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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

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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

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House of Lords

Wednesday 5 July 2023

3 pm

Prayers—read by the Lord Bishop of Exeter.

Uganda: LGBT People
Question

3.07 pm

Asked by ***Lord Fowler***

To ask His Majesty's Government what steps they will take in response to the recently announced measures of discrimination against LGBT people in Uganda.

Lord Fowler (CB): My Lords, I beg leave to ask the Question standing in my name on the Order Paper, and I declare my interest as an ambassador for UNAIDS.

The Parliamentary Under-Secretary of State, Home Office (Lord Sharpe of Epsom) (Con): My Lords, the UK is appalled by the Government of Uganda's decision on 26 May to sign the Anti-Homosexuality Bill into law. We have made this clear to all levels of the Ugandan Government and continue to do so. This Act will have an impact on the UK-Uganda relationship. It undermines the protections and freedoms of all Ugandans, enshrined in the Ugandan constitution. It will increase the risk of violence, discrimination and persecution, and it will set back the fight against HIV and AIDS.

Lord Fowler (CB): My Lords, I thank the Minister for that reply—I agree with every word. Is it not a fact that the Anti-Homosexuality Act passed by the Uganda Government opens the way to penal action against homosexuality for no reason other than that a person is homosexual? Franky, it is one of the most evil laws that has ever been passed. Surely the question for the Government here is what we can do about it. I put it to the Minister that, first, we should give all support to the most reverend Primate the Archbishop of Canterbury in his efforts to counter the deeply prejudicial propaganda put forward by some other religious leaders. Secondly, rather than cutting back aid, we should provide extra assistance for civil society organisations combating the discrimination that is now so widespread in Uganda and is doing so much harm and damage.

Lord Sharpe of Epsom (Con): I agree entirely with the noble Lord, whom I commend for his work on AIDS and the like. He is right: the Act is one of the most regressive pieces of modern legislation against the LGBT+ community in the world. Consensual same-sex sexual acts carry a sentence of life imprisonment. I entirely agree with the noble Lord's remarks about the most reverend Primate the Archbishop of Canterbury, who I believe wrote to the Archbishop of Uganda, Stephen Kaziimba, to express his grief and dismay at the Church of Uganda's support for the Bill and was subsequently criticised for doing so. Kaziimba went on to describe the Archbishop as being ill informed. Our ODA efforts in Uganda are primarily to drive clean, green and inclusive growth and mutual prosperity but also to improve the resilience, and defend the rights, of vulnerable people. I very much hope that they will continue to pursue those objectives.

Lord Cashman (Lab): My Lords, I refer to my interests in the register and I welcome the response thus far from the Minister. However, the assurance I seek from—

Lord Howell of Guildford (Con): My Lords, I am very glad—

Noble Lords: Lord Cashman!

Lord Cashman (Lab): My Lords, I sense that the House would like me to continue. I seek assurances from the Minister that our high commission is in contact with and supporting Sexual Minorities Uganda, particularly Dr Frank Mugisha, its executive director, and other human rights defenders. Although this is not his department, can the Minister look into and ensure that the FCDO is not funding organisations that are campaigning across that part of Africa to remove LGBT rights? Given the debate on, and the amendment we recently passed to, the Illegal Migration Bill, will he and the Home Office ensure safe and legal routes for LGBT+ people and their human rights defenders?

Lord Sharpe of Epsom (Con): Again, the noble Lord raises some very good points. He will not be surprised to know that I do not know the precise answers on the organisations funded by the FCDO, but I will take that back and look into it. I can confirm that the high commissioner continues to meet a wide range of stakeholders, across both the Government and elsewhere, to express the UK's concerns. The subject of safe and legal routes will come up later, but I hear what the noble Lord said.

Lord Howell of Guildford (Con): My Lords, I am glad to have heard the previous question; I am sure that it should have had precedence over mine. I intended to add how glad I am that this situation is affecting Uganda-UK relations, and my noble friend the Minister has outlined some of the ways in which it is doing so. Would he not agree that it also affects Commonwealth relations? Is it not essential to ensure that the Commonwealth's opinions on these matters are directed to put Uganda under pressure? That is whole point of being in the Commonwealth in the first place. Will he ensure that Marlborough House is also aware of this—I think that it is—and that it is putting pressure on Uganda, both behind and in front of the scenes, to mend its ways?

Lord Sharpe of Epsom (Con): I agree with my noble friend. The UK continues to work with other Commonwealth member states and civil society partners to reform outdated laws of this type and to end discrimination and violence against LGBT+ people. We have discussed this situation with the Commonwealth

[Lord Sharpe of Epsom]
Secretary-General. The UK also provides funds to support the promotion and protection of LGBT+ rights across the Commonwealth, and at the Commonwealth Heads of Government Meeting in 2022, the UK announced more money to support organisations such as the Commonwealth Equality Network. My noble friend is right that Commonwealth relationships will be of extreme importance in this matter.

Baroness Barker (LD): My Lords, this horrible legislation is the result of a decades-long campaign by Christian nationalist organisations in the USA and Russia. Uganda is but one target country; there are many others. Will the UK Government ensure that civil society organisations, the NHS and academics work with people in Uganda to ensure that the devastation to the public health and economy of Uganda is properly and fully documented?

Lord Sharpe of Epsom (Con): The noble Baroness raises very good points on those subjects. I will go into a little more detail on public health. At the moment, Uganda has approximately 1.4 million people living with HIV and AIDS. Every year, 54,000 Ugandans are infected, including 6,000 newborns. I am not an expert on the religious dimensions to this law that the noble Baroness cited, but I know that the UK has cut off some funds to certain interreligious councils that have supported this legislation.

The Lord Bishop of Ely: My Lords, I thank the Minister for his reference to the most reverend Primate the Archbishop of Canterbury's letter to the Archbishop of Uganda, and for hearing us, as Bishops, say how much we deplore what has been decided by the Archbishop of Uganda in support of this ignoble law. In the light of the most reverend Primate the Archbishop's intervention, and all that has been said about engaging with civil society, will the FCDO engage with the Archbishop's office and make use of the Church's contacts to offset some of the very conservative religious engagement from other countries in Uganda and engage with people on the ground in Uganda to seek to change this abhorrent law?

Lord Sharpe of Epsom (Con): I thank the right reverend Prelate for his question and once again pay tribute to the most reverend Primate the Archbishop of Canterbury for his letter to the archbishop in Uganda. This subject has come up before and of course I am more than happy to take back to the Foreign Office the suggestion that it should continue to work with the Church and other interfaith groups which have an interest in this subject.

Lord Collins of Highbury (Lab): My Lords, I very much welcome the Prime Minister's direct intervention with the President of Uganda. As the noble Lord, Lord Howell, pointed out, what will really result in change is the international community coming together. Can the Minister tell us what the Prime Minister has done to contact President Biden to ensure that the US action is matched by our action and that we build an international coalition to stop this terrible Act?

Lord Sharpe of Epsom (Con): I completely agree with the noble Lord that there needs to be international co-operation. So far, Australia, Canada, New Zealand and the EU have all issued separate statements in response to the Act. The noble Lord is right to raise the subject of the US President. Both he and the Secretary of State have issued statements in response to the Act, and the US has actually gone a little further. Our principal concern with that is that the Ugandans reacted very predictably to the US actions, and we are still very keen to make sure that our aid and our ODA get to the people who need it the most. However, I hear what the noble Lord said, and I will certainly take it back.

Lord Popat (Con): My Lords, I declare my interest as the Prime Minister's trade envoy to Uganda and as someone who was born in Uganda. This Act is a grave assault on the human rights and the constitution of Uganda, as well as on international human rights laws that Uganda signed up to. In my role as a trade envoy, I find many UK companies now unwilling to invest in Uganda and looking elsewhere. The Bill harms not only the LGBT community in Uganda but the country as a whole. Does my noble friend the Minister agree that it will impact not only the LGBT community but the economic prosperity of Uganda?

Lord Sharpe of Epsom (Con): I am more than happy to agree with my noble friend. The UK Government are obviously aware of the concerns raised by the business community and other organisations about the Act. We advise all to carefully consider the impact of the Act on their staff and operations and seek legal advice as appropriate. The Act will undermine Uganda's development and economic goals and will create a barrier for international investment and tourism, as my noble friend has highlighted.

Unregistered Schools

Question

3.17 pm

Asked by ***Lord Warner***

To ask His Majesty's Government whether they intend to re-introduce legislation to close down unregistered schools and, if so, when; and what further safeguarding action could be undertaken until any such legislation is passed.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran): My Lords, it is already an offence to conduct an unregistered school. The Government will always prosecute when it is in the public interest. We work closely with Ofsted to make effective use of its current powers to investigate unregistered schools. We recognise that improved powers would better enable effective action, which is why we intend to introduce legislation in this area at the next available opportunity.

Lord Warner (CB): My Lords, I note that particular response, which is not at all unexpected. I assume that the Minister and her colleagues are familiar with the

report of the Independent Inquiry into Child Sexual Abuse and the recent *Bloom Review*, both of which reveal widespread child sexual abuse in religious settings. Well before these reports, the Government knew as long ago as 2015 that Ofsted lacked the enforcement powers needed to deal with these unregistered religious schools. Given the urgency of this situation for vulnerable children at serious risk of harm, will the Government commit to legislation on religious schools in the next Session? If they cannot do this, will they perhaps consider supporting and helping a Private Member's Bill on this subject to strengthen Ofsted's powers? In the meantime, will DfE encourage Ofsted, social services and the police to take stronger safeguarding measures in respect of the most concerning religious schools?

Baroness Barran (Con): The noble Lord raises a number of important points, and I think he would agree with me that the vast majority of religious schools deliver a safe and very valued service to the children and families they work with. But of course he is right that there will be safeguarding exceptions in every setting and every community, and we are determined to address those when legislative time allows.

Baroness Whitaker (Lab): My Lords, I add to the plea for urgency by drawing attention to recent media coverage of former pupils from such settings. Some did not speak any English at school and others had no English, maths or science taught to them, only a very narrow religious curriculum. It is very important to rescue those children; surely they deserve an urgent response from the Government.

Baroness Barran (Con): The Government need to strike a very delicate balance. I think we in this House would all agree that parents are ultimately responsible for ensuring that their children get a good education. Local authorities already have significant powers to check the quality of that education, and we are working closely with them and with parents, updating our guidance in this area, because we are all committed to making sure that every child has a safe and suitable education.

Lord Addington (LD): My Lords, will the Minister take this opportunity to take back to the Government the fact that we did not object to the part of the Bill that had this capacity in it? We did not like the first bit but we did like the second, and the Government dumped it all. Can she take back that we will probably help as much as we can to get that legislation on the statute book as soon as we can?

Baroness Barran (Con): The Government absolutely recognise that there was cross-party support for this element of the Bill.

Baroness Blackstone (Lab): My Lords, I feel extremely disappointed by the complacent reply that the Minister has given to these questions. It is all very well to refer to religious schools doing a very good job—they often do—but these are not schools. These are institutions that describe themselves as carrying out religious instruction, yet the pupils—and they are pupils, because they are there all day long and they are not getting any other form of education—are being treated appallingly, with a lack both of any proper curriculum and of safeguarding, so abuse of a really serious kind is often taking place. In these circumstances, surely the Government should move now to bring back that legislation that will close the loopholes that allow these institutions to continue to act without any proper prevention of the appalling damage that they are doing to children and young people.

Baroness Barran (Con): I really hope that I did not give the House any impression of complacency. There is no complacency where there are serious safeguarding concerns. There have been more than 1,000 investigations by Ofsted of different out-of-school settings and, of those, 122 were offering a religious education, but there were also a number of other settings; 146 suspected illegal settings were found, 129 of those were closed or otherwise changed their operations, and we completed seven prosecutions.

Lord Lexden (Con): My Lords, is it not possible to tackle this problem through regulations under existing legislation rather than having to wait to find the time for fresh primary legislation?

Baroness Barran (Con): My understanding is that we would need primary legislation to address the specific instance in which schools are offering a purely religious education.

Baroness Twycross (Lab): My Lords, as the Minister said, only seven providers of illegal schools have been successfully prosecuted. Proprietors of illegal unregistered schools exploit loopholes in the law around home education definitions of school. The issues and risks of unregistered religious schools have been noted already. Since the pandemic, however, reports have been raised of a new trend, including a school in Sussex run by anti-vaxxers and conspiracy theorists. Can the Minister tell this House how widespread an issue the Government believe this to be and how soon she believes it might be possible to bring in legislation?

