2017 have been pushed back to 2063. The updated river basin management plans published by the Environment Agency set objectives for good ecological status by 2027 and are compliant with the water framework directive regulations 2017.

In December last year, the Environment Agency published its river basin management plans, which included modelling that showed that, for a small group of ubiquitous, persistent, bioaccumulative and toxic chemicals known as uPBTs—specifically mercury, PFOS and PBDE—the level of pollution will not decline to acceptable levels until 2063. Although most of these are banned from use, there is no technically feasible way to remove this historic pollution from the water environment. This situation is not unique to England. This is an issue faced internationally and EU states that have also chosen to undertake biota monitoring for uPBTs such as Germany, Sweden and Austria have returned comparable results.

*6.45 pm*

The water framework regulations 2017 have always allowed an extended time frame beyond 2027 to allow water bodies to recover naturally once actions to stop emissions of certain pollutants have been carried out. That is specifically linked to this chemical issue and is not related to any other measures required by the water framework directive. The basis of the amendment to the Motion is therefore factually incorrect, and I am disappointed that the Opposition have decided deliberately to ignore the facts. It is for the noble

[Lord Benyon]

Baroness to explain how she could have made such an error, or why she has worded the amendment to the Motion in such a misleading way.

We have categorically not amended the target timeline in the water framework directive regulations 2017, nor have we reduced the work involved to meet it. We remain committed to delivering clean and plentiful water, as set out in the 25-year environment plan. Those targets are absolutely critical to deliver the long-term improvements to the environment that we all want to see. However, I will be clear in saying that, if noble Lords on the Opposition Front Bench delay the adoption of those targets, they will not slow us down or slow down the action we will take to meet them; they will just let down the British people, who will see right through their amendment to the Motion.

I will return now to the details of the instrument. The instrument sets four legally binding targets for water, fulfilling the requirement under the Environment Act 2021. The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 already set an outcome-based, long-term target to improve the overall water environment. Under those regulations, we are committed to restoring 75% of water bodies to "good ecological status". We do not simply want to replicate that, so we are setting four water targets to address some of the most specific pressures. The regulations are laid to create four new legally binding targets for water: to reduce nitrogen, phosphorus and sediment pollution from agricultural land by 40%, and to reduce phosphorus from treated wastewater by 80%. Our abandoned metal mines target will seek to halve the length of rivers polluted by abandoned metal mines, and our water demand target aims to reduce water demand by 20%.

Pollution from the agriculture sector prevents 40% of water bodies in England from achieving our objectives for "good ecological status". Our agriculture target will address three major sources of harm from this sector: nitrogen, phosphorus and sediment. Agriculture and wastewater are the biggest sources of nutrient pollution in the water environment. Agricultural nutrients enter the water environment through run-off and leaching from agricultural land; it accounts for an estimated 70% of nitrate inputs into our rivers, lakes and groundwaters, and 25% of the phosphorus load in our rivers and lakes.

To deliver the target, we will work with the agricultural sector to improve farming practices and we will reward farmers for incorporating sustainable methods and wildlife habitats into their farm as part of a profitable business. At every step, farmers will have access to free, face-to-face advice from the catchment-sensitive farming partnership. We will help farmers benefit from the technologies that could transform how our food is grown, including closed systems that capture excess nutrients for reuse, or reduced tillage systems that preserve the soil structure and reduce the need for fertilisers. Sadly, there still will be, and still are, polluters who will let the side down and end up threatening those collective efforts. If they do not accept our support, we will tackle them head on. We have increased the funding for Environment Agency enforcement officers to enable that and to focus them on the most sensitive areas.

Our second water target that addresses nutrient pollution is focused on reducing phosphorus pollution from treated wastewater. That new target is part of a wider programme of work started by Conservative Governments to improve water companies' environmental performance. That includes, for example, £56 billion of capital investment by 2050 on storm overflows discharge reduction and £7.1 billion of investment by water companies on environmental improvements in the years 2020 to 2025, including £3.1 billion on storm overflow improvements specifically, driving 800 storm overflow improvements across England.

In 2013, when I was the Water Minister, I personally wrote to all water companies to direct them to roll out a systematic storm overflows monitoring programme for the first time. Only 5% of all storm overflows were known about at that point; by the end of this year, we will know every single one of them. The information that people have is largely due to measures that we took a decade ago to drive up that information base, because previous Governments had no idea what was going on.

We also made the environment a priority in the strategic policy statement for Ofwat for the first time. This included giving a clear expectation that it must challenge water companies to achieve zero pollution incidents by 2030. I repeat that, because some noble Lords have questioned me on this: to achieve zero pollution incidents by 2030. We also have a requirement for water companies to cut leakage by 50% by 2050.

Over the last two decades, phosphorus in treated wastewater discharged into rivers has reduced by 67%. However, monitoring shows that the amount of phosphorus in treated wastewater is still damaging to the water environment and that water companies are still the largest source of this nutrient pollution. That is why, in this price review period for 2020 to 2025 and following trials of new and improved techniques, the Environment Agency set a more stringent technically achievable limit for phosphorus reductions that could be applied to wastewater treatment works. To meet this target, we will work with the Environment Agency to tighten the permits on wastewater companies even further, by requiring an estimated 400 treatment works to meet the strictest limits for phosphorus.

Our amendment to the Levelling-up and Regeneration Bill will also contribute to the achievement of this target by requiring water companies to improve the performance of wastewater treatment works to the highest achievable technological levels for phosphorus in designated nutrient neutrality areas. Our approach balances ambition and significant changes that need to be made to meet our wider targets with impacts on customer bills. We also support the work that Ofwat is undertaking to link water company dividends with environmental performance and to scrutinise water company performance.

The third target will address metal pollution from abandoned metal mines. Metal mines are the biggest source of metal pollution in rivers and one of the top 10 pressures impacting the water environment. This causes acute local pressures where it appears, which has a high environmental and economic impact. Impacted rivers are polluted by high concentrations of at least

one of cadmium, nickel, lead, copper, zinc or arsenic. Until the year 2000, mines could be abandoned without the mine operators having to take responsibility for the legacy of ongoing water pollution from their activities.

As most of the metal mines in England were abandoned by the early 1900s, it falls almost entirely to the Government to take action to mitigate continuing environmental harm. Without government action, the effects of these activities would typically continue for hundreds of years. We will deliver this target, along with the Coal Authority, through a tenfold increase in the existing water and abandoned metal mines programme and by upscaling our existing three treatment schemes to around 40, with a similar number of diffuse interventions. In the majority of catchments impacted by these mines there are few or no other reasons for failure, so tackling this pollution will support these rivers achieving good status.

Our fourth target will bring about a reduction in water demand to ensure a resilient supply of water in the face of climate change and an increasing population, and leave more water in the environment to support biodiversity. The recent dry weather conditions have driven the importance of this home to the British people more than ever before. Increased demand and reduced water availability is affecting the environment and reducing the security of our water supply. Public water supply represents around 30% of water abstracted from the environment and the majority of water abstracted across England but not returned directly to the environment.

Abstraction used for spray irrigation accounts for a small proportion of total national freshwater abstraction—between 1% and 2%. Of the additional 4,000 million litres of water a day which is estimated to be needed by 2050, half of this capacity will be met by demand reduction, through a reduction in water lost through leakage and a reduction in household and non-household water use. Industry-wide, water companies have reduced leakage by 11% since 2017-18. Through this new target we are pushing water companies to go further. The water demand target will ensure a sustainable level of water demand and help to leave more water in the environment for nature.

In conclusion, the targets enshrine in legislation our ambitious objectives for the water environment by tackling some of the most significant pressures: pollution from agriculture, wastewater and abandoned metal mines, as well as a target to reduce water demand to ensure that we have a resilient supply of water in the future. Without these actions, we will see shortfalls in water supply across England and significant strain on the water environment from nutrient and metal pollution. I commend these draft regulations to the House.

*Amendment to the Motion*

*Moved by* ***Baroness Hayman of Ullock***

At the end insert "but that this House regrets the lack of ambition and urgency contained in the Regulations; notes that in relation to the department's consultation, an overwhelming majority of respondents supported more stringent targets than those in these Regulations; further notes that these targets must be considered in the context of the Environment Agency's decision to postpone the deadline for improving the quality of England's rivers, lakes and coastal waters to 2063; therefore calls on His Majesty's Government to bring forward revised targets by the end of 2023".

**Baroness Hayman of Ullock (Lab):** My Lords, along with many others, we have for some time expressed our concerns about the Government's lack of ambition in tackling the huge challenges facing our environment. We argued strongly during the passage of the Environment Act for the need to set targets to bring about transformative change, and were told that ambitious targets would be announced by 31 October of last year. That is a full year after the Act came into law—so hardly urgent. It was only after interventions from the Office for Environmental Protection, fellow parliamentarians and environmental groups that eventually they were laid—late—on 19 December.

One reason for the delay is that Defra did not begin the consultation on the proposed targets until March 2022 and the publication of evidence documents to support responses was also delayed. Over 180,000 consultation responses were received, with most people asking for higher levels of ambition. We know this carries a high level of public interest and support. Instead, as the Secondary Legislation Scrutiny Committee says in its highly critical report, most of the targets have not been strengthened, none has been strengthened significantly, and some have been weakened, with key gaps remaining in some areas where there was strong public and expert support for additional targets.

In addition, the Government are further undermining nature recovery by threatening hundreds, if not thousands, of environmental laws under the retained EU law Bill. Can the Minister tell me what is the point in the Government having a 25-year environment plan if it ends up being nothing but rhetoric?

I turn to the SI in front of us today on the water targets. The date of 2063 was mentioned by the Minister. Until Brexit, the UK Government were signed up to the water framework directive, requiring countries to make sure that all their waters achieved good chemical and ecological status by 2027 at the latest. The UK Government later reduced this to 75% of waterways reaching a single test of good ecological status by 2027 at the latest. The target for the majority of waterways to achieve good status in both chemical and ecological tests has now been pushed back to 2063 according to an analysis by the Wildlife Trusts of the new river basin management plans.

It is not amusing. The latest state of rivers and lakes report released by the Environment Agency shows that only 16% meet the criteria for good ecological status and that no water bodies are deemed to meet the criteria for achieving good chemical status. This is appalling. The Government have set targets to reduce pollution from agriculture, abandoned metal mines and wastewater, and to reduce water demand. That is commendable—of course we support pollution reduction. Nitrogen and phosphorus run-off from agriculture lead to freshwater ecosystems being starved of oxygen, causing harm to wildlife. In fact, agriculture and wastewater nutrient pollution carry most responsibility for the failure of our lakes and waterways to meet good ecological standards.

*7 pm*

The problem with this SI is that there is no information or specifications as to how this will be achieved. The executive summary states that it

"does suggest groups of policy options which could together deliver each target."

That is pretty thin. Couple this with the fact that the target date to achieve any of the stated aims has now been moved back to 2038 and you will see that there is a complete lack of urgency or ambition from the Government.

Both the general public and experts in this field believe that the level of ambition proposed in the targets for nutrient and sediment pollution is too low. For example, the Government's Water Targets Expert Advisory Group suggested that a significantly higher level of ambition is required to achieve the goals of the 25-year environment plan. Over 90% of people who replied to the Government's consultation disagreed with the proposed level of ambition for reducing nutrient pollution; almost every single one wanted a stronger target. Let us remember that only last December, the Government agreed to the COP 15 global biodiversity framework, target 7 of which is

"reducing excess nutrients lost to the environment by at least half"

by 2030. How will the target proposed today, to reduce nutrient pollution from agriculture by 40% by 2038, achieve that commitment? Is it even compliant?

Having said that, bizarrely, there is a nutrient pollution chapter in the levelling-up Bill. Perhaps the Minister can enlighten us as to how this will work alongside the Defra proposals and the COP 15 commitment. Has a Cabinet Committee been set up, perhaps, to try to co-ordinate all this?

Looking at the target for water demand, the Secondary Legislation and Scrutiny Committee refers to the submission from Greener UK and Wildlife and Countryside Link. This highlighted that the water demand target is a relative target, based on water abstracted divided by population, and that this could result in overall water taken from the environment increasing, with the outcome of no environmental improvement in this respect. What reassurances can the Minister provide that this will not be the case? We have heard in numerous debates in this House that overabstraction is a significant cause of poor habitat quality and can exacerbate the effects of pollution, including that of the disgusting practice of sewage being pumped repeatedly into our rivers and seas. There have been more than a million sewage spills over the last six years; one every two and a half minutes. It really is time to clean up our seas, lakes and rivers.

We believe that being a custodian of our waterways and the environment should be a government duty and priority. Instead of the lack of ambition and urgency offered by this Government, we believe there should be mandatory monitoring of all sewage outlets so that we can get a grip on the situation, with a legally binding target to end 90% of sewage discharges by 2030. We believe that the Environment Agency should have the power and resources to properly enforce the rules and, as it suggests, that water company executives who routinely and systematically break the rules should be held personally and professionally accountable. The Environment Agency is so concerned about the lack of progress from the water industry, confirming that water firms' performance on pollution had declined to the worst seen in years, that it is calling for chief executives and board members to be jailed if they oversee serious, repeated pollution, because they seem undeterred by enforcement action and court fines for breaching environmental laws. In other words, it is the only way that the Environment Agency can see a change in attitude in order to turn the situation around. Why will the Government not support this course of action?