Baroness Barran (Con): The noble Baroness rightly cited the seven prosecutions; however, she did not repeat the statistic that 129 of the schools investigated have either closed or changed their operations so that they comply with the law. By definition, it is difficult to track illegal unregistered schools, but there are a number of routes—for example, a member of the public or others can report concerns around extremism directly to the department.

Baroness Burt of Solihull (LD): My Lords, like the noble Baronesses, Lady Blackstone and Lady Whitaker, one of my big concerns about the delay in dealing with these schools is the toll it is taking on the children. They report being unprepared for modern life, forced to study a narrow curriculum from dawn to dusk with no English, maths or science available and not even speaking English. This has been delayed for years. What does the Minister have to say to them?

Baroness Barran (Con): We are obviously extremely concerned on their behalf. Children who receive the kind of exclusive religious education that the noble Baroness refers to often receive the rest of their education at home—not exclusively but frequently. The noble Baroness will be aware that we are tightening up and reinvigorating our efforts in relation to elective home education registers so that every local authority can track whether every child is getting a suitable and safe education.

Lord Watts (Lab): My Lords, the first job of the state is to protect its citizens and it is quite clear in this area that the Government have failed to protect those children. Is it not about time that they stopped talking and started doing?

Baroness Barran (Con): It is probably not a good use of the House's time for me to repeat what the Government are already doing, but I reiterate that we are working closely with local authorities, Ofsted and parents to make sure that we can get the best possible response. When legislative time allows, we will bring forward legislation in this area.

Baroness Berridge (Con): My Lords, as my noble friend outlined, some of these children fall into home education. She outlined renewed efforts in relation to this, but part of the Schools Bill that we lost was to have a register. Is it my noble friend's view now that that can be done through other initiatives or are we going to get legislation on it as well?

Baroness Barran (Con): I think that my noble friend knows that the Government's position is that it would be best to have legislation in this area and to make the collection of this data mandatory. That is for two reasons: to trace those children who are home educated and unsafe and, importantly, to support those parents who are home-educating their children and perhaps struggling to do so. In the meantime, we are working closely with—and I personally have spoken to—the Association of Directors of Children's Services to make sure that we are working in a joined-up way on this issue.

Network Rail: Ely Area Capacity Enhancement Programme

Question

3.28 pm

Asked by ***Lord Haselhurst***

To ask His Majesty's Government what progress Network Rail has made in the Ely area capacity enhancement programme.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, I appreciate my noble friend's ongoing interest in the proposed rail enhancements at Ely and Haughley junctions. I reassure him that the Ely area capacity enhancement programme is being considered as part of the update to the rail network enhancements pipeline.

Lord Haselhurst (Con): I thank my noble friend for that response. Do His Majesty's Government recognise how powerful a driver of economic growth it represents? It is not just for the east of England but would benefit the Midlands and the north, bringing significant improvements in the passenger experience, the movement of freight and, not least, the quality of the environment. It also has a very favourable benefit-cost ratio, so—to coin a phrase—can we just get it done?

Baroness Vere of Norbiton (Con): My Lords, when it comes to any enhancement on the rail network, the Government do a very detailed analysis to devise the business case for each and every one of the enhancements. We are of course doing that for Ely, but we are doing it in the context of revised and different travel patterns and an increased focus on freight. It is necessary for us to go through the processes to understand which projects can be prioritised.

Baroness Taylor of Stevenage (Lab): My Lords, Ely, like over 1,000 railway stations in England, currently has a much-valued ticket office. Government plans unveiled today will axe this, alongside every other station ticket office in the next three years. Customers and rail staff are concerned that this will lead to increased crime rates at stations. A loss of customer support will cause confusion and make travelling difficult for the vulnerable and elderly. Have the Government carried out an impact assessment on safety and accessibility if these closures go ahead?

Baroness Vere of Norbiton (Con): My Lords, if Ely currently has a ticket office, it will remain a staffed station: there will be no changes to whether a station is staffed or not. In terms of crime, the British Transport Police advise that passenger safety is not dependent on selling tickets from a ticket office. The Government have done an extensive amount in respect of impact assessments and discussions with accessibility and wider passenger groups. The industry will continue to do so and, in bringing forward its proposals, it will of course do an impact assessment.

Lord Bellingham (Con): My Lords, the Ely north junction capital programme is absolutely key to enabling a half-hourly service to King's Lynn. I declare an interest as the former MP for King's Lynn; I headed the campaign and had an Adjournment debate on this in the other place. Is the Minister aware that part of the key to getting this done is various road improvements, including crossings and bridges. Can she say something about the work that her department has done with National Highways and the local transport authority?

Baroness Vere of Norbiton (Con): Network Rail and the Department for Transport work very closely with National Highways and the local authority to form a holistic view of the impact of any enhancements. I agree with my noble friend that sometimes several things can work together to bring additional economic benefit. All those things go into the business case and decisions are made on priorities thereafter.

Lord Hunt of Kings Heath (Lab): My Lords, following on from what the noble Lord has just said about the importance of this to the east of England, does the Minister also agree that the Government need to press on determinedly with the Oxford-Cambridge link? That too would have a very powerful impact, not just on the UK economy but on the east of England.

Baroness Vere of Norbiton (Con): The noble Lord is right that we need to find those projects that will have the most benefit to both passengers and freight. That is the whole point of the rail network enhancement pipeline; it will set out our priorities, give certainty to the supply chain and allow us to continue to invest £2 billion a year on enhancements.

Baroness Randerson (LD): My Lords, the crucial importance of Ely is for freight. There are five lines going in and one line going out, so there is a pinch point. Does the Minister accept that it is totally illogical that the Government are investing in Felixstowe freeport without investing, in the same timeframe, in the Ely solution to enable 98,000 lorries a year to be taken off our roads and to deliver on government plans on environmental mitigation and climate change?

Baroness Vere of Norbiton (Con): I can say no more other than that all these considerations are being taken into account in the business case. It is the case that not only is rail freight important but so is road freight—although I accept the point about the environment. It is important that we look at the business case as a whole, and I am afraid that there is nothing more I can add at this stage.

Baroness Blackwood of North Oxford (Con): My Lords, picking up on the point made by the noble Lord, Lord Hunt, about the value of the Oxford-Cambridge arc for economic growth, the first step in improving connectivity in the arc between Oxford and Cambridge is of course the East West Rail Oxford-Bedford link. There was a commitment in the policy paper in February to consult on that. Can the Minister update the House?

Baroness Vere of Norbiton (Con): I am not sure that I am able to update the House on when the consultation will be done, but the Government of course remain committed to East West Rail. I will write to my noble friend.

Lord Wallace of Saltaire (LD): My Lords, on a previous occasion the Minister promised improvements that would provide for the second of the two lines between Leeds and Bradford to be upgraded to a point where one could get from Leeds to Bradford in 10 to 12 minutes. I am advised that that is impossible unless there is very extensive reorganisation of the western approaches to Leeds station. I note the priority now being given to the Oxford-Cambridge line; I simply re-emphasise that, unless the various trans-Pennine links are substantially improved, we will not begin to get any sort of levelling up in the central cities of the north.

Baroness Vere of Norbiton (Con): The Government are incredibly ambitious when it comes to investment in the north and the Midlands. As the noble Lord will know, we have the Northern Powerhouse Rail programme and we are taking forward all sorts of different schemes in the area.

Lord Faulkner of Worcester (Lab): My Lords, there can be very few other investment projects that have such enormous environmental benefits as the Ely enhancement. The noble Baroness, Lady Randerson, referred to 98,000 lorry journeys that would transfer to rail on 2,900 extra freight trains, but the benefits extend to passenger services. It is almost inconceivable that the Government will refuse to do this, because the rate of return on investment is £4.80 in benefits for every £1 spent on it. I cannot imagine there are many other schemes in the rail enhancement pipeline that will match that sort of figure, so why can the Minister not be more positive about it now?

Baroness Vere of Norbiton (Con): I do not recognise the figure that the noble Lord cites. It is important that we reassess our business cases based on revised travel patterns as they are now, and that has an impact on the business case—but, as I say, we are reviewing them and decisions will be made in due course.

Lord Berkeley of Knighton (CB): My Lords, will the Minister comment on, or at least look at, the "delay repay" scheme which is, on the face of it, a very good idea. The specific problem is that if you are delayed by a regional company by, say, 20 minutes and then by a major company coming into London, it is very hard to make a claim as the form stands. Does the first company pay for the whole thing? Does the second company pay for it? I found negotiating the link—which is, as I say, attractive—extremely difficult. I wish I did not have to resort to it as often as I do but, sadly, in this country it is quite often very necessary.

Baroness Vere of Norbiton (Con): I was not aware of that issue. I will take it back to my department and, if the noble Lord will provide me further information, I will of course investigate.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, if the Ely enhancement goes ahead, it will enable people from that area to get down to London to take the Caledonian Sleeper up to Edinburgh and Glasgow. The Caledonian Sleeper has just been taken into public ownership, and I approve of the principle, but I do not understand how the Scottish Government can take into public ownership trains that run mainly in England. Can the Minister explain?

Baroness Vere of Norbiton (Con): Responsibility for the Caledonian Sleeper rests with the Scottish Government. I will write with further information, but I am afraid I have none.

NHS: Doctors' Strikes

Question

3.38 pm

Asked by ***The Lord Bishop of Exeter***

To ask His Majesty's Government what progress they have made towards resolving the strikes by doctors in the NHS.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Markham) (Con): My Lords, the Government have been clear that we want to resolve the strikes by doctors. We negotiated in good faith with the BMA's junior doctors committee in May. The Government stand ready to meet junior doctors again if they move from their unreasonable ask of a 35% pay rise this year. We also want to open negotiations with consultants. We encourage unions to come to the negotiating table rather than proceeding with strike action.

The Lord Bishop of Exeter: I thank the Minister for his response. I am sure that today, on the 75th anniversary of the founding of the National Health Service, he will want to join me and all Members of this House in paying warm tribute to the hard-working nurses and clinicians in our NHS. All that underlines and underscores the urgency of settling this dispute. What consideration have His Majesty's Government given to the request of the BMA to use ACAS to resolve this dispute?

Lord Markham (Con): First, I absolutely echo the sentiment about the 75th anniversary and the hard work of all our doctors, nurses, dentists and medical staff. Clearly, we want to find a negotiated solution. I think we showed in the case of the nurses and Agenda for Change that we have a framework and the ability to find a solution between ourselves as parties. That is why we encourage them to please stop the strike action so that we can have a sensible conversation.

Lord Dubs (Lab): My Lords, I join in wishing the National Health Service a happy 75th birthday—especially as, 75 years ago today, I was a teenager in Stockport Infirmary. Despite my efforts at persuading the consultant, he would not throw a party to celebrate the occasion. This dispute is dragging on, and there are some suspicions voiced in the papers that the Government do not mind too much, because on the whole they want to cut back on the health service—their heart and soul is not with the health service. Could the Minister reject that by demonstrating a greater willingness to negotiate with the doctors?

Lord Markham (Con): I can totally reject that by pointing to the record spend we are putting in this area and the fact that, just on Monday, we launched the long-term workforce plan, with a £2.4 billion investment in expanding the workforce to make sure we are set fair for the next 75 years. We absolutely want to resolve the strike by all means possible.

Lord Sherbourne of Didsbury (Con): My Lords, is my noble friend aware that, apparently, in the consultants' strike, consultants are not obliged to tell their hospital whether they will be striking; nor is it possible for the hospital to ask whether they are striking. Is not the result of this that the BMA is going to impose maximum dislocation on hospitals, damaging patients' interests?

Lord Markham (Con): Clearly, that is the last thing anyone wants. I trust all the medics who, first and foremost, care about patient safety to inform their local management so that they can make sure that the correct processes are in place to ensure that patient safety is looked after.

Lord Allan of Hallam (LD): My Lords, yesterday, we discussed the Government's plans to increase the number of doctors in training. But does the Minister accept that junior doctors are facing real challenges in dealing with the rising costs of living on their current pay rates, especially in their early years? Is this need to retain trainee doctors part of the Government's submission to the independent review body, so that we do not end up bringing in more trainee doctors at year 1 only to lose them at years 6, 7 and 8?

Lord Markham (Con): Yes, of course, the noble Lord is absolutely correct; retention is key in all this. That is looking at all aspects of the package and work conditions and everything around those. That is what the workforce plan addresses, I hope, because recruitment and retention are key.

Lord Stirrup (CB): My Lords, pay is the headline issue in this dispute, but behind it lies a wholesale collapse of morale within the NHS workforce, and that is about much more than just remuneration. The *NHS Long Term Workforce Plan* addresses some important issues but by no means all of them. Does the Minister not think that the morale issue, which is so crucial to the future of the NHS, will be better attacked through the kind of radical approach suggested by Sajid Javid than the "evolution" proposed by the Health Secretary?

Lord Markham (Con): I think the morale of doctors is best approached by a number of measures. As I said yesterday, there is not one silver bullet. There are a number of things: clearly, pay is important; pensions are very important, and we have addressed those, and so are working conditions. I was at Whipps Cross Hospital, one of the new hospitals, last week. The morale boost to staff there, knowing they are getting a new hospital, is massive. All those features are vital to improving morale.

Baroness Merron (Lab): My Lords, in celebrating the 75th anniversary of the NHS, I too pay tribute to all NHS staff. It is therefore highly regrettable that the Government are currently presiding over the largest amount of industrial unrest in the history of the National Health Service, with doctors' leaders warning that the strike action could last until 2025. With that in mind, what is the Government's assessment of the impact of their failures to resolve NHS disputes?

Lord Markham (Con): As we have seen, it is having an impact, regrettably. We saw that from 14 to 17 June: almost 100,000 appointments were lost during that strike. We are now looking to cover that up. That is why we are firm in our conviction that we want to resolve this situation. These sorts of things are not good for anyone. We have a formula that worked; we have managed to do this with nurses and the Agenda for Change unions, which make up the vast majority

of the health service. Our hope is that we can sit down and have sensible conversations and do the same with doctors and consultants.

Lord Naseby (Con): My Lords, I thank my noble friend for his ingenuity and the work he has put in since taking over this role. All we hear of pay rises is that they should be 12%, 19%, 39% or whatever. Has the time not come for a slightly different approach? We should calculate the capital cost of whatever sections of the health service claim they have lost, pay them that cost and then revert to the normal process of review bodies.

Lord Markham (Con): I thank my noble friend for his kind words. We are willing to look at all solutions. We have to balance the salary wishes of doctors with making sure that we keep the money in front-line services. Everyone is aware that pay rises of 35% would eat heavily into what we can do and afford on the front line. We need to get that balance right.

Lord Clark of Windermere (Lab): My Lords, one of the greatest concerns of individuals working in the NHS is lack of confidence about the future. The real problem is retention. I understand that there is a massive shortfall of staff. Will the Minister tell us how big that shortfall is and what the Government are doing to make it up?

Lord Markham (Con): The noble Lord is absolutely correct; that is why I was delighted, as I think all sides of the House were, by the launch of the *NHS Long Term Workforce Plan*. As Amanda Pritchard, the CEO of the NHS, said, it was a "truly historic" moment for the NHS; it absolutely recognises that staff are the backbone of it all and that we need to do everything to recruit and retain them. Retention is all about professional development and all those things that make up staff morale.

Lord Bethell (Con): I congratulate all noble Lords who joined me this morning on the five-kilometre fun run in celebration of the 75th anniversary of the NHS. It was a tremendous event and all those involved greatly enjoyed themselves. With that in mind, will my noble friend explain what the NHS is doing today to reduce the incredible pressures on doctors and nurses from the huge amount of sickness in the country and what it is doing to make Britain healthier in order to reduce those pressures?

Lord Markham (Con): As my noble friend says, wellness is about a lot more than treatment in hospitals. That is why I was so pleased by the long-term workforce plan, which recognises the importance of primary care and, especially, prevention—the use of our whole wellness through social prescribing and keeping fit through things such as fun runs, which is important for keeping people and staff well. As part of that, we are working on the technology front, because a lot of the frustration of doctors is that they spend so much time not seeing patients but filling in paperwork and forms. Earlier this week, I saw all the changes Chelsea and Westminster Hospital is making so that doctors can be where they want to be—in front of patients and caring for them.

Business of the House

Motion on Standing Orders

3.48 pm

Moved by ***The Lord Privy Seal***

That Standing Order 44 (*No two stages of a Bill to be taken on one day*) be dispensed with on Monday 10 July to allow the Supply and Appropriation (Main Estimates) (No. 2) Bill to be taken through its remaining stages that day.

Motion agreed.

Illegal Migration Bill

Report (3rd Day)

3.49 pm

Relevant documents: 34th and 37th Reports from the Delegated Powers Committee, 16th Report from the Constitution Committee, 12th Report from the Joint Committee on Human Rights. Correspondence from the Senedd published.

Clause 56: Decisions relating to a person's age

Amendment 156

Moved by ***The Lord Bishop of Durham***

156: Clause 56, page 58, line 25, leave out subsection (2)

Member's explanatory statement

This amendment reinstates the right of appeal against age assessments in respect of putative children whom there is a duty to remove under the Bill.

The Lord Bishop of Durham: My Lords, I rise to speak to Amendments 156A and 161. Due to a technicality, Amendments 156 and 157 were not formally withdrawn, but they will be withdrawn, so it is Amendment 156A which is under consideration. I note my interests as a trustee of Reset and with the RAMP project, as laid out in the register.

I thank the usual channels for changing business on Monday so that this item was first today rather than last on Monday. We noted previously that, both during the Nationality and Borders Bill and during this Bill, age assessments have been talked about at 2 am and just after midnight. I am truly grateful to the usual channels for hearing my plea about not being last on the agenda again.

I am grateful also to the noble Baronesses, Lady Lister, Lady Neuberger, Lady Brinton, and the noble Lord, Lord Coaker, for their support of these amendments. This is not the level of legislative scrutiny—which we should have in Committee—that we owe to children. There were some questions put in Committee to which we did not get full answers, and I hope the Minister might provide them today.

The Bill significantly restricts any legal avenues for challenging an incorrect age determination. The appeal mechanisms instituted by the Nationality and Borders Act, though they have not yet been implemented, will

[The Lord Bishop of Durham]
now be disapplied. Following government amendments at this late stage, judicial review will also be limited to such a narrow scope as to make it impossible for a potential child to challenge the assessment of their age based on evidential fact.

All the while, if the Home Office were to inaccurately assess a child to be an adult, the implications would be disastrous and irreversible. A child would face entering an adult system alone, where they would be detained with adults before potentially being removed to a third country with no safeguards in place, perhaps without ever encountering a child protection officer. This is simply absurd, but to remove all legal safeguards and weaken a putative child's access to justice, when the implications are so grave, is as horrifying as it is immoral.

We must not forget that the Home Office does indeed get age assessments wrong. Based on the Home Office's own data, we can see that last year nearly two-thirds of all age dispute cases were found to be children. Currently, no method exists that can determine accurately and consistently whether a person is a child; that fact is well acknowledged by the Home Office and is clearly there in the children's impact assessment that we got yesterday. Therefore, it is understandable that subjective and visual age assessments by immigration officers can lead to inaccurate judgments.

Because of this fact, a potential child must not be disqualified from a judicial review on whether their age decision was wrong on the basis of fact and judicial review must serve as a barrier to a child's removal. Not to permit the courts to grant relief when the verifiable age of a child is available would allow the Government to proceed with the removal of a child when they know their decision was flawed. Last year, this would have meant over 1,000 unaccompanied children could have been eligible for removal to a third country. A child should not be removed from the UK on such a fallible basis. For the sake of children, this cannot be allowed to stand, and that is reason enough why access to judicial review should be there.

Viscount Hailsham (Con): I have been saying—and I hope to reinforce this point—that I have one anxiety. As I understand the amendment, it confines the right of appeal to the grounds set out in Clause 56(5), which exclude an appeal on the basis that there has been a mistake of fact.

The Lord Bishop of Durham: I was about to sit down, but I will note that. I beg to move.

Lord Hope of Craighead (CB): My Lords, I have two amendments in this group, which very much follow the points raised by the right reverend Prelate.

As the noble Viscount, Lord Hailsham, has been pointing out, there is a problem about Clause 56(5), to which the right reverend Prelate's amendment draws attention. As it stands, the subsection restricts the grounds of review to errors of law only. My Amendment 158A seeks to open up the scope for review, following up on a recommendation from the Constitution Committee which pointed out, as the right reverend Prelate has, that the opportunities for error on grounds of fact in this situation are very many. Indeed, the information on which the committee was proceeding was that usually it is on errors of fact that these decisions go wrong.

Amendment 158A rewrites subsection (5) to say that review is available when the decision was either

"wrong in law, or … proceeded on information about the person's age which was incomplete, misleading or otherwise so seriously misinformed that no reasonable decision-maker would have relied on it".

I think that the right reverend Prelate would welcome my amendment because it is trying to achieve what he is achieving. Like the noble Viscount, Lord Hailsham, I am worried that, if subsection (5) remains as it is, it will greatly restrict the opportunity for review on grounds of errors of fact.

Although I do not propose to put my amendment to a vote, can the Minister consider very carefully whether the grounds for review that I am suggesting are available? They come very close to what lawyers describe as "Wednesbury unreasonableness". I do not know whether the Minister would accept that what I have in my formulation would be available as a ground of review that the decision was wrong in law anyway because it was so defective, but it is a very important qualification on the absolute precision which subsection (5), as it presently stands, lays down. Without elaborating further, I seek the Minister's view on what I am proposing. It is important to know exactly to where the phrase "wrong in law" extends.

My Amendment 168AA, which was also discussed in Committee that evening at 1.30 am, is a quite different one, again promoted by a recommendation of the Constitution Committee. It seeks to ask that the power to make regulations under Clause 57(1) regarding the effect of a person's decision

"not to consent to the use of a specified … method for the purposes of an age assessment … where there are no reasonable grounds"

for doing so should be moved from the position where it is subject to the negative procedure, so that it is subject to the affirmative procedure.

The regulation power in Clause 57(1) does not take the blunt approach of saying that, if somebody refuses to consent, then he should simply be treated as being over the age of 18. Commendably, the clause is phrased as having regard to the circumstances. One can well understand that there could be a variety of circumstances in which a person withholds consent. The problem with leaving the provision as it stands to the negative procedure is that there is no opportunity for considering whether the circumstances are ones that we would wish to accept. Amendment 168AA seeks to add the regulation-making power under Clause 57(1) to the list in Clause 64(4) of those regulations which are to be laid in draft and approved by resolution of each House.

Given the wide scope of the power in Clause 57(1) and its importance to the individual, I suggest that this is a reasonable amendment to make. Although it was not possible for the matter to be debated very fully in Committee at 1.30 am, I hope that the Minister can enlarge on his reply. He replied very briefly then. Before another noble Lord intervened to attract his attention elsewhere, he said that he had noted my

amendment and that the Government would "respond before Report stage". I have had no response so far. Can the Minister consider more carefully my proposal?

4 pm

Baroness Lister of Burtersett (Lab): My Lords, I am grateful to the right reverend Prelate and the noble and learned Lord, Lord Hope of Craighead, for bringing back these amendments. I am also grateful to the Home Office for finally publishing its child rights impact assessment yesterday afternoon although, I must say, getting it has been like pulling teeth.

However, on age assessment and other children's rights issues, it reads more like an attempt at post hoc justification than a serious analysis of the implications for children's rights. The initial reaction from the children's sector is damning. That it continues to use misleading statistics on age assessment that were challenged in Committee is disappointing, to put it mildly.

In Committee, I asked for an explanation of

"why the Government have ignored the very clear advice of their own advisory committee on the question of consent",

raised by Amendment 161. The Minister's response was:

"Of course we consider the advice",—[*Official Report*, 12/6/23; cols. 1806-16.]

but the fact is that Clause 57 represents a rejection of that advice. Will the Minister explain why, having considered the expert advice, the Government then rejected it? In effect, their approach is that of guilty until proven innocent but, as we have heard, Clause 56 will make proving innocence—or, more accurately, that one is a child—much more difficult than now in what is increasingly a culture of disbelief.

The limitations on appeal and JR rights are, as the JCHR points out and despite what the CRIA says, clearly not in any child's best interests. Likewise, the UN Committee on the Rights of the Child has expressed concern and recommended that age-disputed children should not be removed to a third country. I asked in Committee what the Government's response is, but received no reply; nor was it explained what steps would be taken to ensure the following, in the words of the supplementary ECHR memorandum, echoed in the CRIA:

"The appropriate support and facilities will need to be in place in the country of removal to ensure that the individual can effectively participate in their judicial review from abroad".