The Minister may well believe that Defra is being ambitious, and I am sure he will continue to reassure us that all is well and in hand, but I am afraid that our seas and waterways need so much more than these targets can deliver. For the sake of our environment and its threatened biodiversity, the Government must do more. We need to ensure that we do not just stop polluting but help our fragile ecosystems to recover for future generations to appreciate and enjoy. I beg to move.

**Baroness Jones of Moulsecoomb (GP):** My Lords, I agree with every word—

**Baroness McIntosh of Pickering (Con):** My Lords—

**Baroness Jones of Moulsecoomb (GP):** Why should I give way?

**Baroness McIntosh of Pickering (Con):** Because that is the way it goes. I thank the noble Baroness for giving way.

**Lord Harlech (Con):** My Lords, it is the turn of this side. There will be time for everyone to contribute.

**Baroness Jones of Moulsecoomb (GP):** I deeply resent that.

**Baroness McIntosh of Pickering (Con):** My Lords, I am grateful to the noble Baroness for giving way. On the environment, we agree on so much.

**Baroness Jones of Moulsecoomb (GP):** I am not giving way; I am being bullied.

**Baroness McIntosh of Pickering (Con):** My Lords, I welcome this debate as it enables us to consider where we are with the state of our rivers and seas. I pay tribute to my noble friend and congratulate him on the work he has done since we were on the Front Bench together—albeit in opposition—and the interest he has shown and the knowledge he brings to this area. I will make two brief points.

There is disagreement over why our rivers and seas are being polluted by sewage. I argue that one of the reasons is that we are building 300,000 houses a year—that is our aspiration and that of, I think, the Opposition Front Bench. There is nowhere for the sewage to go. At the moment, highways are excluded from the surface water run-off, which is compounding this, as was identified by Pitt in 2007. Surface water run-off is a relatively new phenomenon and it is combining with the combined sewers. That is adding sewage to our rivers upstream, way before it gets into the sea.

I welcome this opportunity strongly to urge my noble friend to respond urgently to the report into the review on SUDS. It has recommended that sustainable drains be added, exactly as they have been in Wales. I can see no reason to delay this, for the simple reason that, as the noble Baroness opposite said, we cannot accept this extra form of pollution: surface-water flooding into our rivers and seas. So I ask my noble friend to bring forward as a matter of urgency these recommendations, to ensure that there is an environmental impact assessment, that it is well costed, that highways will be added and that all new developments will be submitted to developers building sustainable drains in this regard.

My noble friend mentioned nutrients, which will cause an ongoing debate in the House. My noble friend is aware—I have registered my interest in this—that a study is taking place on the use of bioresources. Without putting too fine a point on it, we are seeking to take the solids out of the sewage—if noble Lords get my drift, without spelling it out—and, as other countries have done, recognise it as a resource, put a value on it and decide, with government advice and guidance, how it can best be used. There are two obvious ways to use it: putting it on the land, which they tried to do in north Yorkshire when I was an MP there—it got a very mixed response, but it is worth looking at—and using it to create energy, which I understand is happening in Denmark and other parts of Europe. We need to look at nutrient neutrality, as I think my noble friend called it.

Finally—I apologise to the noble Baroness opposite—when we come to the retained EU law Bill, I would like to consider why we would wish to remove the wastewater directive, the water framework directive, the drinking water directive, the bathing water directive and the urban wastewater directive when they are part of the reason why our rivers have recovered from the state they were in through the 1980s. I welcome this debate and look forward to hearing my noble friend sum up.

**Baroness Jones of Moulsecoomb (GP):** My Lords, I hardly think it is appropriate for a government Minister to attack the people on this side of the Chamber as letting the British people down when it is we who are actually trying to protect them. We have had 13 years of Conservative Government and it has been mismanagement, incompetence and corruption almost from the start. I do not blame the Minister sitting in front of us, but the successive Cabinets at the other end have damaged the British people much more than we ever could.

I thank Ash Smith of WASP, which is Windrush Against Sewage Pollution, for a briefing on these targets. Essentially, telling water companies that 2038 and 2040 are appropriate targets is absolutely ridiculous. It means they can sit back on their hands and relax. I am curious to know whether the Government think that if they set the targets too high, the water companies will not make any money and go bust and then we will have to nationalise them—which sounds like quite a good result to me.

As of this morning, Fairford sewage treatment works has been dumping sewage into the River Colne for a total of 745 hours continuously since 23 December last year. I am curious to know what action the Government are taking about that. Is that the storm overflows that the Minister was referring to? Because, of course, storm overflows are not storm overflows, they are constant overflows. This is not a storm overflow, so are the Government doing anything about it?

The Government has a target of reducing phosphorous by 80% by 2037, because the current excesses lead to algae bloom, cut oxygen and kill rivers. It is used by water companies to mitigate harmful lead pipe impact. That is because, of course, they have not updated their pipes over the past 20 or 30 years. Feargal Sharkey, who we all know, suggested that I take the example of Amwell Magna Fishery, as it regularly has phosphorous readings way up in the death zone; even if the readings were reduced by 80%, we would still end up with a level of phosphorous that was poisoning the river.

I also point out that the Government have used different base years. I do not understand why. They have used 2018 and 2020: why use two different baselines? Is that because in those years the spillages were very high and so 80% of a huge amount is not a particularly difficult target? I would really like an answer to that. In order to recover the health of the Amwell Magna Fishery and the river there, something like a 95% reduction would be needed. Given that 60% to 80% of phosphorous comes from sewage, I cannot see that even these inadequate targets are going to be met.

I very much want to know why the Government have used different base years. There must be a reason. And what about untreated sewage dumping? What is happening about that? I did not see this mentioned. Is phosphorous measured at every sewage outfall, and is it measured seasonally? Of course, it varies with the seasons, and it varies throughout the day. Could the Minister explain that a little bit? What about nitrogen from sewage works? Why is that not mentioned? We know that many sewage works discharge large amounts of effluent with very high levels of nitrates.

Other countries have reduced ammonia from agricultural runoff using simple measures. For example, Holland have been covering its slurry pits. I do not know exactly how it works, but there is some capital input and they have had extremely good results. Why are we not doing something similar? Also, why is there no overall target for water quality after 2027? If the Government are committed to supplying water, would a standpipe cover the point about the amount of water supply by water undertaken per person? Would a standpipe come into that definition?

The only way to get clean rivers and a clean water supply is to accept high standards and monitor them, and to have an Environment Agency that does not have its budget slashed all the time and is actually competent to do the work. Personally, I would of course like to see water companies taken back into public ownership. It is absolutely ludicrous that we let profit-making companies make a profit from something we all so desperately need.

*7.15 pm*

**Baroness Bakewell of Hardington Mandeville (LD):** My Lords, it is a pleasure to follow the noble Baroness, Lady Jones of Moulsecoomb. As always, the noble

Baroness, Lady Hayman of Ullock, has given a very thorough introduction to this statutory instrument. I thank the Minister for his time in providing a briefing.

The environmental targets, which were delayed from 31 October and eventually published on 19 December, are now being somewhat hurriedly debated before the end of January. The Secondary Legislation Scrutiny Committee debated all the environmental target SIs on 17 January. The committee did not feel that the original Explanatory Memorandum explained the four water targets very well or how they will be assessed and reported. The Minister has laid out very passionately the rationale behind the water targets.

I have received a briefing from Wildlife and Countryside Link and Greener UK, for which I am grateful, which makes the very valid point that only 16% of water bodies are in a good ecological condition. Therefore, ambition is needed to move this forward. The targets for pollutants—nitrogen, phosphorus and sediment—represent a siloed approach, which I will comment on later. Overall, the lack of ambition is worrying. It is some time since the 25-year environment plan was launched. The subsequent Environment Act should have supported fully that plan, with the environmental targets playing a wholly supportive role.

I have looked at the summary of responses to the government consultation. There were over 56,132 answers to the questions on water posed by the Government, and the government response can loosely be described as "No change". The date for achieving the targets, however, has changed from 2037 to 2038. The rationale for this is that it will allow targets to span a 15-year minimum timeframe, and this will then tie in with the five-year reporting cycle of the environment improvement plan. This is eminently sensible and straightforward, provided that the targets are ambitious.

The abandoned metal mines target for a 50% reduction by 2038 is, however, not ambitious enough. Some 91% of the responses on this target disagreed with it. As far as I was able to ascertain, there is no detail on how the pollution substances target will be monitored. The Government, in their response to the disagreeing 91%, said that tackling pollution by the largest substances will lead to these rivers achieving good status, since there are few reasons for failure. However, they do not say how they are going to achieve this.

Further down in the document—I fear I quote here—the Government say:

> "This ambition will require at least a 10-fold increase in the number of projects operated by the current Water and Abandoned Metal Mines Programme. We considered calls to increase our target ambition, however we concluded this would not be feasible given significant additional funding required, supply chain constraints and long lead-in times to secure the additional capability and to plan schemes. Ultimately, the additional costs would reduce the cost to benefit ratio".

I repeat: they say that the additional costs would reduce the cost-benefit ratio. We are talking about cadmium, lead, copper, zinc and arsenic. These poisons are leaching out of abandoned mines into our watercourses, in which children are playing and adults may be swimming—but they say that cleaning this up does not meet the cost-benefit ratio. It would seem that silo working can justify almost anything. Undoubtedly, the cost to the water industry will be reduced by this unambitious target. What about the cost to the NHS of dealing with the health issues of those poisoned by exposure to toxic chemicals—workers off sick, children off school? The health impacts are enormous.

I turn now to the target on agricultural nutrients. Some of the respondents wanted more pollutants included in the target scope. The Government reject this because nitrogen, phosphorus and sediment are, by a considerable margin, the agricultural pollutants causing the most harm. Regardless of just how many pollutants are covered or not, the target to reduce nitrogen, phosphorus and sediment from agriculture by 40% by 2038 is just not good enough. We have had many debates in this Chamber about the pollution of our major rivers, including the Wye polluted by chicken manure. It really is time for Defra to be taking this matter seriously and dealing with this toxic pollution on a permanent basis.

Much is made in the document of that fact that the majority of responses came from campaigns by Friends of the Earth, Greenpeace, the RSPB and the Woodland Trust. However, each of the responders under these campaigns were individual members of the public who felt passionately about the issues.

The pollution from wastewater target is poor, allowing the water companies flexibility to deliver on it. The consultation response document states that 98% disagreed with the target on pollution from wastewater, preferring a more ambitious target. The document also stated that, of the non-campaign answers, 44% agreed with the outlined flexibility in the target. This means that 56% still disagreed with that target. However you attempt to translate the responses to the consultation questions, the overwhelming response all round is "Not ambitious enough".

Lastly, the water demand target increases the target for leakage reduction in domestic supplies from 31.3% to an amazing 36.9%. This is on the basis that it will align with industry targets. This is also at a time when household bills are increasing. Surely to goodness the water companies can do better on their percentage of leakages than 36.9%. Who is paying for all this leaked water? The consumer, of course.

All round, I regret that I am disappointed in the water targets. I look forward to the Minister's response to this debate.

**Baroness Jones of Whitchurch (Lab):** My Lords, I am grateful to my noble friend Lady Hayman for drawing these substandard water environment targets to the attention of the House. As has been said, they arise from the requirement of the Environment Act 2021 to publish these targets. As my noble friend has said, they are late and already put Defra in breach of its statutory obligation. But, more importantly, neither these water targets nor the remaining statutory targets which have been published are sufficient to address the persistent trends of environmental decline that we have been hearing about this evening.

The excellent progress report from the Office for Environmental Protection, which was published last week, illustrated well just how big the gap between ambition and delivery has become. As the OEP chair, Dame Glenys Stacey, said:

"Progress on delivery of the 25 Year Environment Plan has fallen far short of what is needed to meet Government's ambition to leave the environment in a better state for future generations."

The report went on to say that, of 23 environmental targets assessed, none was found where the Government's progress was demonstrably on track. It does make you wonder what Defra has been doing for the last four years.

I am grateful to the Minister for reminding us of his previous stint as the Water Minister. I do not doubt what he said, which is that we have more information on water pollution now than we had in the past. But does that not just demonstrate the fact that the Government have been falling asleep on the job? They have known about this, they have been seeing the data coming through, and what exactly have they been doing over the last 13 years—a point made by the noble Baroness, Lady Jones? As that evidence came through, why was it not matched by action? Why are we still having to raise these issues now?

It is also hugely frustrating that all of us who were involved in the debates on the then Environment Bill heard the promises made at that time by the noble Lord, Lord Goldsmith, about focused and ambitious targets that would be truly transformative, yet all that seems to have come to nothing. These water targets appear to focus on very partial elements of the overall water quality challenge. It is not clear to me why these particular targets have been selected. As the OEP identified in its report, there is already a proliferation of targets to which the Government need to bring some sort of order; again, noble Lords have made reference to those other targets. What we need now is an ambitious, long-term, overarching statutory target that provides a proper direction and pulls all the other targets together so that there are proper priorities for our environmental challenges. However, these water targets completely fail to do this.

I agree with many of the submissions to the consultation that what we need is an overall water quality target. That should be the focus of our statutory obligations. We know that not one English waterway, including rivers, lakes, estuaries and coastal waters, is in good ecological and chemical health at the moment. Tackling agricultural pollution is one part of the solution but so is tackling the ongoing crisis of sewage pollution from water treatment works, which we have heard about this evening. This is being exacerbated by the impact of climate change: a mixture of record-breaking temperatures and higher rainfall is leading to the increased use of storm overflows to release raw sewage into rivers. As the noble Baroness, Lady Jones of Moulsecoomb, said, storm overflows have become a constant flow rather than occurring as a result of any particular temperature or weather impact.