It is difficult to believe that effective participation would be possible, even with support. We need, at the very least, to know what that support would be. Even if the child managed to challenge the decision successfully from abroad, they could then order only a reassessment. How would that be meaningfully carried out if the child is no longer in the UK? If the child were then reassessed as a child, would they be moved back to the UK?

I have a final question. The Nationality and Borders Act provided for a new statutory right of appeal to the First-tier Tribunal to replace judicial review as the means to challenge age assessment under that Act, so that it

"can be resolved as swiftly as possible"

and

"to ensure that genuine children don't slip through the net and are classed as adults".

Over a year on, this section has not been commenced. Can the Minister say why and set out the Government's timetable for doing so, or has it been jettisoned before it has even come into force?

Viscount Hailsham (Con): My Lords, I will speak briefly in support of Amendment 156A, although I regret the limited nature of the appeal contemplated by that amendment. I very much welcome Amendment 158A, in the name of the noble and learned Lord, Lord Hope.

As a matter of principle, I am very much in favour of giving individuals the right of appeal although, as I said when I intervened on the right reverend Prelate, I fear that his amendment provides for a more limited right of appeal than I would wish.

A decision on the age of an individual is critical in determining a person's status under the legislation. I am concerned that, in many instances, the original decision about age will be made in a somewhat perfunctory manner. I imagine that immigration officers may get rather impatient and make rather perfunctory decisions. At the end of the day, age is a matter of evidence and I cannot find any persuasive reason why the original position on age should not be challenged. In my view, the right of appeal should extend to appeals based on the ground that the relevant authority had made a mistake of fact. That is what the noble and learned Lord seeks to achieve in Amendment 158A. However, if I have correctly understood the amendment and its relation to the Bill, the grounds of appeal are limited to those set out in Clause 56(5) of the Bill as it stands. The grounds specified there are essentially judicial review grounds—for example, that there was some procedural unfairness, or the ground of irrationality—and appeals based on fact are expressly excluded. I regard that exclusion as highly regrettable.

To meet some of the anxieties that I fear will be expressed by the Minister regarding my comments and the amendments, I make this point as well: the rights of appeal could be abused, and I would therefore like the burden of establishing the appeal to be on the appellant. It must be for them to satisfy the relevant appellate body that the grounds of appeal are made out. That may in fact be the existing law and practice—it has been such a long time since I practised in that field of law that I simply do not know. If it is not, it should be, and it would meet many of the anxieties likely to be expressed on the government Benches.

Baroness Butler-Sloss (CB): My Lords, I understand very well the child rights impact assessment on this issue. Naturally, the Government are concerned about people's ability to pretend that they are under age when they are not, but that does not in fact deal with the underlying problem: there are a large number of children from countries outside Europe who mature much more quickly, certainly quicker than children in western Europe.

I remember going on a visit to Safe Passage, which was offering a drop-in centre for young men under 18. A number of those I met, and whom Safe Passage was absolutely satisfied were under 18, had beards or moustaches. If such person is interviewed by the Home Office, will it not immediately assume that a moustache

[Baroness Butler-Sloss]
or beard absolutely means that they are over 18? In the case of some of these young people, that will be incorrect.

I also remain very concerned about the issue raised by the noble and learned Lord, Lord Hope, in relation to Clause 5. If the issue is, as I suspect it will be, that they got it wrong, it is not necessarily—or probably not ever—an issue of law but a question of fairness. It is a question of dealing fairly and in the best interests of those who are genuinely under 18.

Reading through the child impact assessment, what depresses me is the suggestion regarding the extent to which the Government are following the principles of the Children Act—which every Government in my lifetime have followed—and looking out for the best interests of children. They are saying it again and again and, quite simply, doing the exact reverse. This is extraordinarily depressing.

Baroness Neuberger (CB): My Lords, most of what I wished to say has been said by others. I pay tribute to my noble and learned friend Lady Butler-Sloss, the noble Viscount and my noble and learned friend Lord Hope for what they have said, and I support the amendment in the name of the right reverend Prelate the Bishop of Durham.

I will simply say this: it is a matter of fairness. In its scrutiny of the Bill, the Joint Committee on Human Rights remained unconvinced by this approach and believes that any penalisation for refusing to undergo some form of age assessment should be challengeable in the courts, which remains not the case at the moment. Removing a young person's right of appeal against an age assessment which may have been carried out on appearance only, or by any other means, is, as my noble and learned Friend, Lady Butler-Sloss, said, cruel and demeaning.

It is all the more disgraceful if that young person has been tortured or abused and is terrified of being touched by strangers when there is a scientific assessment. It is all the more disturbing given that the so-called scientific methods for age assessment are widely questioned by the scientific community, especially those who have particular expertise, such as the Royal College of Paediatrics and Child Health. I chair two hospitals, as noted in my interests set out in the register. I have never met a doctor or any other health professional who supports these so-called scientific age assessment methods, yet I have met several asylum-seeking young people who have been tortured and abused and are terrified of being touched. If they refuse, they can be penalised and treated as adults. This is a matter of fact. Any young person should have the right of appeal.

Lord German (LD): My Lords, I note my interests in the register. I shall speak to the amendments in this group proposed by the right reverend Prelate the Bishop of Durham and the noble and learned Lord, Lord Hope, because I think they are a package, and we see them as being important together. I believe that age assessment is an art rather than a science, because it is absolutely the case that mistakes can be made and there is no absolutely right way of assessing the age of a person.

I recently had an experience like that of the noble and learned Baroness, Lady Butler-Sloss. As part of the Learn with the Lords programme, I was talking to group of sixth-formers in a school in England, and one of them had a beard. It was quite surprising but natural. We must not jump to the assumption that if someone has a beard, they are an adult. The rules of this sixth form are that they are allowed to grow their hair longer if they wish to.

I want to look at one area of this work which has not yet been probed by those who have spoken, which is the relationship with other European countries. The Minister repeatedly prays in aid the practice in some European countries, but the European Asylum Support Office, which provides formal guidance for member states of the European Union, has a different view from that which has been expressed by the Minister. Importantly, the safeguards in its guidance contrast with what is in this Bill and what we discovered last night in the child's rights impact assessment.

Once again I say that the child's rights impact assessment arrived at virtually the last moment when we are able to discuss anything which impacts unaccompanied children or children in general. It states that,

"until the Home Secretary determines the science and analysis is sufficient to support providing for an automatic assumption of adulthood, which would bring the UK closer to several European countries like Luxembourg and the Netherlands".

However, the European guidance to all member states says on age assessment:

"In applying benefit of the doubt"—

that is the important phase—

"the applicant shall be considered to be below 18 years and, if unaccompanied, a guardian/representative shall be immediately appointed … The BIC—

best interests of the child—

"shall be observed from this point onwards until conclusive results point out that the applicant is an adult".

It is evident from this Bill's Explanatory Notes and the child's rights impact assessment, which was just received, that this Government do not plan to do either.

The child's rights impact assessment appeared only in the middle of last night, so it would have been difficult for people to have read it. I shall therefore quote the relevant paragraph. On page 13, it says that:

"The bill includes a regulation making power to make an automatic assumption that a person is an adult if they refuse to undergo scientific methods"—

I repeat, "scientific methods"—

"of age assessment without good reason."

How does that equate with the guidance to European member states that the benefit of the doubt should be given and the best interests of the child should be provided? It does not. By contrast, the European guidance says on page 42:

"The refusal to undergo the assessment should not imply an automatic consideration of age of majority".

4.15 pm

The impact assessment published last night makes an unforgiveable error in saying on page 13 that

"the age assessment clauses aim … to … avoid the safeguarding issues which arise if an adult is wrongly accepted as a child and accommodated with younger children to whom they could present a risk".

Under the Children Act, the responsibility for safeguarding rests always with the responsible body—in this case the Home Office or the local authority carrying out the assessment. It is their job to ensure that all supposed minors are safeguarded at all times. If there are such worries then those whose age is doubted should be kept separately from clearly younger children, but they should not be housed with adults either.

On these Benches, we seek to improve this Bill by giving an effective legal remedy to those who are judged in this manner, in a way that is woeful by European standards. We support these two amendments. If the right reverend Prelate and the noble and learned Lord, Lord Hope, wish to test the opinion of the House on both—we see them as a package—we on these Benches will definitely support them.

Baroness Meacher (CB): I am sure that everybody wants me to sit down and not speak. I want to make just one point, taking us back to the initial remarks of the right reverend Prelate the Bishop of Durham; it is crucial. The Home Office knows that its age assessments are unreliable. It is therefore immoral—I was delighted to hear the right reverend Prelate use that word—to prevent young people having the right to appeal against those age assessments. It is also immoral to allow a child to be removed from this country while a judicial review of those age assessments is under way. I want us to focus on that point from the right reverend Prelate.

Lord Coaker (Lab): My Lords, I thank the noble Baroness, Lady Meacher for her last comments; I am sure all of us agree with them.

I support Amendment 156A in the name of the right reverend Prelate the Bishop of Durham. It is a very important amendment. Of course, when people come forward with sensible and constructive suggestions which would improve an amendment that has been put forward, I have no problem with that, and I know the right reverend Prelate the Bishop of Durham has no problem with that either. In line with the remarks made by the noble Viscount, Lord Hailsham, and the noble and learned Lord, Lord Hope, were the noble and learned Lord to move Amendment 158A, we would be minded to support that too, because it seeks to improve the Bill in the way that he said. It would be silly not to do so. I thank him for tabling it and hope he will spare me a heart attack from running around to make sure that it is all is in order.

The serious point is that the amendment would improve the Bill. As has been said, rather than restricting this to areas of law only, it opens it up to grounds of fact. It is a much more sensible, improved amendment, and it would be silly not to accept it. We will see what the House has to say should the noble and learned Lord, Lord Hope, be minded to move his amendment after Amendment 156A.

Nobody doubts the difficulties that can arise in respect of age assessments, particularly as many of the disputes for unaccompanied children arise around the claimed age of 16 or 17. The Nationality and Borders Act 2022 had relevant provisions, but those have been superseded by the Illegal Migration Bill. The Bill specifically allows for an individual, where there is a disputed age assessment, to be removed—in other words, an individual's challenge to a decision by way of judicial review is non-suspensive. Amendment 156A, in the name of the right reverend Prelate the Bishop of Durham and others, seeks to address that injustice.

The Government will quote evidence saying that large numbers of individuals claiming to be children are not, and that the system is open to abuse. I point out that in the JCHR report the Helen Bamber Foundation states that, in 2022, 70 local authorities had 1,386 referrals to their children's services of young people sent to adult accommodation or detention, but 63% were then found to be children. It is therefore deeply concerning that judicial oversight of these decisions is being ousted, and that they will then be removed from the UK while decisions are confirmed or not. As the noble and learned Baroness, Lady Butler-Sloss, says, how can that possibly be in the best interests of the child—something that has driven public policy in this country for decades?

Others have raised the child's rights impact assessment. Since we got it only at 5 pm yesterday, it has been difficult to go through it, so I apologise for asking questions that would really be more appropriate in Committee. On the deportation of children—were the Bill to go through unamended—it may interest noble Lords for the Minister to explain why there has been a change of public policy with respect to the use of reasonable force. On the use of force by the Home Office under the Bill, page 4 of the impact assessment says:

"While this is technically not age restricted, use of force against minors is not permitted under current policy except where in the rare circumstances there is a risk of harm".

I think we all accept that; if a child is going to hurt themselves, you necessarily expect someone to try to intervene in that circumstance. It goes on to say:

"Use of force is not currently used against minors for compliance/removal purposes. We do not envisage the use of reasonable force being used for such purposes under the auspices of the new bill"—

this is the important phrase—

"unless it is necessary as a last resort where other methods to ensure compliance have failed".

That is a major change of public policy, included in a document that we are being asked to consider at the last stages of Report. The Government are saying that reasonable force can be used in the deportation and removal of children under the auspices of the Bill, rather than it just being used in the circumstances of preventing harm. Nobody would disagree that if you are preventing a child hurting themselves, of course you have to use force and intervene appropriately, but this does not say that. I repeat: it says

"as a last resort where other methods to ensure compliance have failed".

The House deserves an explanation of why the Government not only have changed public policy with respect to the lack of judicial oversight of age assessment but are now proposing, to ensure that children can be removed under the Bill, to allow reasonable force to be used.

I will not do this but, if this were Committee, noble Lords can imagine all the questions we would ask about training, about what "reasonable force" means and so on. That is not available to us, which makes it even more important that we support the amendment

[Lord Coaker]
from the right reverend Prelate the Bishop of Durham—with the improvement suggested by the noble and learned Lord, Lord Hope, if he moves his amendment as well—to protect children, some of the most vulnerable people who come to our shores.

The Parliamentary Under-Secretary of State for Migration and Borders (Lord Murray of Blidworth) (Con): My Lords, as we have heard, these amendments take us on to the provisions regarding age assessments. Given that, under Clause 3, unaccompanied children will be treated differently from adults, and given the obvious safeguarding risks of adults purporting to be children being placed within the care system, it is important that we take steps to deter adults from claiming to be children and to avoid lengthy legal challenges to age-assessment decisions preventing the removal of those who have been assessed to be adults. Receiving care and services reserved for children also incurs costs and reduces the accessibility of these services for genuine children who need them.

Assessing age is inherently difficult, but it is crucial that we disincentivise adults from knowingly misrepresenting themselves as children. Our published data shows that, between 2016 and March 2023, there were 8,611 asylum cases in which an age assessment was required and subsequently resolved. Of those cases, nearly half—47%, or 4,088 individuals—were found to be adults. This percentage aggregates initial decisions on age taken upon arrival, comprehensive assessments and the outcomes of legal challenges. I make clear that only those assessed to be adults will fall within the duty.

Accordingly, Clause 56 disapplies the right of appeal for age assessments, which is yet to be commenced and was established in Section 54 of the Nationality and Borders Act 2022, for those who meet the four conditions in the Bill. Instead, those wishing to challenge a decision on age will be able to do so through judicial review, which will not suspend removal, and can continue from outside the UK after they have been removed. In answer to the noble Baroness, Lady Lister, I say that we are keeping the commencement of Section 54 under review, but I am unable to provide a further update at this stage.

Clause 56(5) provides the basis on which a court can consider a decision relating to a person's age in judicial review proceedings. It provides that a court can grant relief

"only on the basis that it was wrong in law",

and must not do so on the basis that it

"was wrong as a matter of fact".

This distinguishes the position that the Supreme Court adopted in its judgment in the 2009 case of the Crown on the application of A v London Borough of Croydon, page eight. The intention is to ensure that the court cannot make its own determination on age—which should properly be reserved for those qualified and trained to assess age—but instead can consider a decision on age only on conventional judicial review principles.

Viscount Hailsham (Con): The court will receive evidence from people who have made these assessments, and courts are well versed in determining which evidence is to be preferred.

Lord Murray of Blidworth (Con): As my noble friend well knows, under a conventional judicial review challenge, the court will review the process of the decision and whether the decisions made were appropriate, applying the conventional judicial review tests, not balancing the evidence and coming to its own conclusion on the facts. The Government's position is that it is appropriate for those tasked with assessing a person's age to be entrusted with that responsibility, subject to review on judicial review principles. As the noble and learned Lord, Lord Hope, said, this includes a test of Wednesbury unreasonableness—a decision so unreasonable that no properly directed tribunal could have reached it.

Lord Hope of Craighead (CB): I want to be absolutely clear: is the Minister accepting my amendment? I have drafted it as carefully as I can to bring it within the scope of that kind of challenge.

Lord Murray of Blidworth (Con): I am coming to the noble and learned Lord's amendment and will answer that question in a second.

We consider that these provisions are entirely necessary to safeguard genuine children and guard against those who seek to game the system by purporting to be adults. It follows that I am afraid I cannot support Amendments 156A and 158A. However, I assure my noble friend Lord Hailsham that age assessments will, as now, be undertaken in a careful and professional manner. This is not a perfunctory exercise, and it is in everyone's interests that we get it right.

4.30 pm

In response to the comments made by some noble Lords, including the noble Lord, Lord German, I can assure the House that, at all stages of our age assessment process, officials and social workers are never guided to make decisions solely on the basis of appearance. There is, at all stages, a broader approach.

This is a convenient point to turn to the government amendments to Clause 56, which clarify that a court must determine a judicial review on the basis that a person's age is a matter of fact to be determined by the relevant decision-maker, and may not grant any form of relief, as an alternative to referring to just quashing, on the basis that the court considers the decision was wrong as a matter of fact.

Clause 57 will enable us to bring forward regulations to provide that a person is to be treated as an adult if they refuse to consent to specified scientific methods, with no reasonable grounds for refusal, for the purpose of an age assessment. Amendment 161, put forward by the right reverend Prelate the Bishop of Durham, would amend the clause so that the consequences laid out in the regulations would not apply if an individual's refusal to consent to the use of the specified scientific method was reasonable in all the circumstances. I respectfully suggest that the amendment is unnecessary. The clause already provides that this automatic assumption would be the case only if the refusal was without good reason.

Amendment 168AA, proposed by the noble and learned Lord, Lord Hope, seeks to give effect to the recommendation of the Constitution Committee to

the effect that the regulation-making power in Clause 57 should be subject to the affirmative procedure. I am pleased to confirm that a response to the Constitution Committee's report on the Bill has been issued and will no doubt be published shortly by the committee. In that response, we explain that the regulation-making power will not be exercised unless and until the Secretary of State is satisfied that the science and analysis are sufficient to support providing for an automatic assumption of adulthood.

We will also continue to seek scientific advice from the chief scientific adviser to the Home Office and the Age Estimation Science Advisory Committee. This will ensure that any regulations made under the Bill are based on a firm evidential basis. Given these considerations, we are not persuaded that it is necessary to adopt the affirmative procedure for these regulations, and I note that the Delegated Powers Committee did not take issue with the use of the negative procedure in this instance.

Turning to the point raised by the noble Lord, Lord Coaker, I remind him that we discussed the use of reasonable force in Committee, and I refer him to my remarks on Amendment 70 in *Hansard*.

These clauses ensure that our age assessment processes are robust and support the operation of the duty in Clause 2. I commend the clarificatory government amendments to the House and ask the right reverend Prelate to withdraw his amendment.

Finally, to return to the point raised by the noble and learned Lord, Lord Hope, it is the Government's view that there is no need to legislate for Wednesbury unreasonableness, as the parameters of judicial review are already very clear and well established in case law.

The Lord Bishop of Durham: I thank the Minister for his careful response. First, I note his comments, and accept his points, on Amendment 161. I thank the noble and learned Lord, Lord Hope, and the noble Viscount, Lord Hailsham, for spotting a weakness in my amendment. I believe that the amendment tabled by the noble and learned Lord, Lord Hope, helps enormously, so if he were to test the opinion of the House, I would support him.

The Minister, yet again, has told us that 47% were found to be adults but failed to tell us that some of those supposed adults, when they went to local authorities, were subsequently found to be children, not adults. So it is not 47% who were finally found to be adults; it is less than that.

I am worried, even if we took the 47%, about the 53% of children who could find themselves in adult accommodation and at greater risk. That is my fear; I put the child first. There is a balance here, Minister—I absolutely accept that—but many of us go a different way. I am not content with what he has said and I would like to test the opinion of the House on Amendment 156A. I beg leave to withdraw Amendment 156.

Amendment 156 withdrawn.

The Senior Deputy Speaker (Lord Gardiner of Kimble): My Lords, I must inform the House that if Amendment 156A is agreed, I will not be able to call Amendment 157 by reason of pre-emption.

Amendment 156A

Moved by ***The Lord Bishop of Durham***

156A: Clause 56, page 58, line 25, leave out subsections (2) to (4) and insert—

"(2) Subsection (5) applies if P makes an application for judicial review of—

(a) the decision mentioned in subsection (1), or

(b) any decision to make arrangements for the person's removal from the United Kingdom under this Act which is taken on the basis of that decision."

Member's explanatory statement

This amendment reinstates the right of appeal against age assessments in respect of putative children whom there is a duty to remove under the Bill, and removes a provision that would prevent a judicial review challenge to an age assessment from serving as a barrier to the putative child's removal from the UK.

4.35 pm

Division on Amendment 156A

Contents 235; Not-Contents 185.

Amendment 156A agreed.

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Desai, L.
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4.47 pm

Amendment 157 not moved.

Amendment 158

Moved by ***Lord Murray of Blidworth***

158: Clause 56, page 58, line 37, after "tribunal" insert "must determine the application on the basis that the person's age is a matter of fact to be determined by the relevant authority; and accordingly the court or tribunal"

Member's explanatory statement

This amendment confirms that, on an application for judicial review of a decision mentioned in Clause 56(3), the court or tribunal must treat a person's age as a matter of fact to be determined by the relevant authority.

Amendment 158 agreed.

Amendment 158A

Moved by ***Lord Hope of Craighead***

158A: Clause 56, page 58, line 37, leave out from "tribunal" to the end of line 3 on page 59 and insert "may grant relief only on the basis that the decision—

(a) was wrong in law, or

(b) proceeded on information about the person's age which was incomplete, misleading or otherwise so seriously misinformed that no reasonable decision-maker would have relied on it."

Lord Hope of Craighead (CB): My Lords, as the noble Lord, Lord German, said, my amendment is really part of a package, and it is very important that the formula which I have set out in it should be put on the face of the Bill. For that reason, I wish to test the opinion of the House.

4.48 pm

Division on Amendment 158A

Contents 232; Not-Contents 178.

Amendment 158A agreed.

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Drake, B.
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Dubs, L.
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Janke, B.
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Young of Hornsey, B.
Young of Norwood Green, L.
Young of Old Scone, B.

NOT CONTENTS

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Barran, B.
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Sherbourne of Didsbury, L.
Shinkwin, L.
Soames of Fletching, L.
Spencer of Alresford, L.
Stedman-Scott, B.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Strathcarron, L.
Strathclyde, L.
Swinburne, B.
Swire, L.
Taylor of Holbeach, L.
Trenchard, V.
True, L.
Tugendhat, L.
Tyrie, L.
Udny-Lister, L.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Verma, B.
Waldegrave of North Hill, L.
Wei, L.
Weir of Ballyholme, L.
Whitby, L.
Williams of Trafford, B. [Teller]
Wolfson of Tredegar, L.
Young of Cookham, L.
Younger of Leckie, V.

5 pm

The Senior Deputy Speaker (Lord Gardiner of Kimble): My Lords, I cannot call Amendments 159 and 160 by reason of pre-emption.

Amendments 159 and 160 not moved.

Clause 57: Age assessments: power to make provision about refusal to consent to scientific methods

Amendment 161 not moved.

Clause 59: Cap on number of entrants using safe and legal routes

Amendment 161A

Moved by ***Lord Murray of Blidworth***

161A: Clause 59, page 63, line 1, at beginning insert "in England and Wales and Scotland,"

Member's explanatory statement

This amendment, the second amendment in the name of Lord Murray of Blidworth at page 63, line 1 and the amendments in the name of Lord Murray of Blidworth at page 63, line 2 and page 63, line 25 replace the requirement to consult such representatives of district councils in Northern Ireland as the Secretary of State thinks appropriate about regulations under Clause 59(1) with a requirement to consult the Executive Office in Northern Ireland.

Lord Murray of Blidworth (Con): My Lords, I am to be brief in setting out the government amendments in this group. As the House will recall, Clause 59 provides for the Secretary of State to make regulations specifying the maximum number of persons who may enter the UK annually using safe and legal routes. Such regulations must be debated and approved by Parliament. Before making such regulations, the Secretary of State is required to consult representatives of local authorities and such other persons or bodies as they consider appropriate. The intention is that the annual cap reflects the country's capacity to accommodate, integrate and otherwise support those admitted through safe and legal routes.

Local authorities in Northern Ireland do not have the same remit as those in England and Wales and Scotland. In the context of migration, the relevant functions rest with the Northern Ireland departments. Following discussions with the Executive Office in Northern Ireland, Amendments 161A, 161B, 161C and 162A replace the requirement to consult representatives of local authorities in Northern Ireland with a requirement to consult the Executive Office. The Executive Office will then consult other Northern Ireland departments to inform the response to the Secretary of State.

I will respond to the other amendments in this group once we have had an opportunity to hear from other noble Lords. For now, I beg to move.

The Lord Bishop of Durham: My Lords, I again note my interests as laid out in the register. I will speak to Amendment 162. In Committee, I explained the well-intentioned nature of this amendment and hoped it would have afforded the Minister the opportunity to clarify that any cap placed on safe and legal routes would exclude current named schemes already in operation. I appreciate the Minister's comments. He said:

"The cap will not automatically apply to all current and new safe and legal routes that we offer or will introduce in the future."—[*Official Report*, 4/6/23; col. 1980.]