If the Minister's response to all this is that there are other measures in place to tackle water pollution, can he please explain how they add up to a total water quality target? What is the overall target and how are we to measure progress on it? That is what is missing from the targets set out in this document. Based on the current trajectories, we are not going to see healthy rivers and lakes in our lifetime.

The Government also make the argument that they already have targets under the water framework directive but, of course, they are proposing scrapping all those European pieces of legislation under the REUL Bill. Can the Minster explain what the longer-term intention is for the water framework directive and, indeed, all the other water directives to which the noble Baroness, Lady McIntosh, referred? I would have thought that they are essential for us to protect and take forward our environmental ambitions for water in the longer term. Can the Minister clarify whether the Government intend to keep all that legislation?

As my noble friend Lady Hayman said, Greener UK and Wildlife and Countryside Link made the point that the specific water demand target is relative and based on water abstracted, divided by population numbers. The Government have already admitted that it may measure and improve water efficiency levels, but this does not necessarily mean that there is any environmental improvement. Why was this target not linked to a parallel target focusing on controls on water abstraction, with an overarching outcome of improving water quality? That is what we are looking for: a "big picture", overarching target.

The targets we are debating today are just one example of the inadequacy of the Government's target-setting process. I hope the Minister and the Government will heed the advice of the Office for Environmental Protection and come back with more ambitious and coherent targets for the future, so that we can see real progress in reversing the environmental crisis we have heard about this evening. I look forward to the Minister's response.

*7.30 pm*

**Lord Hacking (Lab):** My Lords, I apologise for not being in the Chamber when the Minister spoke. I came in only during the speech by my noble friend Lady Hayman. However, I rise because of the date of 2063, when the full regulations will eventually be in. I am going to be interrupted and told that I am out of order, am I?

**Lord Harlech (Con):** My Lords, I am afraid that the noble Lord missed the entirety of the Minister's opening speech, where he referenced the 2063 date. I suggest that he reads it in *Hansard*.

**Lord Hacking (Lab):** I do apologise, but I wanted to remind the House of the 1880s, when London sewage was all put into the River Thames and there was such a stench that both Houses of Parliament had to rise early for the Summer Recess.

**Lord Benyon (Con):** My Lords, I am grateful to all noble Lords for their valuable contributions to this debate.

The water targets put forward in this statutory instrument meet the requirements under the Environment Act to set at least one target in the area of water. As the Act requires, the Secretary of State has sought appropriate advice from independent experts and is satisfied that these targets can be met. The targets set out in this instrument will complement our existing water regulatory framework and the actions that the Government are taking on multiple fronts to address specific pollutions in the water environment.

For example, and to clarify my previous statement, we are driving Ofwat to challenge water companies to achieve zero serious pollution incidents by 2030. This includes the amendment to the Levelling-up and Regeneration Bill to reduce phosphorus discharges from treated wastewater and reducing nutrient pollution from agriculture by doubling funding for advice and support to farmers through the catchment-sensitive farming scheme and our new slurry infrastructure grant. That grant addresses precisely the point that the noble Baroness made in relation to slurry lagoons. We are putting money into this area, where there is a specific point-source pollution problem, because we want to solve these problems.

I have not mentioned environment land management schemes—

**Baroness Hayman of Ullock (Lab):** I talked about that part of the levelling-up Bill because I am slightly confused. Departments usually are not brilliant at talking to each other. How will this work and who takes precedence on this? Does DLUHC take that bit? I do not understand the set-up.

**Lord Benyon (Con):** I hope that I can reassure the noble Baroness. I spend a lot of time talking to other departments on this. Part of the problem on the River Wye is a planning issue. The customer said they wanted free-range eggs, the market responded, but the planning system was not in place. I know this from a previous role that I had. Perhaps I should declare an interest: I was a campaigner on trying to clean up the River Wye. That is the angle that I come from in this debate. The problem over decades has been the mismatch between the demand of the customer and the planning, which has not addressed it. The noble Baroness is absolutely right that these matters need to be controlled. Not only do we deal with DLUHC every day but they are in the same building. We spend our time, at an official and a ministerial level, working very closely with colleagues.

Without these actions, we will see shortfalls in water supply across England and significant strain on the water environment from nutrient and metal pollution. This target, alongside the suite of Environmental Act targets, will ensure that we meet our commitments to leave the environment in a better place than we found it.

I hope that this will clarify the concerns raised by the noble Lord, Lord Hacking. There is a mistake in the amendment to the Motion, which the noble Baroness did not touch on. It notes that

"these targets must be considered in the context of the Environment Agency's decision to postpone the deadline for improving the quality of England's rivers, lakes and coastal waters to 2063".

No, we are not. That simply refers—and it also addresses the point made by the noble Baroness on the Liberal Democrat Front Bench—to existing measures that are within the water framework directive. If we were still in the EU, these would apply. These are persistent toxic metals and chemicals that cannot be removed by any action that the Government can take now.

These matters will have to be dealt with over the coming months, years and decades to be resolved. They cannot be within the targets we want, because our ambitions are very high. These waste metals are in the environment, and you cannot remove them. That is why they are in the water framework directive. If we were still in the European Union, we would be abiding by this. I absolutely reject the line that we have somehow reduced our ambition since leaving the European Union. That is not true. The 75% figure that was quoted was decided before we left the EU and is an EU target. We are compliant with the water framework directive and, in other ways, we are more ambitious.

Through the way we support farmers in environmental land management, we are trying to give them incentives to change the way they treat soil. In preventing run-off of chemicals, pollutants and soil into our rivers, soil can be our friend. You only have to look at photographs from space, or with your own eyes when standing beside a river: when you see a river in a time of flood, it is very often brown because of the water that is flowing into it.

On the question of environmental laws and the rule Bill, there is no way we will get rid of regulations and measures that will help us hit our targets to reverse the decline in biodiversity by 2030. Many of those species exist in and around our waterways and rivers. There is no way we are going to get rid of regulations that help us to achieve our 25-year environment plan; and there is no way we are going to get rid of regulations that help us fulfil our international obligations, achieved with great effort at the CBD COP 15 in Montreal, with the United Kingdom Government at the heart of that process. There is no way we can do what we want to achieve while getting rid of regulations. So I hope that noble Lords will be reassured on that.

My noble friend Lady McIntosh made a good point about the impact of housing on rivers. A large part of the pollution problems we face comes from individual households that may have poor connections, or from the sheer number of houses that have been built in communities without the infrastructure to support them. That is why, with these targets, we will see hundreds of improvements to sewage treatment plants up and down rivers in this country.

My noble friend will be pleased that we are taking forward the, I grant her, long-delayed SUDS provisions in the Flood and Water Management Act. I am very happy to give her more details on that. She is also right to point out that sewage, if handled in the right way, is a resource. I refer her to emerging technologies around sustainable fertilisers, which can use waste products such as treated sewage to create prilled fertiliser that farmers can put on their land in the certain knowledge of its quality. It stands up against the inorganic, synthetically produced fertilisers that have been part of the problem with pollution, run-off, damage to the environment and the farming sector's inability to hit its target of achieving net zero by 2040. So, technology is our friend in this field.

I was very interested to hear the noble Baroness, Lady Jones, talk about the River Colne, which I was beside this weekend. It is beautiful. If amounts of sewage are being released into it and it is illegal, some of the environmental enforcement agencies, including the new ones we have created with the extra investment we have put into the Environment Agency, will be able to take that water company to court and issue fines, as we have on many occasions, some of which were very large fines indeed.

One of the reasons that £1.3 billion is being spent on a new sewer a few feet from where we are standing is the failure of a previous Government to hit the urban wastewater treatment directive targets. Those targets still exist, and we are cleaning up rivers such as the Thames not only in order to comply but because we want to achieve that.

I turn to the points made by the noble Baroness, Lady Hayman, on COP 15. Water and biodiversity targets go hand in hand. Our new legally binding targets to halt the decline in species abundance is a good proxy for the health of wider ecosystems. These targets will drive domestic action. She asked about weakening the water framework target. I hope that I have covered that. It is categorically untrue that the Government have reduced in any way the water framework directive regulations since Brexit. All EU nations have exempted some water bodies from the target where it is neither practically nor technically feasible to meet it, and I have covered that. The 75% target was set before we left the EU, and we remain committed to it.

Turning to the baseline issue raised by the noble Baroness, Lady Jones, the water targets do have different baseline years. This simply represents the latest years for which we have robust data. It reflects the different reporting cycles for these targets and it is important to use the most recent data. That is why, on occasions, there are different baselines. The noble Baroness, Lady Jones of Whitchurch, also raised issues regarding the OEP. The OEP commended several of the targets, including on waste reduction, agricultural water pollution and particulate matter pollution.

We all want to do things as quickly as possible. If I was on any side of the House, but not on the Front Bench, I too would be pushing the Minister of the day. I do not resile from, or have any less respect for, any Member of this House who pushes the Government on this. I want things to be done as quickly as possible, but let us do it on the right basis. The way this 2063 target has been used in this regret Motion is totally inaccurate, and I hope that noble Lords understand that.

We have been consistently clear with water companies that they must act rapidly to prioritise action on sewage-overflow pollution. Water companies are investing £3.1 billion to improve storm overflows between 2020 and 2025. Our storm overflows plan balances ambition and pace with the impact on consumer bills. Our plan will see £56 billion of capital investment and an estimated £12 average increase in customer water bills between 2025 and 2030. To promote sustainable solutions, green infrastructure projects, started before 2027 and delivered as quickly as possible, will count towards the completion of targets. This is a huge opportunity for the natural environment to see large amounts of private sector money being put into the environment. I will add, on enforcement, that, since 2015, the Environment Agency has concluded 59 prosecutions against water and sewerage companies, securing fines of more than £144 million.

I will now address the point made by the noble Baroness, Lady Jones of Whitchurch, on our targets and ambitions on water use. We want to be serious about this and we want to be effective in reducing it. A cultural change needs to take place. We use potable drinking water to water our plants and wash our cars, as well as for household needs. I am not suggesting that there is an easy cure for this, but, in a changing climate, where there are real pressures, we want to make sure that we are driving down water use, helping those on low incomes to understand that this is a way they can save money—not in a preachy, patronising way but with real assistance. I have seen this at first hand, where a water company shows people how, through small additions to their households, sometimes provided free, they are able to achieve this.

*7.45 pm*

My last point is on the perennial issue of water companies and their status, whether in the private sector or the public sector. I have seen independent evaluations which have shown that water bills would be higher if water companies were still nationalised, and everyone knows that if they were nationalised businesses, they would have to get in the queue outside the Chancellor's office behind the health service, the Armed Forces, the police and hospitals. Any money that was left available in the tin would trickle down, and it would be much less than they are able to leverage on the markets in the way a private company does. Now, am I here to defend all private water companies? No. Some of them have behaved badly, and we have the means to deal with them when they do, but the model is right. The model is a way of ensuring that we get the investment we need to be spent on what people in this country want, which is continued supply of clean water for them at little or no damage to the environment. We want to make sure that these targets fit within that framework, so with those comments, I commend these draft regulations to the House.

**Baroness Jones of Whitchurch (Lab):** Before the Minister sits down, can I take him back to the need for an overall ambition and overall target? The Environment Act says that it should be long-term. We understand that is what the Government are doing, so we might have other targets—and there is an awful lot of targets being floated around at the moment—but we also have the hope of a long-term target for water. So let us say within 15 years, which is what the Environment Act is talking about, could we say, notwithstanding pollutants that are leaching into the water that you cannot do anything about, which the Minister was specific about and will take longer, could we then have a guarantee that we will have clean water in our rivers, waterways and coastal waters within that 15-year deadline? That is doable, I would have thought, and I do not know why the Government do not say that and do not actually set that out as an ambition.

**Lord Benyon (Con):** That will, of course, be our aim. Dates are just dates; they are moments in time. The idea that we are going to allow pollution to carry on and then it is suddenly going to fall off a cliff is of course nonsense. Whoever is responsible, whether it is the Government, their agencies, private landowners, water companies, farmers or whoever it is will be tackling this either because they are forced to do it or because they are incentivised to do it, and they will get the graph moving, as they have already, downwards.

They will deal, like we all do, with the low-hanging fruit first, and then they will move on to the more difficult and the hardest to reach.

There is absolutely that target that we should achieve. We set ourselves a really difficult target with continuing with the water framework directive in its form because a river will be divided under that regulation into reaches. If it fails on one factor in one of those reaches, the whole river fails. That is why only 16% of our rivers qualify. Some reaches of those rivers are in quite good condition. I do not mind that target being demanding, but we need to understand that it is very hard to achieve what we are setting out. We think it is achievable and is doable, but if there is one point-source pollution incident resulting in a spike in phosphorus on one reach of a very long river, that river fails. So these are hard targets to hit, but we are determined to achieve that, and that is why I commend these regulations to the House.

**Lord Hacking (Lab):** I would like to thank the Minister before he sits down—although he has completed that act—for his very clear exposition over my concern about the postponement date of 2063. I offer my gratitude to the Minister.