But, with respect, how can local authorities reflect on accommodation provision for new routes without excluding their current commitments from this assessment?

"Safe and legal routes" is not a term that is tightly defined in the Bill, so we are left, as is now unfortunately commonplace, with regulations in this area. Arguably, however, it is not unreasonable for Members to presume that "safe and legal routes" would be for those seeking protection outside existing visa schemes who would be granted refugee status. Therefore, why are the Government leaving the possibility that those who are not granted refugee status could be included within the cap? This applies to schemes such as Homes for Ukraine, which requires a visa—the people in question are not refugees—Hong Kong BNO visas, which are actually for overseas citizens, and the Afghan relocations and assistance policy, which is in recognition of all that happened in Afghanistan. As my noble friend Lady Brinton put it to the Minister in Committee, those from Hong Kong are actually British citizens. I thank the Minister for the meeting that he held with me and her on that specific question.

We still have no credible evidence on the deterrence impacts of this Bill, but we know that offering accessible and safe routes will help prevent people having to make the agonising decision to travel irregularly to reach sanctuary. However, by including current schemes in the proposed cap, we will severely restrict our ability to implement any such safe routes, as there would be limited room, if any, for additional routes. Over the first quarter of this year, 22,000 Ukrainians and British nationals from Hong Kong were resettled here. If we had a cap of 20,000 and those 22,000 were included, we would have a problem. It is to the Government's credit that these 22,000 have come, but it cannot be used as a justification to abdicate our responsibility to do more across a wider global cohort.

If we do not provide safe routes to those who have had no choice but to uproot their lives to seek safety, we are choosing to require them to rely on dangerous journeys. Perversely, this will create a market for those smugglers determined to capitalise on others' suffering.

The child's rights impact assessment states:

"Anybody arriving in the UK through the methods specified in the bill presents a risk to the public due to the very nature of their arrival".

I put it to the Minister that the vast majority do not pose a risk to our country; what is at risk is their lives. That is why they have fled. I therefore welcome that the Prime Minister has promised that the Government will create more safe and legal routes. This amendment will enable the Government to do only what they have set out to do. Without it, I fear this vital and necessary work will stop before it has even started and the world's most vulnerable will pay the price.

I wonder whether using the word "person" in Clause 59(1) is unhelpful here and whether it should say "asylum seeker and refugee" instead. Would the Minister consider bringing that back at Third Reading? Beyond Amendment 162, I support the other safe and legal routes proposed here, in particular that in Amendment 164 in the name of the noble Baroness, Lady Stroud.

Baroness Stroud (Con): My Lords, I thank the noble Lords, Lord Kirkhope and Lord Kerr, and the noble Baroness, Lady Helic, for adding their names to my Amendment 164. I also lend my support to the right reverend Prelate's Amendment 162, which he has just outlined, and to Amendment 163 in the name of my noble friend Lord Alton.

I brought a variation of this amendment to the House in Committee. As I said in that debate, it is very simple. Amendment 164 is designed purely to place a duty on the Government to do what they say they intend to do anyway—introduce safe and legal routes. As I said in that debate, the moral credibility of the entire Bill depends on the creation of more safe and legal routes. The basis on which we are disestablishing illegal and unsafe routes is that we are creating legal and safe routes. The lack of a substantial commitment in primary legislation to this end is a serious omission which this amendment gives us an opportunity to address.

[Baroness Stroud]

In the previous debate, the Minister said that the Government intend to outline new safe and legal routes in the January report and to implement them "as soon as practicable" and

"in any event by the end of 2024".—[*Official Report*, 14/6/23; col. 1982.]

I am grateful to him for making this commitment. My primary motive in bringing this amendment back is to ensure that this commitment from the Government is enacted and that the commitment made from the Dispatch Box to enact safe and legal routes is in the Bill and carries as much weight as the commitment to disestablish unsafe and illegal routes.

I have heard commitments to policy positions from the Dispatch Box which have not been fulfilled and, while I have the greatest respect for the Minister, legislative certainty is what this House needs. I am particularly concerned by the promises made about the establishment of safe and legal routes at an indeterminate point after the next general election.

This brings me to the timeframe which has been introduced to this revised version of the amendment. We have chosen the timeline of two months after the publication of the Government's report on safe and legal routes for two reasons. First, this will be eight months—I repeat, eight months—after the enactment of the legislation, which is more than enough time to develop and implement a serious proposal. Secondly, it will ensure that the commitment, as set out in legislation, should not cut across a general election or purdah next year. If the Minister would like to propose putting an alternative timeline into the legislation, I would welcome that conversation, but we do need to put the duty into the legislation now.

I was grateful for a conversation with the Immigration Minister in the other place, when he assured me that the Government would consider the importance of clearly demonstrating that they are committed to fulfilling their word on safe and legal routes. To restate: this is something the Government actively want to do, and for that reason I will want to test the will of the House this afternoon.

Lord Alton of Liverpool (CB): My Lords, it is a pleasure to follow the noble Baroness, Lady Stroud, and to endorse everything she has just said; if she does decide to test the opinion of the House, I certainly will support her in the Lobbies. I support the right reverend Prelate the Bishop of Durham in his Amendment 162, and Amendment 165, in the name of the noble Lord, Lord Purvis of Tweed, and Amendment 166, in the name the noble Baroness, Lady Kennedy of The Shaws.

My own Amendment 163 takes me back to an issue I raised in Committee. It concerns the provision within the designated safe and legal route, which I warmly welcome and I applaud what the Prime Minister said about the principle of doing this. The amendment contains within it an element and a number, to be determined by the Secretary of State, for people with protected characteristics under Section 4 of the Equality Act 2010. The noble and learned Lord, Lord Stewart, who is in his place, will recall that I raised this issue on an earlier amendment on Report.

I am grateful to the noble Baroness, Lady Stroud, but also to the noble Lord, Lord Cashman, for signing this amendment. I will listen carefully to the Minister's response. A few moments ago I heard him say that there will be a consultation process; perhaps he could flesh that out and say even that the principle in this amendment is something that could be consulted on—that would go some way to meeting my concerns.

I have raised this issue a number of times previously. I tabled an amendment to the Immigration Bill, debated in your Lordships' House on 21 March 2016, which specifically focused on those groups of people, such as the Yazidis and Christians, persecuted and even facing genocide because of their religion or belief. I raised it again during the Nationality and Borders Bill, debated on 8 February 2022. I focused on the Yazidis, an ethno-religious group targeted by Daesh for annihilation as a clear-cut case of genocide.

Earlier this afternoon, the noble Baroness, Lady Kennedy of The Shaws, and I held a meeting with officials from the Foreign, Commonwealth and Development Office about the continued failure of the United Kingdom to respond to the genocide of the Yazidis, even though a German court has now determined that such crimes have been committed against the Yazidis. I visited northern Iraq in 2019 and took evidence from the groups I have just described. Germany, along with Canada and Australia, famously opened its doors to the victims of this genocide, offering them sanctuary and a safe haven. By contrast, we have used the absence of safe and legal routes to prevent these vulnerable and targeted communities being able to find a way of accessing refugee or asylum status in the UK.

If our present mechanisms are working as intended, why have Yazidi victims of the Daesh genocide in Iraq not been granted resettlement in the UK? Of course, we may not be able to help all victims but why can we not help a few? This is unacceptable, which is why I have tabled this amendment.

5.15 pm

Over the years, we have seen how we have failed to support even single individuals because there is no safe or legal route. I am not talking about millions or even thousands of people. I am talking about individual cases. I went to Pakistan and met Supreme Court judges to plead for Asia Bibi, a woman who had spent years on death row. Having been acquitted of so-called blasphemy charges, she faced death threats from mob groups. Her case—and that of a young Christian Pakistani woman who was abducted, forcibly converted and forcibly married—were raised directly with the Home Office. Yet although there was plenty of sympathy, it did not result in any practical help. This amendment would enable tea and sympathy to be turned into the kind of response that mercifully, in that case, the Canadian Government were able to give.

In Committee, I raised the case of Mubarak Bala, president of the Humanist Association of Nigeria. He was sentenced to 24 years in prison for a so-called blasphemous post on Facebook. If he was to be acquitted or released, he would certainly face threats and so need a safe haven. Nigeria is one of 71 countries which

criminalise blasphemy. As long as these laws exist, people will face persecution, prosecution and imprisonment. Some will even face the threat of death and be pushed to find safe havens abroad.

This amendment will not help everyone. As the noble Lord, Lord Paddick, said to me, I would like something broader. I hope that one day we will get to that. However, I commend this modest amendment to the Minister. It is a beginning. It would provide assistance to people with protected characteristics, as understood by Section 4 of the Equality Act, and to people who are often discriminated against because of these protected characteristics. This also means protection for members of the LGBT community. In a book on genocide published last year, I highlighted the treatment of gay people during the Daesh genocide in Syria and Iraq. Some were thrown from high buildings, others burned in cages.

I welcome the decision of the Government to find a formula for safe and legal routes but urge them to incorporate within it a small element which would enable us to respond to such individual cases of extreme persecution, including of those who are targeted because of their protected characteristics. This year is the 75th anniversary of the Universal Declaration of Human Rights, Article 18 of which protects the right to believe, not to believe, or to change your belief. It is also the 75th anniversary of Raphael Lemkin's genocide convention. This would be a small contribution to putting some of the well-meaning rhetoric in those declarations into practical effect. It is the right thing to do, and I commend this amendment to the House.

Lord Purvis of Tweed (LD): My Lords, it is always a pleasure to follow the noble Lord, Lord Alton. He makes his case very well. I also share the views of my noble friend Lord Paddick in his discussions with the noble Lord, Lord Alton, that the preference is to get to a place where we can have a broader view. That is where my Amendment 165 is trying to land us—so that we can have a means by which those who seek asylum can have a safe and legal route which is not country-specific. I will return to that in a moment.

I was pleased to listen very carefully to the noble Baroness, Lady Stroud, making her case. I hope that the Minister reflects very carefully on what was presented to him in very measured terms. The currency of commitments by Ministers at the Dispatch Box is not as it was. Therefore, if the noble Baroness presses this amendment to the vote, these Benches will support her. We need in this Bill a commitment that there will be safe and legal routes, so it will be very important.

Before I turn to Amendment 165, I will speak briefly to Amendment 167 on family pathways, tabled by my noble friend Lady Ludford, who cannot be here today. This is another area where the absence of a pathway for family reunion has a perverse incentive that draws people towards smuggling and therefore the dangerous channel crossings, as well as preventing the accelerating of integration in the UK of those family members. Refugee family reunion is particularly important for women and children, who make up 90% of those who are granted visas. The damage that this Bill will do is substantive. I hope that the Minister can reflect on that point and give a proper response.

Amendment 165 is a version of an amendment that I tabled in Committee. The Minister challenged me to try to present some figures on its impact. I told him that I would be able to present an estimate of its impact, after reflecting on the Government's impact assessment. This impact assessment has been debated a lot since we were given sight of it—including the boxes for government estimates of costs that remain blank. But one thing that is certain, and which I can say with assurance, is that the protected claim route for a safe and legal route under this amendment would be cheaper to the British taxpayer than the costs of detention and removal detailed in the impact assessment. Indeed, as the children's impact assessment said, a safe and legal route would be a means by which we would have an effective way of protecting children.

There can now be no doubt that the route the Government are seeking to go down in the Bill is the most expensive for the taxpayer. We have to find ways to have a safe and legal route that is not country specific and that has considerable thresholds and conditions, high enough not to need a quota but sufficient to allow those under the greatest level of persecution to secure access and a route for a protected claim to the UK. Of course, the critical aspect is that that would be valid only if there is consideration of it being a successful cause. That is possible and the costs would be lower.

I hope the Minister can also give positive news on what the Government expect a safe and legal route that is not country specific to be. In Committee, I asked the Minister about the status of what we have at the moment, which is a safe and legal route that is not country specific—the UK resettlement scheme through the UNHCR. I do not need to remind the House that that scheme is demand led and operates on the basis of information provided by local authorities, acting in isolation or in a regional group and stating that they can accommodate and resettle those who are seeking asylum via the UNHCR. That is the existing means; it is problematic and expensive, and my amendment seeks to improve it.

The major deficiency at the moment is what the Independent Commission for Aid Impact said in its review of the Government's use of overseas development assistance funding for the UK resettlement scheme: the UK Government asked the UNHCR not to make any referrals to the UK unless they were from Afghanistan. I have asked the Minister twice now—I did again in Committee—whether this was the case. The Minister replied:

> "I do not have that detail to hand so I will go away and find that out and write to the noble Lord".—[*Official Report*, 14/6/23; col. 1981.]

If the theme is taking Ministers at the Dispatch Box at their word, presumably the Minister went away and found out whether that was the case. He has not written to me, so I expect the answer when he winds up on this group today. He really needs to tell us, given that he told me that he would in Committee. That is on the record in *Hansard*, so I look forward to the Minister stating whether that is the case.

The other aspect on which we need clarity is that the Minister has said that any new safe and legal route will depend on the capacity in local authorities. That capacity is both demand led and need led. Local

[Lord Purvis of Tweed]
authorities can offer space for the UK resettlement scheme through individual councils or strategic migration partnerships, so the Home Office must have a current estimate of the level of capacity of local authorities through the strategic migration partnerships receiving through the UK resettlement scheme. I would be grateful if the Minister could clarify that point.

The second is that the Home Office provides tariff funding for local authorities, either individually or as a group, for those being resettled. My concern with the government proposal, and why we need clarity in the Bill, is that the Government could state that there is no capacity in local authorities, not because a local authority has said that it does not have capacity but because the Government have reduced its tariff funding. So they can flick the switch: they can state there is no capacity because they are unwilling to give a tariff support.

As we know, at the moment, community sponsorship is part of the UK resettlement scheme. The Government consider it a safe and legal route, and we have seen it so wonderfully in the Ukrainian scheme. But the Government seem very loath to test the community sponsorship scheme for other people who are seeking asylum. I am certain that it would not be easy and that there would be consequences. But if those in this country of ours were asked in a community sponsorship scheme for young people who are potentially at direct risk in Iran and Sudan, and if they met certain thresholds and the scheme could operate a protective claiming element to them, I am certain we would be able to find the capacity that we needed.

Finally, with all the Government's assurances, we see the deficiencies in their current approach in live time. Judicial review is about to start in Northern Ireland on the Government's evacuation from Sudan. I declare the interest of my activities within Sudan and the civilian community there. The review is asking why the Government have provided support for those from Ukraine but is refusing it for those from Sudan on exactly the same basis. I am afraid that we cannot rely on this Government to have individual schemes. Therefore, we need safe and legal routes and a commitment in the Bill. We cannot simply take the commitments from the Dispatch Box. This needs to be in law.

Lord Kirkhope of Harrogate (Con): My Lords, I put my name to Amendment 164. I will speak strongly but briefly in support of my noble friend Lady Stroud. I spoke to this matter in Committee. What a disappointment it is that the Government and many of their spokesmen have made it perfectly plain that they are going to introduce safe and legal routes but, as others have said, without any clarity at all as to what they mean. Indeed, I have been saddened to hear a number of people in the other place confusing a safe and legal route with a programme of the United Nations, which is a separate matter altogether, aimed at specific countries in the world.

As I previously stated, I was responsible as a Minister for the United Nations Bosnian refugee settlement scheme in the 1990s. This country can be very proud of that scheme, but it was organised very much internationally and we played a noble part. If the Minister is mixing it up—I do not think that he is—or if the Government are, and thinking that these schemes will satisfy this particular area, they are mistaken.

I also put it very quickly to my noble friend that, prior to 2011, and certainly in the time that I was Minister, we had at our embassies and consulates around the world provision for dealing with applications for asylum to this country. This spread out the ability to grant asylum very widely. In view of the fact that there are so many countries of the world that claim to be freedom-loving and democratic but where individuals and groups of people have prejudice shown against them, would it not be sensible—and take the pressure off the masses who might arrive in the channel, for instance—if we were to have a much wider approach restored in our representations around the world, as we used to have?

I ask my noble friend this in all seriousness because, although we are not specifically requesting it in this amendment, I think it would satisfy us if the Government were to agree to that or at least to look at it again. It would save considerable resources and go some way to restoring the Government's credibility in relation to the Bill where, I am afraid, despite many wise and sensible suggestions by this House, the Government seem outrageously unable to accept anything that we are suggesting. So I put it to my noble friend: please let us look at this again and, in the meantime, please make sure that Amendment 164 is accepted by the Government, in view of the fact that they have spoken so strongly in favour of it in other places.

5.30 pm

Lord Kerr of Kinlochard (CB): I am grateful to the Minister for the way he introduced the government amendments to Clause 59, but I am sorry that they were limited in scope. When we had an exchange in Committee and I argued that the revision of the cap should take account of exogenous as well as endogenous factors, he told me that he thought he and I were not far apart. The cap level should not be determined simply by consultation with local authorities. It should take some account of famine, war, massacre, earthquake and natural disasters abroad, which are what tend to encourage the demand for asylum. He told me he did not think we were far apart and agreed to look at it, but I see no amendment. I regret that, but I guess that is where we are.

I support Amendment 163 and I particularly support Amendment 164, proposed by the noble Baroness, Lady Stroud. I congratulate her, the noble Lord, Lord Kirkhope, and the noble Baroness, Lady Helic, on their courage in coming forward with such a sensible amendment.

Clause 60, which the Government have put in the Bill, is welcome, but the report it foresees is a purely descriptive document. It is not prescriptive. Amendment 164 calls for a further report which will be more purposive. The amendment is however quite modest; it does not attempt to point to any particular type of safe and regular route which the Government should explore. It does not suggest we take up the French offer of a processing centre in France, although for the life of me I do not know why we do not. It does not suggest we reconsider what seems to be a systematic reduction

now going on in the number of family reunion cases we are allowing. It does not consider —this would fall foul of the ruling of the noble Lord, Lord Kirkhope—that we should change our advice to UNHCR on the number and types of resettlement cases that we will be prepared to take.

About 5,000 people from Iran who came into this country in 2022. It is an astonishing fact that 5,642 arrived by irregular routes and 10 by the regular resettlement route. That seems absurd and can be only on the basis of instructions to keep the flow to a minimum. The amendment does not suggest that we sift new applications for asylum in the same sensible way that the Home Office is now sifting those already in the queue from people who are here, waiting to have their case heard. There is no reason why a similar sift should not be conducted remotely.

If you are a young woman who has demonstrated in Tehran and is now on the run, and wanted by the authorities, there is no remote way in which you can register your wish for sanctuary in this country. We allow remote access to people who want to get into our immigration system, but we do not allow remote access to our asylum system. If you are safe where you are but simply want to live and work here, you may apply remotely on the internet or via diplomatic representation, although the internet is the more likely route. But if your life is at risk, if you are on the run, if you are in Kabul or Khartoum and you are wanted, if you are starving or if your tribe is being massacred, we will not consider your case for asylum in this country, unless you get here directly by some route that does not exist. That seems to me shaming. We cannot put that on our statute book; if we have to do so, let us at least add Amendment 164.

It is hypocrisy to pretend that the aim of the Bill is to stop the small boats. The most obvious way of stopping the small boats is to open new, regular routes. If we can do it for immigrants, by sifting their applications remotely, why can we not do it for asylum seekers? To refuse to do it for those fleeing for their lives—to refuse them even the possibility of applying for sanctuary here—seems a bit immoral, a bit illegal under international law, a bit hypocritical and entirely ineffectual, because it will keep the small boat men in business. I strongly support Amendment 164 in the name of the noble Baroness, Lady Stroud.

Baroness Butler-Sloss (CB): My Lords, I agree with everything that the noble Lord, Lord Kerr, has said and I particularly support the amendment in the name of the noble Baroness, Lady Stroud. During last year and this year, one of the criticisms we have heard in this House of the small boats and those coming across has been that they should have taken safe and legal routes; but as the noble Lord, Lord Kerr, has demonstrated extremely clearly, there are absolutely no safe and legal routes at the moment, unless you go through UNHCR. For people like the woman fleeing Tehran, whose case was given as an example by the noble Lord, Lord Kerr, there is no way she could get here.

If I may respectfully say so, it is hypocritical of the Government to suggest that there are routes that could have been taken to avoid taking the small boats. I deplore the small boats. I do not want to see any more of them. The dangers are appalling and I recognise the problems that the Government have but, as the noble Lord, Lord Kerr, has said, they need to provide safe routes. To suggest that these may be ready by the end of 2024 seems a nonsense; we need them now. If we are to get rid of the boats, we absolutely must have well-known, safe routes from somewhere in Europe.

Baroness Kennedy of The Shaws (Lab): My Lords, we have just had mention made of the young woman from Tehran. I have been in touch with that young woman; in fact, there are more than one of them. Some of your Lordships may have seen the BBC programme last week, which showed the amount of footage that was recorded on cell phones of what happened when the young woman Mahsa Amini was taken into custody because she had her scarf on in an inappropriate way. She ended up in a coma, and then dead. Two young women journalists had got into the hospital and photographed her in that coma, then photographed her family being told that she was dead. Photographs were seen in that programme of her beaten body, her face obviously pulverised by blows. In the days immediately afterwards those two journalists knew that, once they had published their film footage, they would be at risk of arrest—and there was no way that we could get them out. Contact was made, but there was no way.

A few months ago I spoke to the noble Lord, Lord Ahmad, who is always so sympathetic to these positions. Turkey is one of the obvious places that people can flee to, but it is not a safe place for Iranian women; we have seen returns of people to Iran. The question was: if they got to Turkey, could they go into the British embassy, ask for a visa and be given sanctuary and help to get out? The noble Lord had to come back to me and say no, that would not be an acceptable way of dealing with this.

So what is the mechanism for journalists like that, who are in imminent danger? Those two women journalists are now serving six years apiece. They were put on trial, were not allowed to have lawyers and are now serving sentences in jail. That is why I tabled an amendment to the Bill suggesting that there should be emergency visas so that people in imminent danger can do something to get out.

That usually means journalists. I have personal experience of sitting in this country with Anna Politkovskaya, a Russian journalist who had written about Putin and his conduct. She went back to Russia, and three weeks later I saw her body on the stairwell of the building she lived in, with blood pouring down the stairs because she had been shot. These are real events in the lives of people who are being courageous in calling out the abuses of Governments, yet there is no way that we can help them to escape.

It is not only journalists. The lawyer acting for Navalny, the opposition leader who was making a stand against Putin, was immediately arrested. There ought to be ways in which we can provide emergency visas for people to get out. In 2019 the Government announced:

> "A new process for emergency resettlement will also be developed, allowing the UK to respond quickly to instances when there is a heightened need for protection",

[Baroness Kennedy of The Shaws]
and that is what we were calling for. Four years later, that still has not happened.

In 2021, in the months immediately after the military evacuation of Afghanistan, I was directly involved in trying to get judges, particularly women judges, out of that country. We managed to evacuate 103 women judges and their families, but only a small number of them were taken in by Britain. At that stage I delivered a petition to No. 10, signed by tens of parliamentarians, lawyers and human rights experts, calling on Her Majesty's Government to introduce as a matter of urgency emergency visas for the remaining women judges, women television presenters and women Members of Parliament who had not managed to get out. I did not hear a dicky bird. I did not even get a reply to the petition; I am sure that Mr Johnson took it with him into retirement.

We now have the embarrassment that Canada has created emergency human rights defender visas, as has Ireland. The Czech Republic recently did so too, at the behest of the great project that this country was at the heart of creating, the Media Freedom Coalition. We advised that there should be emergency visas for journalists and were persuading the world to create them. The Czech Republic did so, and it now has a huge number of the journalists who had to flee Russia. Do we have many of them?

I too will support the amendment from the noble Baroness, Lady Stroud. I will not ask for a vote on mine because we are in a bit of a hurry but, if we accept the very sensible amendment to create emergency visas and new routes for people, I call on the Government to include the ones that will be necessary where people's lives are in imminent danger, as we have seen in a number of conflicts recently.

Lord Hodgson of Astley Abbotts (Con): My Lords, the House will know that I support the direction of travel of the Bill. I have therefore listened with particular care to the heartfelt, heart-rending speeches from the noble Lords, Lord Alton and Lord Kerr, and the noble Baroness, Lady Kennedy of The Shaws, but the House and indeed the country are entitled to know, broadly, the scale of the commitment that we would be asked to accept if all these amendments were passed.

Therefore, I will detain the House for a minute or two, particularly in relation to the background to Amendments 162 and 164. I accept that the phrase "safe and legal routes" has a seductive ring to it, because it makes it sound as though we can square an extraordinarily difficult circle. But in the end it comes down to numbers, and in Amendment 164 I see no mention of a cap or limit on the numbers—I stand ready to be corrected.