**Baroness Hayman of Ullock (Lab):** My Lords, I thank everyone who has taken part in this short debate. Regarding the date of 2063, which the Minister has got so exercised about, I reiterate that this came from the Wildlife Trusts, an organisation that I greatly respect. I also greatly respect the Minister. I thank him for his time in going through the different parts of the regulations that we have been discussing today.

My amendment says that I regret the lack of ambition and urgency contained in the regulations. I am afraid the Minister has not reassured me on that—I am sure that he is not surprised to hear it—but I beg leave to withdraw my amendment.

*Amendment withdrawn.*

*Motion agreed.*

*House adjourned at 7.50 pm.*

# Grand Committee

*Monday 23 January 2023*

*3.45 pm*

## Arrangement of Business

*Announcement*

*3.45 pm*

**The Deputy Chairman of Committees (Baroness Fookes) (Con):** My Lords, if there is a Division in the Chamber while we are sitting, which seems unlikely, the Committee will adjourn as soon as the Division Bells ring and come back after 10 minutes.

## Civil Contingencies Act 2004 (Amendment of List of Responders) Order 2023

*Considered in Grand Committee*

*3.45 pm*

*Moved by* ***Baroness Neville-Rolfe***

That the Grand Committee do consider the Civil Contingencies Act 2004 (Amendment of List of Responders) Order 2023.

*Relevant document: 24th Report from the Secondary Legislation Scrutiny Committee*

**The Minister of State, Cabinet Office (Baroness Neville-Rolfe) (Con):** My Lords, this order was laid before the House on 6 December. I think we are all agreed on the importance of improving UK resilience, and the recently published resilience framework illustrates the need for clear responsibilities in order to drive planning activity across the risk life cycle.

This instrument will do exactly that by creating the legal basis for improved co-operation, information sharing and integration between the Meteorological Office and the Coal Authority and the wider list of categorised organisations operating at the local level across the UK. It will deliver these important changes by making both organisations category 2 responders as defined under the Civil Contingencies Act, in turn bolstering the planning activities conducted by local resilience forums in England—a further commitment of the new resilience framework.

This will ensure that these bodies are well integrated within wider emergency planning frameworks and able to collaborate in the development of localised risk assessments and to contribute information and expertise to support local resilience forums in planning for and responding to emergencies. Both organisations hold information and experience that is integral to the process of civil protection. The Meteorological Office is able to support effective management of severe weather risks, and the Coal Authority is positioned to ensure that due consideration is given to the unique risks presented by our industrial heritage.

I was amazed by this: approximately 25% of property across the UK is located on the coalfield, and the Coal Authority responds to a wide range of incidents, including, but not limited to, subsidence, sudden ground collapses, emissions of water or gas and coal tip slips, as well as metal mine pollution incidents, for which it also has responsibility. As we all know, extreme weather and flooding, which we have increasingly experienced, often heighten the likelihood of risks materialising in these areas.

The Civil Contingencies Act, also known as the CCA, was introduced in 2004 following a review of emergency planning arrangements as a result of the fuel crisis and severe flooding in 2000, as well as the outbreak of foot and mouth disease. The Act establishes a framework for civil protection in the UK. It imposes a clear set of roles and responsibilities on organisations with a role to play in preparing for and responding to emergencies.

Category 1 responders are organisations that collectively form the core of local emergency preparedness and response. These include emergency services, local authorities, health bodies, HM Coastguard and government agencies. Category 1 responders are subject to the full set of statutory civil protection duties, including assessing risks to inform contingency planning, warning and informing the public, and putting in place business continuity arrangements.

Category 2 organisations, which include the Health and Safety Executive and utilities and transport operators, are co-operating bodies and, although less likely to be involved in the heart of planning work, are heavily involved in incidents that affect their own sector. Category 2 responders have a statutory duty to co-operate and share relevant information with other category 1 and 2 responders. The Act and regulations made under the CCA create the basis for these organisations to collaborate through local resilience forums where all responders can come together to ensure effective multiagency emergency preparation and response.

Regulations made under the CCA also place a duty on responders to help co-ordinate risk assessment at their local level through the production of the community risk register, which ensures that local resilience forum members hold a consistent understanding of the hazards and threats across their area.

The CCA is reviewed every five years. The most recent post-implementation review was laid before the House in March 2022 and proposed the categorisation of the Met Office and the Coal Authority as one of its key recommendations. The Met Office and Coal Authority perform important functions in preparing for, and responding to, risks associated with extreme weather events and the coal-mining legacy. Recent examples include several heatwaves in 2022, a number of floods in recent weeks and, in the past few days, a sinkhole that has, sadly, opened up in Caerphilly. The two organisations have significant expertise and technical knowledge in their respective fields and provide critical support, such as severe weather warnings, hazard assessments, training and response planning.

While these organisations already work closely with local partners, our consultation and engagement indicated that, without their integration within the legal framework, this was taking place in an inconsistent or ad hoc way. Categorising these organisations will ensure that they are able to share information and co-operate with local resilience forums across the UK in a more regulated and structured way. This will ultimately improve the

[Baroness Neville-Rolfe]
preparedness of local partnerships to respond to incidents related to coal mines or severe weather and strengthen their ability to protect the public and save lives.

This instrument is being made using powers set out in Section 13(1) of the Civil Contingencies Act, which allows a Minister of the Crown to amend the list of categorised responders. It will add the Meteorological Office and the Coal Authority to the list of responders under the Act. Importantly, these amendments do not add significant financial burdens to the Meteorological Office or the Coal Authority as these organisations are already equipped to perform these additional duties under their current budgets, with a de minimis impact assessment having been completed in December 2022.

These provisions will be implemented across the UK, and we have consulted officials from the devolved Administrations throughout the process. We also formally notified each Administration via ministerial letters of our intention to lay this instrument. Noble Lords will be glad to hear that all devolved Administrations were supportive of the inclusion of these agencies as categorised responders for the whole United Kingdom. I therefore thank each Administration for their engagement and collaboration. I hope that colleagues today will join me in supporting the draft regulations. I commend them to the Committee and beg to move.

**Baroness Brinton (LD):** I thank the Minister for her helpful introduction to this statutory instrument. It is an excellent proposal to include the coal providers and the meteorological service as category 2 responders. The actual legislation is barely half a page. The rest of the documentation, both the Explanatory Memorandum and the evidence base, are extremely helpful in explaining how the emergency provision is supposed to operate in practice and the difference between the responsibilities of a category 1 and category 2 responder.

I want to raise an issue about how well that is working in practice—and I declare an interest that my grand-daughters were born very prematurely and very small and, this time five years ago, the smallest of them had been allowed home from hospital only after the first eight months of her life, with a ventilator to operate when she was asleep at night and during the day. Nobody was allowed to look after her who had not been trained by the hospital because, if the ventilator failed, there would obviously be very serious consequences. They also provided a heart monitor. At the time, my son and daughter-in-law were told to let their utility supplier know that they required emergency support in the event of a power cut. There was one such power cut—and, when you have a sick baby home from hospital for the first time, you are watching the minutes ticking by and knowing that the battery on your child's ventilator and heart alarm is going to run down fairly swiftly.

My son rang the utility emergency number, which confirmed that they were on the register, that it was only their estate in south London that had gone out and that, in due course, a generator would be brought to them. An hour and a half later, the story was still the same. My son had to take the decision to remove my granddaughter and all her kit—which filled the car—and bring her to us, where we did have power and were able to ensure that she was safe. I therefore have a particular interest in the emergency supply of electricity, not just for vulnerable people but for those whose lives depend on it.

When there was concern in the autumn about possible blackouts this year, no matter how unlikely, to make sure that the arrangements under the CCA would work for this small group of people, children and adults who have to rely on literally life-saving equipment to keep them alive I asked Energy Ministers and Health Ministers about the registers, which are still held by the utility providers, which are category 2 providers. Disabled groups have also been asking about them. Grant Shapps gave evidence at a BEIS Select Committee meeting that arrangements are there but these individuals need to make emergency arrangements for themselves, which has not been the case in the past and which I found quite extraordinary. For clarity, the register is called the priority services register. That is the one for all vulnerable customers, but it does not distinguish the level of emergency need—and therein lies the problem. In the event of mass power cuts, it is clearly impractical for any energy supplier to provide electricity generators to lots of people at short notice, but asking residents who fall into that category to make that provision for themselves is a further problem.

What has become more worrying, and the reason why I raise this now, is that utility suppliers are telling these individuals that they need to talk to their doctors, who have absolutely no role in this at all. It is clear to many people that the utility suppliers do not understand their role in managing the register. I have also talked to two directors of public health, who are key players on any health issues in local resilience forums and have a particular role in a civil contingency situation, such as a major power cut. They say that they cannot get the right information from the energy suppliers about who it is who needs that extra care. All the focus is on the vulnerable elderly who might get cold. The particular group of people that I refer to seems to fall through the net.

Can the Minister investigate for me how this is meant to work and confirm whether the Secretary of State for BEIS was correct in his assertion in the autumn that the responsibility now lies with the individuals concerned—which seems extraordinary? Can she also confirm whether it is clear to local resilience forums what they should be doing and where they should get their information from regarding this particular group of people?

To end on a happier note: my granddaughter no longer uses a ventilator at night—it took three years—and I must say that all the support that she has had from everyone has been brilliant. But we are a family who really understand the consequences of a major power cut and how life-threatening that can be for a small but very vulnerable group of people.

*4 pm*

**Lord Wallace of Saltaire (LD):** My Lords, I too thank the Minister for this. This comes in the midst of strong negative comments across the House about the way in which Ministers are now handling too many

SIs and too much delegated legislation. This seems to be a model of how it should work, and I compliment the Minister.

I am most acutely interested in the flood prevention area. As the "Saltaire" in my title suggests, we live on—happily, above—the River Aire. Indeed, the weekend before last, we walked down to see just how high the river had got. We well remember when, four winters ago, it was higher than it had been for over a century. All of us in Yorkshire who live below the Pennines are now conscious of the increasing flood risk which we all face and how much of a problem this becomes in terms of the multiagency response when floods happen. Happily, we are not in the Yorkshire coal-mining area, and lead mining is more of a legacy problem in the Dales, but I am conscious that in the acute wet weather last summer, there were potholes in the limestone region which filled up with water for the first time in nearly a century. Clearly, we are in exceptional circumstances and the potential for danger, loss of life and loss of property is now higher than it has been.

I have a few brief questions. In the consultation, were other agencies considered for addition to the list of category 2 responders? How good are the links between Defra as responsible for the countryside, the Environment Agency as responsible for drainage and the various LRFs and others concerned with flood risk? We are all aware, particularly those of us who live in the shadow of the hills, that how you look after catchment areas relates very clearly to the degree of flood risk that is involved. As the climate changes, that is something that needs broader attention at local, regional and national level. Are the Government happy that local resilience forums work well? The Minister will also have noticed the growing chorus of unease about the overcentralisation of England and the weakening power and finances of local authorities and local agencies. Local resilience forums are very important in areas such as this—these are people who know the ground; they know where the coal mines were and where the other local hazards are—and I hope that they work well.

Finally, my noble friend Lady Brinton raised electricity supply as one of the factors in dealing with disasters. I am conscious that we are moving in a direction in which electricity will increasingly become the only source of power supply for a growing number of homes. As it happens, at present my wife is in dispute with BT, which is trying to remove our landline and give us phone access only by broadband. That means that when and if there is an electricity problem, we are likely to run out of juice with which to make phone calls fairly rapidly. That is an extra hazard that we are moving into because one of the utilities wants to get rid of the costs of maintaining landlines. I hope that the Cabinet Office has also considered this as an important risk factor in case of emergency.

Having said all that, I welcome this order and I repeat: this is a model SI in the way it is being scrutinised—unlike many others.

**Lord Collins of Highbury (Lab):** My Lords, I too welcome the Minister's introduction to the SI. Certainly, it is one of the least controversial ones that I have ever dealt with, so I will not labour the point too much.

I would like the Minister to comment on how well the CCA five-yearly review works. Bearing in mind that, on Radio 4, the Environment Agency's comments on the risk of river flooding were so closely aligned to the Meteorological Office's warnings, I wonder what difference this statutory obligation will make. Will it have added value? The two things here that have come out of the review are so logical that one wonders why this was not done before. Will the department add other elements of the review? Are there elements that will still require action?

Certainly, there can be no reason for not adding these two bodies as category 2 responders; I am sure that both are currently working to provide information and support. The Minister said that they will not perform additional duties; they are already performing the duties, so there will be no additional cost, but I would like to know how this statutory responsibility will add to the benefit of their work.

With those few comments, I support the order and wish it well.

**Baroness Neville-Rolfe (Con):** I thank noble Lords for this short and very positive debate. It is nice to be able to celebrate delegated legislation that is supported by the noble Lord, Lord Wallace of Saltaire, particularly given that, in another world, when I was a poacher rather than a gamekeeper, we used to ask questions about these things together. I thank him very much; it has made my day.

I will respond briefly to some of the helpful points made. First, the noble Baroness, Lady Brinton, raised the very important question of how the legislation works in practice for vulnerable people such as her granddaughter, whom I am delighted to hear is now off the ventilator. A bit of good news is that there are additional recommendations in the CCA review of the legislation—the PIR—which the noble Lord, Lord Collins, referred to, which look to strengthen the requirement on the local resilience forums to consider vulnerable people, and a dedicated BEIS-led programme on power supply.

I will write to the noble Baroness with more information about that, but she is right that we should be improving things for vulnerable people across the board. I will liaise with my noble friend Lady Bloomfield, and between us we will see what we can do about the point that the noble Baroness raised about electricity and, indeed, the more general question about vulnerable people. We have a new resilience framework, and we are very keen for it to think more about the user and to have more of a whole-society approach. The noble Baroness's point is an excellent example, if we can crack it, of what we should be doing.

The noble Lord, Lord Wallace of Saltaire, asked what other agencies we thought of adding to category 2. Obviously, it is important to ensure that structures are efficient and effective, and balance is critical in making sure that those important to local planning and preparation are included but do not overwhelm the system. Noble Lords will remember that I used to work in the supermarket industry. We always thought that our role was very important but, in fact, we were not category 2 responders, although we were involved in assisting in the event of terror attacks, flooding, and

[Baroness Neville-Rolfe]
so on. The honest answer is that other organisations and agencies did not make the cut in terms of benefit versus burden, but if I have any more information, I will pass it on.

The point about phone use and the move to the internet is something I have experienced where I live when I am in London. Exactly the same thing has happened with Virgin Media: we have moved from having a home phone to it now being linked to the wi-fi. I think the noble Lord raises a good point; I do not know what is being done about it, but I will make some inquiries.

The noble Lord, Lord Collins, talked about outstanding commitments from the review. As he probably remembers from previous debates, I am very keen on post-implementation evaluation. There are two other potential legislative changes. The first places a reporting obligation on categorised responders to set out publicly how they comply with their statutory duties under the Act. However, we think that may require primary legislation, so it will not be done overnight. The second removes the legacy role of regional nominated co-ordinators in Part 2 of the Act; the regional government offices in England were closed in 2010. That also requires primary legislation, although it is probably less urgent, given its nature.

There were also some non-statutory recommendations. We have committed to placing the national resilience standards, which set out expectations of good and leading practice for local resilience forums, on a statutory footing. We have committed to updating the statutory and non-statutory UK guidance that accompanies the Act. The requirement to produce a community risk register is to be strengthened, with a requirement for responders to consider community demographics, particularly for vulnerable groups, in preparing their community risk register. The noble Baroness, Lady Brinton, will be delighted to hear this and it might be relevant to her point. The multiagency preparedness activities conducted by local resilience arrangements require enhanced accountability, which is being given further consideration as part of DLUHC's reform programme of the local resilience forums. Noble Lords may remember from the debate on extreme risks the other day that I explained that those forums had got more support and are regarded as very important.

In addition, assurance of the preparedness activities conducted as part of local resilience arrangements needs to go further than the current voluntary assessments and peer review. Obligations on central government departments to improve information sharing and planning between national and local, such as through a statutory duty to co-operate and information sharing paralleling what we have with category 1 and 2, should be considered; there are various options that could be looked at. That needs further consideration, but I hope noble Lords can see that that work is in hand.

The recent crisis, including the increasingly eccentric weather—it was -7C in my part of Wiltshire this weekend, which is extraordinary—means that we need to do more in these areas. I hope we have made it clear that that is exactly our plan. It is one of the reasons that the Chancellor of the Duchy of Lancaster put out a major document within the last month.

Finally, what difference will the SI make? I make it clear to the noble Lord, Lord Collins, that the intention of this intervention is to improve the civil protection framework and ultimately to increase the level of preparedness of relevant organisations to respond collectively to emergencies. The "collective" is as important as anything. As I said in my opening remarks, the new categorisations will increase responder understanding of severe weather, climate change and mining-related risks, and better inform our work to prevent, prepare, respond and recover, thereby improving resilience and reducing adverse impacts.

I believe that the Civil Contingencies Act delivers a strong framework for civil protection in the UK. These two additional responders will strengthen it. I hope that colleagues will join me in supporting the regulations, which I commend to the Committee.

*4.15 pm*

**Baroness Brinton (LD):** I thank the Minister very much for her generous response. When she writes to me—perhaps we might even be able to meet on this—could she draw a distinction between the general category of vulnerable people and those who are highly impacted by whatever the emergency is? In the case I gave it was utilities.

**Baroness Neville-Rolfe (Con):** Indeed. The noble Baroness made it very clear in her contribution that that was exactly the problem: vulnerability comes in different clothing and different categories. We should look at that as part of our resilience work; otherwise, there will be repeated disappointments of the kind she helpfully brought to the attention of the Committee.

*Motion agreed.*

## Russia (Sanctions) (EU Exit) (Amendment) (No. 17) Regulations 2022

*Motion to Approve*

*4.17 pm*

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

That the Grand Committee do consider the Russia (Sanctions) (EU Exit) (Amendment) (No. 17) Regulations 2022

*Relevant document: 25th Report from the Secondary Legislation Scrutiny Committee*

**The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con):** My Lords, the instrument before us was laid on 15 December 2022 under powers provided by the Sanctions and Anti-Money Laundering Act 2018. It makes amendments to the Russia (Sanctions) (EU Exit) Regulations 2019. The instrument has been considered and not reported by the Joint Committee on Statutory Instruments.

Our unprecedented package of sanctions makes it clear to Mr Putin and the wider international community that Russia's territorial expansionism is unacceptable and will be met with a serious and escalating response. With these amendments, the UK, with our international partners, continues to put immense pressure on Mr Putin

and Russia. The measure forms another part of the largest and most severe package of economic sanctions that Russia has ever faced.

I begin by outlining the main measures introduced through this latest piece of legislation. First, this instrument tightens existing regulations on investments, loans, securities and money market instruments to further close off indirect finance and further constrain the availability of international capital to Russia. It also prohibits new investments in Russia via third countries.

Secondly, this legislation introduces new restrictions on the provision of trust services to persons connected with Russia. This will particularly affect high net worth Russians who use trust services to manage their assets. The SI also suspends the Bank of England's duty to recognise resolution action in respect of persons designated under the Russia regulations—the process by which the failure of financial institutions is managed—stemming a potential income stream for Mr Putin's war machine.

Thirdly, the regulations prohibit the export of further specific goods across a range of sectors, including oil production and mining equipment, electronics and chemicals, as well as advanced materials and camouflage gear.

Fourthly and finally, this instrument also introduces further prohibitions on the provision of professional services to persons connected with Russia. This encompasses advertising, architecture, audit, engineering, IT consultancy and design services. These are areas where Russia is highly reliant on the UK and our allies for expertise. These prohibitions will severely debilitate the future growth of key Russian industries. Prohibitions on services imposed by the UK, the United States and the European Union account for between 75% and 83% of Russia's imports in these sectors. For example, it is estimated that 77% of Russian architecture and engineering imports are from G7 economies. Taken as a whole, the No. 17 regulations cover more than £200 million worth of exports to Russia.

As with all our sanctions, the latest package has been developed in co-ordination with the UK's international partners—a point that I know all noble Lords are very focused on and agree on. I assure noble Lords that we have worked with the European Union and the United States. Of course, we will continue to work with our allies to identify any further potential gaps or loopholes in our sanctions, and to address them.

To conclude, these new amendments demonstrate our determination to target those who participate in or facilitate Mr Putin's illegal war of choice in Ukraine, and we continue to send a clear message about the cost of such a flagrant assault on sovereignty, democracy and equality. Since Mr Putin's abhorrent invasion of Ukraine, the UK has now sanctioned more than 1,200 individuals and more than 120 entities, including 20 banks with global assets worth £940 billion and more than 130 oligarchs with a combined net worth of over £140 billion.

We continue to witness the impact that sanctions are having on Russia. The International Monetary Fund forecasts that Russia's GDP will be 11% smaller in 2026 compared with pre-invasion forecasts and will not return to its pre-invasion level until 2027 at the earliest. Russian imports have plummeted by more than half, highlighting that even non-sanctioning countries are now limiting what they export to Russia.

I assure noble Lords that the United Kingdom will keep going with our sanctions until Russia ends its brutal invasion of Ukraine. I continue to welcome the cross-party support for this effort and beg to move.

**Lord Addington (LD):** My Lords, I thank the Minister for that thorough introduction to this SI. I do not think many of us will have any objection to the direction of this. What the Government are doing here is right. The fact that we can support them on this would make a pleasant change if it were not in such tragic circumstances.

The only real questions I can think of to add to that thorough introduction is: how are we reviewing the effect of sanctions? What is the input of our allies, which may have other intelligence resources, et cetera, to go on with this?

Nobody enjoys doing this. We are doing it because we have to, because Russia has decided to behave in a manner that may have been acceptable in the 1700s but is not acceptable any more. When a nation has determined that it does not want to be a part of another, it should not be forced to at gunpoint. Can the Minister give us some indication of how we are monitoring the effect and making sure that Russia totally understands what it can do to get rid of this, which is to leave Ukraine?

**Lord Collins of Highbury (Lab):** My Lords, I thank the Minister for his introduction. I repeat that the Opposition are totally at one with the Government and their actions to ensure that the illegal and immoral invasion of Ukraine is halted and that we take all possible steps against Russia for its breach of international law.

I have just a few questions about this additional SI on sanctions. The Minister mentioned that we are working with our allies, in particular the EU and other G7 partners. Can he tell us exactly how much these measures are aligned with the actions of the EU? Is there complete alignment now? On credit and securities, reference was made to closing loopholes. Are these loopholes that we have collectively discovered and want to stop or is this something that we focus on particularly because of the situation with London?

On that subject, according to the impact assessment, London still seems to trade significantly with Russia and imports more than other regions. Can the Minister say a little more about what more we need to do in terms of cleaning up London and the role of money laundering in particular?

We repeatedly pass legislation on sanctions. We have good law, if you like. But, of course, none of these laws is necessarily effective unless we also focus on enforcement. Can the Minister tell us a bit more about the capacity in the department and across Whitehall to ensure that all these sanctions that we are approving are effectively enforced? I suppose that it relates to the question the noble Lord asked about what assessment we make of effectiveness. Enforcement is really important.

[Lord Collins of Highbury]

Finally, on the penalties that arise—and we have covered this point before with regard to the Act and the statutory instruments that have come out of it—these new measures carry a maximum sentence of 10 years or a fine. Are there circumstances in which the Minister believes that the violations are so serious that they may lead to custodial sentences rather than fines? This relates to how much we focus on enforcement and what we can do to provide a deterrent to others breaching these regulations.

With those few questions and comments, I support the SI.

**Lord Ahmad of Wimbledon (Con):** My Lords, I thank the noble Lords, Lord Addington and Lord Collins, for their strong support. That sends out a very strong message, not just to Russia and Mr Putin but to those who are trying to circumvent the impact of sanctions.

I assure the noble Lord, Lord Addington, that, partly as the sanctions come into play and we identify where the gaps are, we are monitoring the impact of these with our key partners to ensure that when it comes to the circumvention of the new rules—those who are trying to get round sanctions—we can close those loopholes, as I said in my introduction.

We co-ordinate with our key allies. The noble Lord, Lord Collins, asked about differences that arise. Because of the different governance regimes that exist, there are occasions when we may be slightly ahead of others. Sometimes the American system does not require the same level of governance in terms of imposing the sanctions. What we are seeking to do is to work very closely with our allies.

On the issue of enforcement, which both noble Lords raised, first and foremost we are working with our G7 partners to ensure effective implementation of sanctions on Kremlin-related entities and elites, including through the Russian Elites, Proxies, and Oligarchs Task Force. Following further commitments by the former Prime Minister in February, the Government have also continued to work on this issue and have delivered the economic crime Act to crack down further. One issue, which will be subject to further debates as we seek further to strengthen these provisions, is whether it is done through the register of overseas entities, reforming our unexplained wealth orders or our ability to take action. I fully accept that we need to keep this under very close scrutiny to ensure that any gaps can be addressed.

*4.30 pm*

On 22 September 2022, the Government introduced the Economic Crime and Corporate Transparency Bill, which includes the fundamental reform of Companies House, reforms to prevent abuse in limited partnerships, and additional powers, which I know that noble Lords are aware of. Just to complete that element and to reassure the noble Lord, Lord Addington, we will keep this under review. If there are further areas that we need to act on, we will certainly take those measures as appropriate.

On sanctions circumvention, the actual package itself, as I said in the introduction, amends existing financial measures and restrictions on various financial instruments to close loopholes and prohibit this with regard to Russia via third countries. That is an issue that we have debated in your Lordships' House. More broadly, in 2023, we will continue to bear down on Russia, ratcheting up economic pressure by implementing further sanctions and by leaning in to tackle Russia's attempts to circumvent measures that are in place.

Just anecdotally, when I was working in the City and there were restrictions on particular countries, the private sector itself was involved, because of the added burden, challenges and requirements for compliance. We are beginning to see that very much: companies are themselves taking action to not deal with those that have associations. This package amends existing financial measures, restrictions on investments, loans, securities and money market instruments, to address those very issues, particularly the issue that we raised before about third-party actions.

To pick up the point that the noble Lord, Lord Collins, raised about the EU announcing that designated people are circumventing sanctions, we welcome the EU's focus on this. On the issue of offences, it is a criminal offence under UK sanctions legislation intentionally to participate in circumvention of any sanctions prohibitions, including financial or trade sanctions, or to enable or facilitate the breach of sanctions prohibitions—and, yes, we have the powers to fine, prosecute and impose civil monetary penalties.

On the issue of whether there would be further sanctions in this regard, I do not want to speculate at this point, but I note what the noble Lord said. On the severity of certain sanctions and broader issues of the criminality of Russia's actions, as the noble Lord will be aware, we are looking at that specifically. Tomorrow I hope, together with the Attorney-General, to brief the APPG on Ukraine specifically to look at what further actions we can take in holding to account those who perpetrate these crimes.

**Lord Watson of Wyre Forest (Lab):** I am a new Member of this House, and this is my first time on an SI in Grand Committee. I apologise to the Minister if I am intervening on him inadvertently, but I am looking for one point of clarification. As I understand it, these regulations widen the scope to include advertising services within the remit of sanctions. Could the Minister confirm that that would also apply to data-targeted social media marketing services?

**Lord Ahmad of Wimbledon (Con):** My Lords, for clarity and for the record, it covers all elements of that advertising, but on the specific points I will go back to the department to ensure I give a full answer. In welcoming the noble Lord and his scrutiny of legislation, I very much welcome his intervention. One thing I can say to him is that, over time, bearing in mind this package of sanctions, areas will arise that have not been looked at or, in practical terms, have not been covered by existing legislation. It is important, first, to identify and, secondly, to co-ordinate with key partners; we are doing both things. We are also monitoring the impact on private sector behaviour. All those things

were reflected in my opening remarks that Russia is being impacted. The IMF's forecast should not be taken lightly, and the reduction it shows is reflective of Russia's actions. If there are further details, I will of course write to the noble Lord.

On the issue of FCDO staffing and the specifics of the question from the noble Lord, Lord Collins, at the end of 2021 and continuing through 2022, there were 48 substantive roles in the sanctions unit, which has now become the sanctions directorate. One would have hoped that we would not need to expand, but going from a unit to a directorate recognises the importance of this. We have doubled the number of officials focused on our response and we now have more than 100 permanent staff delivering that response. This number does not include those working across the FCDO and its overseas network who also cover sanctions as part of their designated roles.

On the financing of the Office of Financial Sanctions Implementation, the office has also doubled in size this financial year and continues to grow. As set out in its annual report released on 10 November 2022, OFSI scaled up to more than 100 full-time employees by the end of 2022, accelerating and enhancing the transformation programme. I also have a personal anecdote: one of the current senior officers who sits behind me and is now a full member of the sanctions team used to be a member of my private office, so Ministers are adding to the weight of our sanctions directorate.

With that, I look forward to further discussions and debates. Regrettably, I do not think that this will be the last of the sanctions we will impose on Russia. I am grateful to the noble Lords who have participated from their Front Benches; I again welcome the new noble Lord to the House and welcome his contributions and analysis. We stand firm and resolute with the people of Ukraine. We continue to support them and the Ukrainian Government until such time as Mr Putin does the right thing and withdraws from Ukraine.

*Motion agreed.*

## Civil Legal Aid (Housing and Asylum Accommodation) Order 2023

*Motion to Approve*

*4.38 pm*

*Moved by* ***Lord Bellamy***

That the Grand Committee do consider the Civil Legal Aid (Housing and Asylum Accommodation) Order 2023.

**The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bellamy) (Con):** My Lords, this statutory instrument will expand the scope of civil legal aid to allow early legal advice before court on housing, welfare benefits and debt issues for those at risk of losing their home. It will also ensure that failed asylum seekers who face a genuine obstacle to leaving the UK remain eligible for legal aid to support them in obtaining accommodation support from the Home Office. These provisions are made under the overarching legislation known as LASPO, which covers the grant of legal aid.

Going into slightly more detail on the changes to housing legal aid, the purpose of the instrument is to provide a better wraparound and earlier legal support for those facing the loss of their home. The current arrangements provide for legal aid only for help at court, whereas the new scheme allows for much earlier advice to be sought as soon as the tenant receives notice that the landlord seeks possession. At the same time, the scope of the advice now available will cover wider matters, including advice on debt, housing, and welfare benefits and related matters. In general, this is a wider and, we trust, more effective use of legal aid in this sector.

The order results from the post-implementation review of LASPO, where the absence of legal aid in this specific area was identified as a gap in the system that led to an increase in court proceedings, greater reliance on welfare and extra pressure on local authorities. The order seeks to help individuals to resolve problems before they lead to housing loss.

The advice will not be means tested, meaning that individuals will not need to pass any financial eligibility tests to receive it. The present in-court duty service, whereby defendants can be represented in possession cases at court, will continue. Under the remuneration regulations, we will ensure that fees for legal aid providers for those services are increased at the same time.

The other amendment the instrument makes is essentially purely technical: to ensure that legal aid for failed asylum seekers continues to be available so a failed asylum seeker can obtain accommodation support where they are destitute and there is an obstacle preventing them leaving the United Kingdom. The amendment is necessary because of a technical change tied to Sections 4 and 95 of the Immigration and Asylum Act 1999 to take account of a new Section 95A, to be introduced when the provisions of the Immigration Act 2016 come into force. That is a purely technical arrangement, the main thrust of the arrangements being the improvement of legal aid in housing. That is a short explanation of the statutory instrument.

**Lord Bach (Lab):** My Lords, I thank the Minister for introducing the order. No one could have done it with more clarity than he has. I hope he will forgive me: while I of course welcome the small but important improvements the order represents, they are in reality just a tiny step and a little progress in dealing with the depressingly large picture of the decimation of an important part of our legal system, namely social welfare law.

That decimation occurred when the coalition Government put together, against all-party opposition and many defeats in your Lordships' House, the Act of Parliament known as LASPO. That Act, which, ironically, came into force almost exactly 10 years ago today, has arguably done more harm than any other piece of legislation over the last number of years. No wonder the Liberal Democrats, who supported it as part of the coalition, have rightly distanced themselves from it. I detect that the governing party is perhaps just beginning to show, in instruments such as this, that it realises how much harm that Act has done in some areas.

*4.45 pm*

The noble and learned Lord the Minister cannot be blamed in any way at all. He was certainly nowhere near the scene of the crime. Indeed, I suspect—he will know better, of course—that most distinguished lawyers like him have, over the years, wondered why Part 1 of this Act was ever brought forward.

By taking social welfare law out of the scope of legal aid, the Government saved a large amount of Ministry of Justice money but a very small amount of public money—£350 million out of a Ministry of Justice budget of £2.1 billion. However, the price was, and still is, that many hundreds of thousands of people who under the previous system, which was far from perfect, could obtain early advice and, if need be, representation on legal issues such as welfare benefits, debt, housing and immigration, now just cannot do that, unless they can afford it. The figures are staggering. By 2016-17, the number of civil legal aid matters initiated was down by 84% from 934,000 to 147,000. Certificates for representation were themselves down by 36%. This meant that citizens could not get the advice at the time when they needed it. It meant they had—this needs to be said—no access to justice.

I looked at a passage that the Minister himself referred to in the Explanatory Memorandum to this order, in Paragraph 7.2, which states:

"The Government carried out a Post-Implementation Review … of LASPO in 2019, which assessed the impact of the policies against the original objectives. Broadly, the PIR found that whilst the objective in relation to reducing legal aid spend had been met, the reforms that removed areas of early civil legal advice from scope of legal aid resulted in a lack of early intervention in social welfare. It also suggested that whilst this saved money on legal aid, ultimately these costs have been shifted elsewhere, as relatively minor legal problems can escalate and cluster into more serious problems."

If I may say so, that puts it extremely well. A government document says those words—and it is so different in context and tone from the words used when the original White Paper came out and when the Government put forward the Bill that became LASPO.

It seems that, at long last—much too late—the Government have understood what is wrong with the legislation. That is why I have so much support for the small step that is being taken in this order. The introduction of the housing loss prevention advice service is welcome, particularly because it will provide some crucial early legal advice on social welfare issues, welfare benefits and, in this case, debt. It will also retain the invaluable duty service, on the day and in court, which I saw many years ago as the Legal Aid Minister.

In my view, the Government are definitely moving on this issue. I am also conscious of the pilots that are taking place as we speak. This is largely being done because of the influence of the Minister and his predecessor in this House. But—and it is a big "but"—the speed of movement is very slow.

In supporting these regulations, I ask the Minister to invite his staff to take from the shelf *The Right to Justice*, which is one of many reports over the last number of years—it may be getting a little dusty now, because it is a number of years old. Although I was certainly not a major part of it, I was privileged to be the chair of the commission that produced that document. I invite the Minister, and perhaps ask him to invite his Secretary of State, to read its very sensible and common-sense suggestions, particularly on these matters. That is all I want to say. I know I have gone on for quite a long time, but this is an important matter and, in its small way, this is an important order.

**Lord Ponsonby of Shulbrede (Lab):** My Lords, the Explanatory Memorandum explains that the order will expand the

"scope of civil legal aid to allow early legal advice before court, on a wider range of issues, for those at risk of losing their home. It also introduces a new fee to be paid to legal aid providers delivering this early legal advice … The second purpose is to maintain the Government's policy that those at risk of homelessness can access legal aid. This applies to failed asylum-seekers, who otherwise would be destitute, to receive legal aid to obtain accommodation support."

We in the Labour Party do not oppose this SI. We support in principle the introduction of initial advice for housing, welfare benefits and debt that is not means tested or merit tested, but we are concerned about the sustainability of providers and whether they have the resources to deliver advice, particularly on welfare benefits and debts. These areas were previously largely removed from scope by LASPO in 2012. This statutory instrument will do little to improve the wider state of disrepair that the civil legal aid system is currently in, and we welcome it for what it is.

My honourable friend Afzal Khan MP spoke about this in the equivalent debate in the other place. He went into some detail on the state of the current civil provision and support for people across the country. I will not repeat everything he said, but he was basically talking about "legal aid deserts". He quoted the following statistic, that

"65% of the population do not have access to an immigration and asylum legal aid provider."

He asked the Minister:

"What steps are the Government taking to tackle legal aid deserts, so that victims can have access to justice?"—[*Official Report*, Commons, Fourth Delegated Legislation Committee, 18/1/23; col. 6.]

My honourable friend also made an equivalent point for a housing legal aid desert, saying that about 12.5 million people do not have access to housing legal aid advice. What can the Minister say about the lack of uniformity of provision across the country, which was drawn to the attention of his colleague, Mr Freer, in the House of Commons?

My noble friend Lord Bach gave a significant speech. He is absolutely steeped in this issue and, of course, he has his own distinguished record from before he came into the House and in various roles that he has held in this House. He said that this SI was a small but important improvement, and he spoke about the previous decimation of social welfare law. He quoted from the Explanatory Memorandum the various elements of paragraph 7. My noble friend concluded by modestly drawing the Minister's attention to his report, *The Right to Justice*, which he prepared for a previous Labour opposition group, if I can put it like that. I have read it, but I will do so again. It is interesting, with recommendations across the whole piece of civil legal aid, and I recommend it to the Minister.

So, as I say, we welcome this SI as far as it goes, but the Minister is perhaps better positioned than many previous Ministers to know just how little that is.

**Lord Bellamy (Con):** My Lords, I thank noble Lords for their comments. I pay particular tribute to the noble Lord, Lord Bach, for his earlier role in this area as a Minister. I will certainly reread *The Right to Justice* and ensure that members of my staff do, too.

If I may say briefly, regarding LASPO, it is probably not useful at this stage to go into the historical circumstances that led to that legislation. At the time, there were very large expenditures and there were thought to be some abuses in the legal aid area. It has remained a controversial statute, and the ministry's post-implementation review, correctly carried out as post-legislative scrutiny, has revealed certain problems which we are determined to address.

On the wider issue, I hope that the Government will shortly be in a position to announce the result of the means-test review, which I hope will increase the scope of legal aid for many people. We have already announced a full review of the whole of civil legal aid, and I very much hope that that will be progressed during 2023.

If I may make a personal comment, it seems to me that an important issue is the role of early legal advice and how far intervening early saves the overall cost of the proceedings, quite apart from reducing the stress and strain of those concerned, and generally results in earlier resolution. That point was recently made so powerfully by the House of Lords Children and Families Act 2014 Committee, of which the noble Lord, Lord Bach, and others present are not entirely unaware, if I may put it like that.

It is important to say that the points that have been raised today will be borne in mind in the civil legal aid review that we are undergoing.

As to the problem of the sustainability of the providers and the problem of deserts, we are establishing, specifically in the housing area, a panel of experts to support providers. There may be some areas where the skills are less up to date than they could be. I am sure that the issues of deserts will feature in the civil legal aid review. It is to some extent mitigated by the arrival of remote technology in the meantime, because it no longer matters where your adviser actually is, although of course it is preferable to have someone who is geographically close.

I hope that these and other very important issues will be addressed in the future. I think the order results in a further £10 million towards the legal aid fund. It may be a small step, but I can only agree with the noble Lord, Lord Bach, that it is a significant step. I commend this Motion to the Committee.

*Motion agreed.*

## Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Legal Aid: Family and Domestic Abuse) (Miscellaneous Amendments) Order 2023

*Motion to Approve*

*4.58 pm*

*Moved by* ***Lord Bellamy***

That the Grand Committee do consider the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Legal Aid: Family and Domestic Abuse) (Miscellaneous Amendments) Order 2023.

**The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bellamy) (Con):** My Lords, this statutory instrument will, again, expand the civil legal aid scheme, this time making civil legal aid available in two new areas of family law and in certain domestic abuse proceedings. The instrument also makes a change of a technical nature to the means and merits test in certain family cases, and as regards the evidence requirements for victims of domestic abuse as a result of new areas being brought into scope of the civil legal aid scheme.

*5 pm*

In outline, there are four topics covered by the order. The first is special guardianship orders, under new paragraph 1A inserted by Article 4(2). A special guardianship order is a court order that allows parental control over a child by individuals other than the parent—for example, a long-term foster carer or grandparent. Currently, SGOs, as they are known, in private family proceedings are not within the scope of civil legal aid. The primary purpose of this instrument is to bring SGOs in private family law proceedings within the scope of the legal aid scheme. That is its first change.

Secondly, Article 4(3) of the statutory instrument will expand the availability of civil and criminal legal aid to reflect new protective orders and notices introduced by the Domestic Abuse Act 2021. A domestic abuse protection notice or a domestic abuse protection order will effectively replace, and is wider than, the existing non-molestation orders—which are known as "non-mols". Those orders will, for example, include the ability to order a tagging order or to attend a change of behaviour programme. They have various other more flexible provisions that supersede the current regime of non-molestation orders. Those new orders will be piloted nationally in the near future. There is currently no existing provision for legal aid for such orders, so this instrument introduces legal aid for them.

Thirdly, the instrument amends the means and merits tests for parents contesting a placement and/or adoption order. Currently, the means and merits tests differ depending on whether a placement or adoption order is sought within care proceedings or not. It is a simple inconsistency in the regulations and this small amendment brings the situation under one umbrella to allow those who are at risk of having their child permanently removed to be legally represented, regardless of whether the order is sought within care proceedings. This is a technical change in the instrument to rectify that unintentional difference.

Fourthly and finally, with Article 7(3)(b) we are updating the evidence requirements for victims of domestic abuse. One of the types of evidence that a victim of domestic abuse can provide is a letter from their medical practitioner after they have had a face-to-face appointment. This instrument will also allow medical practitioners to provide a letter as evidence of domestic abuse after a telephone or videoconferencing appointment. That provision will be reviewed after a year to make sure that it is working in practice and has not had any unintended effects. That is the outline scope of this statutory instrument.

**Baroness Drake (Lab):** My Lords, I apologise; I appreciated only this afternoon that this SI was being tabled for discussion today. I want to make reference

[Baroness Drake]
to extending legal aid to special guardianship order applications for children in private law proceedings. Clearly, this is welcome but, regrettably, it is not matched in public law proceedings, where the majority of special guardianship orders are pursued, when children are often in a crisis situation. In effect, the SI will not cover all kinship carer situations, where legal support is needed and is further limited by the stringent means test.

The compelling evidence—and this has often been rehearsed on the Floor of the Chamber—is that kinship carers are left to navigate the family justice system without the legal aid and representation they need. Many incur significant debt from paying legal costs or find themselves sidelined in important decisions about the child, directly increasing the risk that more children will end up in care.

There are two key areas in public law cases where legal aid for prospective special guardians urgently needs to be considered. First, at the formal pre-proceedings stage, prospective kinship carers have access to only limited advice. Means-tested support is remunerated at such low rates that very few solicitors will now offer advice on taking on the care of a child. Secondly, during the care proceedings, prospective kinship carers are still entitled to only very limited advice. In fact, only when the prospective kinship carer is made party to the court proceedings or when they make a private law application may they be entitled to legal aid. We know from the evidence, which has been rehearsed many times in the Chamber, that many carers do not have the early advice even to know that becoming a party to proceedings is an option or how to make a private law application.

In putting those issues, my main point is that, while welcoming the extension of legal aid in the instance covered by this SI, in preparing their response to the MacAlister review, are the Government considering further extending access to legal aid to kinship carers seeking guardianship orders in public law situations? We know that the evidence is overwhelming that, in terms of the benefits to the child and the cost to the taxpayer, effective kinship carer situations with guardianship orders save the taxpayer money, give better outcomes for the child and will, in effect, end up paying many times over for the extension of legal aid that these people seek.

**Lord Bach (Lab):** My Lords, I shall be very quick, not least because the chairman of the committee mentioned by the Minister in his answer on the previous instrument is in her place, and she can talk with much more skill and expertise than I can. As a mere member of that committee, I remember well the Minister's appearance before it; I do not think that it is flattering him too much to say that he was one of the star witnesses, not just on that day but during the whole of our proceedings. Indeed, the whole issue about early advice, as was clear from the Minister's first reply, was clearly something that was a matter of concern to him.

Just as I supported the last instrument, I support this one. Again, in their comparatively small way, they are important improvements. One fault of LASPO, to put it mildly, was that too much of private family law was taken out of scope of legal aid. There have been consequences since, and my guess is that the Government have come round to that view and I think that this order, in a small way, shows that. The Minister will know that the issue around domestic violence and the evidence needed was a matter of huge controversy for many years after LASPO came into force. It looks as if that is, finally, I hope, being put to bed.

All that I want to do, if I may—and I certainly do not want to take the thunder away from the noble Baroness, Lady Tyler, who I hope will speak shortly—is to invite the Minister, if he has not already, to see the recommendations that we made in this area of the Select Committee's report. We ended by saying, as one of our major recommendations:

"We recommend that the Government urgently evaluate the impact of the removal of legal aid for most private family law cases, considering where reinstating legal aid could help improve the efficiency and quality of the family justice system."

We heard a huge amount of evidence over the months that showed that the lack of the possibility of legal aid in some private family law situations was very harmful to their early solving.

**Baroness Tyler of Enfield (LD):** My Lords, I am pleased to have this opportunity to say a few words in support of this order. As was said about the previous instrument, this is a small but significant step forward in an area that has been beset with many difficulties. On the specific points about the recommendation to extend the order to cover special guardianship orders in private law proceedings, I agree that that is important.

One of the very interesting findings of the Select Committee, which the noble Lord, Lord Bach, has already referred to, was that there are now more special guardianship orders per year than there are children being adopted. That makes the whole area of special guardianship orders very important. While it is good news that they will be in scope of this instrument on private law proceedings, I very much echo the important remarks made by the noble Baroness, Lady Drake, about how desirable it would be for that to be extended to public law proceedings.

I will just make a couple of other general comments on the work that the Select Committee did to look into family law and the family justice system. First, I very much underline and endorse the comments that the noble Lord, Lord Bach, made about the very helpful evidence that the noble and learned Lord the Minister gave to the committee, which really informed the recommendations that we made throughout the chapter on family justice and particularly on legal aid itself. The point has come up several times this afternoon that one difficulty that the family courts face at the moment—and some of the reasons for the big backlog and delays—is the lack of any focus on early intervention.

Other witnesses before the committee included the current President of the Family Division and his immediate predecessor. His predecessor, Sir James Munby, argued—and we put in our report—that

"Money properly spent at an early stage usually pays dividends later on."

I very much agree with that. Sir Andrew McFarlane, the current President of the Family Division, also made a number of comments on the importance of reinstating some legal aid within family law proceedings

and came up with a number of ideas that are in the report, including the idea of some form of professional who might be able to signpost applicants to mediation, to other forms of information about dispute resolution or to a lawyer, where that would be helpful.

I know that that goes wider than this particular statutory instrument, but we also heard from academic experts who really underlined the problems that the cuts to legal aid had made in the family courts and, frankly, how they had simply shifted costs to other parts of the court system, particularly where litigants in person, quite understandably, did not really understand how to represent themselves. It was taking up so much time from the court service officials and others, and another academic expert said to us that

"there are cases going to court that lawyers would have headed off. With legal aid, a lawyer would have said, 'No, it's not worth taking this to court' or 'Try mediation'",

or, "No, you'll lose".

They are such important points and that is why we ended up, as the noble Lord, Lord Bach, has already said, recommending that the Government should urgently evaluate the impact of the removal of legal aid for most private family law cases and consider reinstating legal aid where that can improve the efficiency and quality of the family justice system. I was extremely encouraged when I heard the Minister's remarks in the previous debate when he said—I think; I would be pleased if he could confirm it—that the Government are looking again at this whole area to see what impact reinstating legal aid in certain instances in the family courts would have. Just to underline that final point, the Select Committee thought that it would really improve efficiency, effectiveness and the quality of outcomes in the family justice system.

As I say, I support this statutory instrument. It is a small but important step forward and I hope that it also leads to consideration of wider improvements in the family justice system.

*5.15 pm*

**Lord Ponsonby of Shulbrede (Lab):** My Lords, I too welcome this SI. I declare that I sit as a family magistrate in London and I am currently chairman of the Greater London Family Panel, which means that I represent about 300 family magistrates within Greater London.

A very concentrated amount of expertise has been displayed in this short debate. I have to say my noble friend Lord Bach was really quite shameless in his flattery of the noble and learned Lord, Lord Bellamy, no doubt trying to get him to go further along the lines of these SIs, because we are, of course, all pushing in the same direction.

My noble friend Lady Drake spoke about the importance of kinship care. She gave the example of public law and private law special guardianship orders and explained how they are playing an ever-greater part in the type of disposals we deal with in family courts. It is very interesting for me, with my magistrate's hat on, to see how different local authorities access SGOs and how they vary across the country as well as across London. It is good that, in that aspect of the SI, there is some more money available for legal aid support for people going for special guardianship orders.

The noble Baroness, Lady Tyler, who of course has real expertise in this matter, not least because she was a previous chairman of Cafcass, spoke about the importance of early intervention. I know the noble and learned Lord, Lord Bellamy, is also very keen on early intervention. It needs to be funded and co-ordinated. I know that both Sir James Munby and the current president, Sir Andrew McFarlane, are very keen to try to divert as many cases—particularly private law cases—away from family court as is practical.

It has to be said that about 80% of the private law cases we see in family court have domestic abuse allegations. If you make that allegation, it is not suitable for mediation and, depending on how serious the allegation is, it can make for a much more protracted court procedure. It is a difficult thing to do, but trying to move the cases is the right direction, if I can put it like that.

The noble and learned Lord, Lord Bellamy, also spoke about expanding legal aid for domestic abuse protection orders—of course, we are now in the criminal sphere—and how these types of orders may in some ways replace other types of interventionist orders, in both the family and the criminal courts: non-molestation orders in the family court, and restraining orders in the criminal court. When he gave his examples, he talked about tagging and various interventions for people who are potentially going to be put on domestic abuse prevention orders, but I am not clear whether there is any legal aid for advice for people who are potentially subject to those orders.

I say this because of one case that I dealt with remotely. It was an application for a domestic abuse protection notice, and there was no defence lawyer. The prosecuting lawyer, who was actually a part-time judge, advised that we as a court should put in place a domestic abuse prevention order, with no findings made by the court. As I chaired that session, I felt duty-bound to say to the defendant that, if that were put in place and he were to break it, there would be a criminal conviction. He pointed out to me that, by profession, he was a primary school teacher and the very fact of this order being put in place, with no findings of guilt, was enough for him to have to tell his head teacher. Who knows what would have happened to his career in that light. So that young man needed proper advice, and, in the end, I, as a magistrate, gave him it, not the other lawyer in that case. I am not sure that that was appropriate, and I could see how that scenario could easily have gone wrong if the young man had not received appropriate advice.

Nevertheless, as I said, we welcome this SI, which pushes in the right direction. I look forward to similar SIs in the future.

**Lord Bellamy (Con):** My Lords, I warmly thank noble Lords for their various interventions and points. I will take back the last point from the noble Lord, Lord Ponsonby, on domestic protection orders and have a look at it. We understand that legal aid is available for advice on domestic abuse protection orders. Whether the gentleman in question would have qualified for legal aid may be another matter, if he was a teacher. There may be an issue here, and I will explore this a little further to make sure that we are covered on that kind of point.

[Lord Bellamy]

On the wider issue, I hear with interest and sympathy the remarks of the noble Baroness, Lady Drake, on legal aid for special guardianship orders in public law proceedings, particularly early advice for kinship carers. That will be a feature, among many others, of the review of civil legal aid generally that we are about to embark on. I am afraid that flattery, which is completely undeserved in this context, is one of the things that does not move the Government, particularly the Treasury, in any direction, so, as your Lordships pointed out, we are taking small steps and coming at various issues perhaps somewhat obliquely and in sequence, with a view to tackling problems as best we can as they arise. We will continue to try to address gaps of the kind that the noble Baroness identified. The Government are very happy to have gaps pointed out to them so that consideration can be given to those matters. Clearly, special guardianship is very important; whatever you may think of the pros and cons of the apparent decline in adoption, there is no doubt that special guardianship has assumed a greater importance. We need to reflect that in our underlying structures.

Family law generally is perhaps slightly outside our discussion today, but this Room is so brimming with expertise on the subject, particularly the experience of the noble Lords who sat on the Select Committee we discussed, and of the noble Lord, Lord Ponsonby, who is one of the most experienced magistrates in this area one could hope to meet.

We need to address a whole range of interconnected issues: signposting, so that people know early on where they can get help; early advice; how you manage dispute resolution and the best means of it, bearing in mind the committee of this House's comment that mediation may not always be the best solution, as there may be other possibilities. We need to think of the difficulties facing local authorities and those facing Cafcass. There is a huge mosaic of matters that we need to think about. I am not in a position today to make any promises on behalf of the Government, but I can assure noble Lords that these matters are on the radar and that we will take them forward as best we can and as soon as we can.

*Motion agreed.*

## Local Government (Structural Changes) (Supplementary Provision and Amendment) Order 2023

*Motion to Approve*

*5.26 pm*

*Moved by* ***Baroness Scott of Bybrook***

That the Grand Committee do consider the Local Government (Structural Changes) (Supplementary Provision and Amendment) Order 2023.

**The Parliamentary Under-Secretary of State, Department for Levelling Up, Housing & Communities (Baroness Scott of Bybrook) (Con):** My Lords, this instrument was laid before this House on 12 December 2022. If approved and made, it will complete the legislative requirements to implement the locally led proposals for unitarisation of Cumbria, North Yorkshire and Somerset. It will make certain provisions specific to the new unitary councils of Cumberland, Westmorland and Furness, North Yorkshire, and Somerset, so that in each there is a smooth transition from the predecessor councils to the successor councils and continuing effective local government in these areas.

This order will ensure that the necessary technical arrangements are in place and ready for these councils to go live on 1 April 2023. The SI relates to issues around ceremonial matters, local pension scheme arrangements, housing revenue accounts and a number of miscellaneous provisions to ensure that, where necessary, the new unitary councils are referenced in other legislation and have appropriate representation on important regional bodies or are referred in. If this order is approved, it will be a significant step towards ensuring that people and businesses across Cumbria, North Yorkshire and Somerset can have strong and sustainable local government delivering the high-quality local services they rightly expect and deserve.

In March 2022, following approval from Parliament, we passed the necessary secondary legislation to implement locally led proposals for local government reorganisation in Cumbria, North Yorkshire and Somerset and to create single principal councils in these areas. The new councils will go live on 1 April 2023. The draft order we are considering this afternoon is intended to be the final statutory instrument implementing the reorganisation in the areas. It will make all the final technical arrangements for the continuation of effective local government in those areas.

The then Secretary of State was satisfied that, if implemented, the successful proposals from the three areas would be likely to improve local government and service delivery across the area of the proposal, give greater value for money, generate savings, provide stronger strategic and local leadership, and be more sustainable structures that command a good deal of local support, as assessed in the round across the whole area of the proposal. The area of each unitary authority is a credible geography, consisting of one or more existing local government areas, with an aggregate population between 300,000 and 600,000. He took the decision to implement one proposal for each area and made secondary legislation, the structural changes orders, to give effect to his decisions.

I pay tribute to all the local leaders and their officers who have worked so hard to implement this restructuring in Cumbria, North Yorkshire and Somerset and work towards the successful launch of the new councils while faced with responding to many challenges.

*5.30 pm*

The order before noble Lords today addresses a number of incidental, consequential, transitional and supplementary issues that could not be addressed in the existing regulations of generic application that enable effective implementation of all unitary authorities. These specific provisions need to be applied directly in respect to those particular authorities.

This order makes the following changes in relation to the new councils. It makes amendments to provisions relating to ceremonial matters specifically for the appointment of charter trustees as appropriate bodies

in which historic rights and privileges, including city status for Carlisle, should vest for Barrow and Carlisle. This provision will preserve important historic rights for the area, which are important considerations for local leaders and their communities. It makes provision for the pension fund maintained by Cumbria County Council to vest in Westmorland and Furness Council. This will ensure clarity on who is responsible for funding existing pensions accrued and preventing exit payments arising under the regulations, which would normally be triggered when an employer leaves the scheme. The SI will also provide that no exit payments or exit credits are due in the North Yorkshire and Somerset pension funds following the exit of the district councils from their respective pension funds when they are dissolved. It further makes provision for housing revenue accounts in Westmorland and Furness, North Yorkshire and Somerset councils, which will inherit council housing stock from the predecessor councils. It will ensure that the new councils are specifically referenced in the relevant HRA regulations and calculates for each assumed debt share and share cap figures which are used in the calculation of the proportion of housing receipts that councils are required to pay to the Secretary of State. This amendment has been previously made for other areas undergoing unitarisation.

It also refers to area-specific references and other miscellaneous amendments, which include making an amendment to the North Western Inshore Fisheries and Conservation Order 2010. This is to reflect consequential local government reorganisation arrangements in Cumberland and Westmorland and Furness councils so that they appoint a member to maintain this authority's size and each split the contribution expense. It makes amendments to the Sub-national Transport Body (Transport for the North) Regulations 2018 to replace Cumbria County Council with the new authorities of Cumberland and Westmorland and Furness and increases the size of the board by one member. It makes consequential amendments to the Workington Harbour Act 1974 to provide for Cumberland to be the harbour authority for the area post reorganisation—in addition to the Workington (Pilotage) Harbour Revision Order 1988 and the Maryport Harbour Revision Order 2007 as a result of the abolition of Cumbria County Council. It makes amendments to the National Park Authorities (England) Order 2015 (SI 2015/770) to update the membership of the Exmoor National Park Authority, the Lake District National Park Authority, the North York Moors National Park Authority and the Yorkshire Dales National Park Authority to reflect the changes in local government arrangements.

I assure noble Lords that we have worked closely on the development and drafting of this order with local leaders and senior officers in the shadow authorities of Cumberland, Westmorland and Furness, North Yorkshire and Somerset, looking carefully at issues raised and agreeing that the provisions of the order meet local requirements. In conclusion, these provisions are necessary consequential changes in the light of the establishment of the new councils. They ensure a smooth transition to the new arrangements and continued effective local government in the areas. I commend this order to the House.

**Baroness Pinnock (LD):** My Lords, I start by reminding the Committee of my interests in the register: I am a vice-president of the Local Government Association and a serving councillor on Kirklees Council. I thank the Minister for her opening remarks explaining this statutory instrument. As she explained, these are consequential changes from the creation of the new unitary local authorities of Somerset, North Yorkshire, Cumberland, and Westmorland and Furness.

The key issues that I want to ask a few questions about relate to pension funds and housing capital finance. Of course, the changes proposed have to be made to ensure an equitable division of liabilities for pension funds and capital finance debt. My questions relate to the way in which these decisions are being made. Will they be transparent? Are the external auditors of the existing local authorities involved and, if not, why not? External auditors can often make independent assessments, particularly of pension liabilities, and are able to advise councils. I think that their advice would be helpful.

I have a further question on the creation of the two local authorities in Cumbria and the manner in which the transfer of their pension funds will be agreed. The Minister explained that it has been agreed that Westmorland and Furness council will administer pension funds on behalf of the two new councils. According to the Explanatory Memorandum, this council will determine the proportions of transferred pension fund assets and liabilities. My understanding is that Westmorland and Furness must take advice from the other new unitary council, Cumberland, but I would like more information about that, because nothing creates more of an argument between councils than questions of who has to take on liabilities.

The two councils may be able to make an amicable agreement, but what if they are not able to do so? The Explanatory Memorandum says,

> "In coming to a fair determination on these matters, the Order provides that Westmorland and Furness must take advice from an actuary"—

that is good—

> "and consult Cumberland Council."

If I were a member of Cumberland council, I would want a bit more than being consulted. I would want to be sure that there was proper agreement between the two councils and not just consultation.

Can the Minister say whether there is an opportunity in this process for, in this instance, Cumberland council to appeal to the Government if there is no agreement on the way in which pension fund liabilities are divided between the two authorities? As the Minister is aware, pension fund values can fluctuate significantly across even a few years, and liabilities can suddenly become very large if there is a new actuarial assessment, so budgetary provision for pension funds can make a significant call on a councils' funding arrangements. This is why I am raising these points, and I hope the Minister can give me reassurance on them.

There is a similar argument in relation to how the debt finance from housing capital funds is to be passed on from, in this case, the existing district councils to the new unitary council and across all four of these new councils. The Explanatory Memorandum is not clear that debt allocations will be in relation to previous

[Baroness Pinnock]
activity, rather than there being a simple pro rata division, which would not be fair on some of the council tax payers. For example, there will be councils—I know of one in Somerset—that no longer have any housing capital finance debt. Will they be asked to pick up a share of other district councils' debt? If so, is that fair? Those are my questions. I am sure that the civil servants will have looked into this and will be able to give me an answer, but I would like it on record.

With those comments and questions, I look forward to the noble Baroness giving me an answer. If she cannot, I am quite happy to have a written response.

**Lord Khan of Burnley (Lab):** My Lords, I declare my interest as a serving councillor in one of the finest counties in the country, Lancashire, contrary to what the noble Baroness, Lady Pinnock, might think. I apologise: I have a cough, so bear with me. I blame all of the departmental SIs that they keep bringing out; they affect my throat pretty badly.

The Minister spoke in depth about this technical legislation, which takes minor steps to help to create new councils in Cumbria, North Yorkshire and Somerset. The instrument includes provision in relation to ceremonial matters, the transfer of pensions, exit payments, fisheries and conservation—technical and important areas. It is a pleasure to follow the noble Baroness, Lady Pinnock, who has a wealth of experience. She asked many of the questions that I wanted to ask, but I have a few more. Although we will not oppose this, we on these Benches want to see what happens in the Commons—I am trying to work it out, but I think it has not been there yet. When does the Minister foresee this happening?

This has been debated at some length, as the Minister mentioned, so I will not go through the arguments again, but I will add some probing questions of my own to those of the noble Baroness. Will the Government bring forward any further legislation to enable the establishment of these new councils? Have the Government consulted trade unions on the provisions relating to pensions and exit payments? On the noble Baroness's point about the independent auditors, what is the specific nature of the consultation that the Minister had with them? Did they speak about any concerns or pitfalls?

Have the Government done further research on previous experience of this anywhere in the country, or is this the first of a set of new councils? These councils are very different, geographically and culturally. Councillors in local district councils will tell you that we all have our own identities, ways of working and cultures, so I want to see the feedback that we received from those councils.

Lastly, what will happen in terms of reviews and monitoring to keep an eye on this? In the current economic climate, the markets are all over the show, given the famous Budget a few months ago. What is the plan B, particularly for pension funds, which were mentioned, if things deteriorate?

*5.45 pm*

**Baroness Scott of Bybrook (Con):** My Lords, I thank both noble Lords for their interest in this debate. First, to answer the noble Baroness, Lady Pinnock, and the noble Lord, Lord Khan, who asked about pension funds, provision is made under the order to ensure that the properties, rights, assets and liabilities of the Cumbria Pension Fund transfer to Westmorland and Furness Council, because it is the new administering authority of the pension fund for the new councils of Cumberland and of Westmorland and Furness and the other employers which participate in the Cumbria Pension Fund.

The order will also provide that the pension assets and liabilities relating to the former district and county councils of Cumbria that are to be abolished transfer to the new unitary councils in proportions determined by Westmorland and Furness Council. This is to ensure that, as the noble Baroness quite rightly challenged, there is clarity on who is taking over the responsibility for funding existing pensions accrued and preventing exit payments arising under the regulations which would normally be triggered where an employer leaves the scheme. The key to all this is the advice of the actuary dealing with the transfers. Cumberland engaged its own actuary, and the provisions in the order were agreed by both shadow councils. The shadow councils did not want any further information; they were quite content with what came from the actuaries. That is important. This is about local leadership. There is no provision for an appeal on that.

As far as debt is concerned, the new councils will take on the debt of the predecessors and the order will set out how the technical details will be calculated. That will all be in the order, and we are happy to make sure that the noble Baroness sees that order so that she can see how that has happened. The consultations for this order involved very detailed discussions with the councils over a period of time. That is how we came to those agreements.

These provisions follow very closely the provisions made in previous reorganisations. To come back to the views of the noble Lord, Lord Khan, I was leader of one of the first larger county unitaries, and I know we all learned from each other. Further councils to go through this all came back to us—we who had done it in that early group—to get our advice and for us to help them through. There is certainly a local government family that will support and help, which is important. The Local Government Association also learns from that, as does the department and the team leading it. There is a senior officer here who was a senior officer who held my hand through Wiltshire negotiations in 2009. There is a lot of knowledge, both in local government and in the department, for dealing with this, and that certainly makes this whole process a lot easier than when I went through it.

The noble Lord, Lord Khan, asked when it is going to the Commons. We do not have a date yet, but it will hopefully be very soon. On whether we will bring any further legislation, the answer is no; this should be the end of it. Once this goes through the Commons, it should make sure that these authorities can start. The date for that is 1 April, which is coming up pretty quickly.

As for consultation with trade unions, I think that it is up to those local councils to do that with their shadow administrations.

I think that I have answered everything, but I will look to see if there are any further details that I can give.

In conclusion, the order will make a significant contribution to supporting and empowering local government to deliver public services to the local people of Cumbria, North Yorkshire and Somerset in an efficient and effective way. This order completes the legislative requirements necessary to implement a locally led proposal for unitarisation in Cumbria, North Yorkshire and Somerset. It ensures that necessary technical arrangements are in place around ceremonial matters, local pension scheme arrangements, housing revenue accounts and miscellaneous provisions including fisheries and conservation, Transport for the North, Workington harbour and the national park authorities.

The new local authorities undergoing reorganisation are making excellent progress towards their "go live" date, and I am confident that the new councils of Cumberland, Westmorland and Furness, North Yorkshire and Somerset will be successfully launched on 1 April 2023, bringing about improved local government and service delivery that the people of these areas need and deserve. As I finish, I wish those four councils all the very best for the future. I commend this order to the Committee.

*Motion agreed.*

*Committee adjourned at 5.51 pm.*