I heard my noble friend Lady Stroud refer to the Minister's reference to caps for local authorities but, if she argues that this is one way for us to get around and break the business model of the boat smugglers, I ask her: what happens when we fill up to the cap that my noble friend the Minister will have devised? Will the people smugglers not reappear immediately? In relation to my noble friend Lady Stroud's proposed subsection (3), on the procedures to be used and who will undertake them, there is a great deal of open-ended difficulty, not least around the sort of issues we discussed a few minutes ago about the definition of "children"—this will be about the definition of a "relevant person".

5.45 pm

The right reverend Prelate the Bishop of Durham and I have discussed this many times and agree about many things, but when he argues for excluding certain existing programmes—as he does in Amendment 162—we as a House need to remember that 60% to 70% of our fellow citizens think that this country is already crowded. Therefore, we—they—are entitled to know the overall number that this House thinks we can and should take. They are all terribly worth while and all ghastly experiences—the way people are treated will make your hair stand on end—but a number is important.

Lord Kerr of Kinlochard (CB): Does the noble Lord agree that we are talking about admission to the system, or admissible cases? We are not saying that all applicants' asylum requests must be granted; we are talking merely about admissions into the system. I have not heard the noble Lord answer my argument for remote admissions.

Lord Hodgson of Astley Abbotts (Con): The issue with remote admissions is that you completely lose control of the system, because it is run on a multibased system around the world. We need, quite simply, to be clear about the number we could admit into this country, under all these worthwhile systems—they may be run in the way the noble Lord, Lord Kerr, wishes, or the way the noble Lord, Lord Alton, wishes—and keep faith with the country's ability to absorb it without undue social and economic strain.

Lord Alton of Liverpool (CB): I draw the noble Lord's attention to proposed subsection (2) in Amendment 163, which specifically deals with numbers and a cap, and the regulations that would be available to the Secretary of State to control the very issues that the noble Lord raised. It would allow us to deal with emergency cases of the kind that the noble Baroness, Lady Kennedy, and others described.

Lord Hodgson of Astley Abbotts (Con): Absolutely—that is why, in my opening remarks, I said that the noble Lord's Amendment 163 was movingly produced and discussed. My question on the cap was aimed at Amendment 164, which I stand ready to be corrected on, and the generality of Amendment 162, where no numbers are mentioned at all.

Baroness Stroud (Con): It may be helpful, therefore, to clarify what is happening in Amendment 164. In January, the Government will lay a report detailing the safe and legal routes that they are choosing to introduce. The amendment says that, two months later, the Government have a duty to implement what they say they want. The amendment makes no mention of numbers and does not throw open the door at all; it purely says that, if the Government have a narrative of instituting safe and legal routes, they have the responsibility and duty to implement them. They must safeguard the passage of the Bill not just by narrative but by action.

Lord Lilley (Con): I support the idea of safe and legal routes, which are already in the Bill, but there is no way that they will stop the boats. I have several questions for those proposing these amendments. Would they give safe and legal routes to people already in safe neighbouring countries in Europe, such as France? If not, it will do little or nothing to stop the boats coming from France. If we do not give them safe routes, they will continue to come as they do at present. If we decide to give safe and legal routes to people already in safe countries in Europe, I suggest that that should not be our priority. Our priority should be helping the young lady in Tehran and the people coming directly from persecution, or from immediately neighbouring countries, rather than from already safe countries.

My next question is: will the UK bear the costs of assessment, accommodation and litigation, through all the appeal stages we allow here, to those applying overseas? If so, those costs can be huge. I again suggest that that money would be better used helping people languishing in refugee camps in the Middle East, where we can help many times more people for the same amount of money than if we bring them to this country.

My third question is: will there be a cap on the safe and legal routes? There is a cap in the Government's Bill, but there certainly is not in the amendment from the noble Lord, Lord Kerr. If there is a cap, anyone applying above the number of the cap is not prevented from coming by small boat across the channel. So it is a deliberately misleading fallacy to suggest that safe and legal routes will stop the passage across the channel if there is a cap.

I will also address the bishops' letter in the *Times* and the most reverend Primate's promises in previous debates that he was going to bring forward practical measures to solve the problem, while accepting that we could not take unlimited numbers of people. In fact, in that letter and in the amendments that he has put forward, he has not come forward with a policy; he has come forward with a policy to have a policy. It is not—

The Archbishop of Canterbury: My Lords—

Lord Lilley (Con): May I just continue and then perhaps the most reverend Primate can ask three questions in one go?

It is a policy to have a policy. It is not even a policy for him to have a policy; it is a policy for the Government to have a policy. It is a policy that the Government's policy must be agreed by other Governments overseas. I give way to the most reverend Primate.

The Archbishop of Canterbury: I hardly know where to begin.

Lord Lilley (Con): By giving us a policy.

Noble Lords: Oh!

The Archbishop of Canterbury: If the noble Lord would wait for a second, I would be able to respond. If he were to look at the debate on Friday 9 December, which I led, he will find that a policy is set out there very clearly. One has also been set out very clearly in an article in the *Times* a few weeks ago, which has been repeated on numerous occasions by other Members of these Benches.

Lord Lilley (Con): I have reread the debate on 9 December and he does not give a policy in it. I ask him to reread it himself, come back to the House and tell us what that policy is. Because it is not there; it is a non-policy. His policy for other people to have policies is not a policy.

Lord Cashman (Lab): My Lords—

Noble Lords: Order!

Lord Lilley (Con): There are no rules of order in this House.

I therefore hope that we will stop the pretence that there is a simple means of stopping the flow of refugees across the channel, risking their lives—and, once here, inevitably being removed—other than the policy of deterrence or prevention.

Lord Green of Deddington (CB): My Lords, it has certainly been quite a debate, has it not? I agree strongly with the noble Lords, Lord Hodgson and Lord Lilley. It gives me difficulty and regret not to agree with the noble Lord, Lord Alton, and the noble Baroness, Lady Stroud, who are clearly striving to help people who really need help.

The question here is whether this bit of law will help or not, and I suggest to the House that that is not relevant to the actual problem on the ground of dealing with a very wide range of cases. I have been in a number of difficult countries and I can assure noble Lords that lots of people live in real difficulty and fear and would well want, and be justified in seeking, to move to the UK, especially if they had friends or relatives here. However, it seems to me that what we have here is not so much a problem of law as a problem of policy; we need to be much clearer on what we are trying to achieve and how we will achieve it.

For example, where will applications be submitted? You could do it on the internet, but the other stages that would then have to be dealt with could not be done satisfactorily on the internet. It could be done by the embassies overseas; there was some ability to do that in the past. However, the numbers are now astronomical—tens or hundreds of thousands, maybe more—and there is no way that an embassy could do that. Even if it could, the host country would say, "All right, you deal with them in your embassy—you can have a special office, if you like—but on the condition that, if you fail an applicant, you then deal with the consequences". Of course, you would be left with huge numbers of people who we had judged were not sufficiently strong cases; they would be there in country X but they would be our responsibility.

Then there will be the question—I will be very brief—of where and how the interview process will be conducted. How would the claims be prioritised? What would happen to those whose claims fail? These questions have been completely unconsidered. We should not be passing laws and letting the thinking be done later.

Noble Lords: Oh!

Lord Green of Deddington (CB): Well, that is what this amounts to.

Let the Government come forward with a viable scheme—they have promised to do so—and let us then support that.

Lord Kamall (Con): My Lords, I understand the concerns raised by my noble friend Lord Lilley and others, but I also agree that there is no simple solution to all this, which is why we have to look at little bits of the system to understand whether there is an overall system that we can tackle.

I will start with some high-level things that we should be proud of. We should be proud that people want to come to Britain, either as refugees or economic migrants, and that we are a beacon of tolerance in the world. When I was a Member of the European Parliament, I told the taxi drivers in Strasbourg or Brussels that I was from London. They would say how incredibly lucky and fortunate I was compared with people in their countries, and how much more tolerant we are in many ways.

The other thing we have to realise is that we cannot let everyone in. Of course, our hearts want to help everyone we see who suffers persecution and has lost their home and family. We also understand that people want to come to make a better life for themselves, as my parents did as economic migrants. We had jobs and labour shortages in this country then, and the economic migrants filled that gap.

One of the questions we have to ask is: where do we draw the line? I will speak specifically to some of the amendments, beginning with Amendment 162 in the name of the right reverend Prelate the Bishop of Durham and others. He is absolutely right, particularly on the Afghan relocation scheme: we have some moral obligation to the people from Afghanistan. Was it not as a result of some of our foreign policy interventions that some of these people are now in real danger for having co-operated with the British? Of course, there may well need to be a cap, but if there is a cap, I hope that the Government can explain where else some of those people can go. This highlights, once again, the need for international agreements to tackle this issue. This issue is not going away. For the reasons that people leave their homeland and want to come here or go elsewhere, we will see more and more migration, either by those fleeing persecution or for economic reasons. Therefore, we need to understand where else they can go.

I completely understand the sentiment behind Amendment 164, in the names of my noble friends Lady Stroud and Lord Kirkhope and others, but I do not necessarily agree on the timeline proposed. I also welcome the government amendment but, as my noble friend Lady Stroud said, we need guarantees that this will happen. It is not sufficient to say, "We will come forward with proposals for safe and legal routes". If we do not have safe and legal routes, you might well say, "Well, we're not going to stop the boats anyway"—but this will incentivise people to come on the boats, because there is no legal way for them to apply to come here. Some of those people who have applied and were rejected may well still try to come, but many others will say, "No, I've tried my luck, I'm not coming", particularly when it comes to economic migrants.

Overall, I would like to ask the Government please to consider the language we use about this. We should be proud that we are a beacon internationally; we should be proud that people want to come here, but also understand that not everyone can come and we have to draw a line somewhere. These people are not invaders; they are simply seeking to escape persecution or coming here for a better life. I hope we can be more pragmatic. I am very sympathetic to both Amendments 162 and 164.

6 pm

Lord Ponsonby of Shulbrede (Lab): My Lords, this has been a wide-ranging debate on a number of issues of substance. I speak briefly to say that, on these Benches, we will be supporting the noble Baroness, Lady Stroud, on her amendment. The noble Lord, Lord Kirkhope, talked about his time in the Foreign Office and the mixing up of UN and national schemes. My noble friend Lord Triesman, who had a similar position to the noble Lord, said he was absolutely right in the way he summed up the position. So, we are happy to support the noble Baroness, Lady Stroud, on her amendment.

There have been a number of speeches that have reflected on the extremity of the situation for many people who want to come here. I thought the noble Lord, Lord Kamall, was very fair in the way he summed up his position in supporting Amendment 164. He introduced his speech by saying he wants to fix little bits of the system to make it work better. I agree with that point, and that can be done through Amendment 164.

I say to my noble friend Lady Kennedy that I too met Anna Politkovskaya when I was a member of the OSCE in the early 2000s, and she was killed just a couple of months after I met her. There are people in absolutely extreme and desperate situations and there are many pressures on the Government—we understand that—but the noble Baroness, Lady Stroud, is doing no more than asking the Government to put what they have promised from the Dispatch Box on the face of the Bill.

Lord Murray of Blidworth (Con): My Lords, this has been an interesting debate. My noble friends Lord Hodgson and Lord Lilley and the noble Lord, Lord Green, made some powerful points, in particular on the presumed impact of some of these amendments on our ability to stop the boats. They also again highlighted the need to link the numbers admitted to the UK through safe and legal routes to our capacity to accommodate and support those who arrive through those routes.

Amendment 162, put forward by the right reverend Prelate the Bishop of Durham, seeks to exclude certain existing schemes from the safe and legal routes cap provision in this Bill. Exempting routes from the cap is not in keeping with the purpose of the policy, which is to manage the capacity on local areas of those arriving through our safe and legal routes. That said, I would remind the House that the cap does not automatically

apply to all current or any future routes. Each route will be considered for inclusion on a case-by-case basis. This is due to the individual impact of the routes and the way they interact with the immigration system. This is why my officials are currently considering which routes should be within the cap and this work should not be pre-empted by excluding certain routes from the cap at this stage. I also point the noble Lord, Lord Kerr, to the power to vary the cap, set out in the Bill, in cases of emergency.

Amendment 163 would see the United Kingdom establish a new route for those who are persecuted on the basis of an individual's protected characteristics—advanced by the noble Lord, Lord Alton. This would be a completely new approach to international protection that goes far beyond the terms of the refugee convention. At present, all asylum claims admitted to the UK system, irrespective of any protected characteristic, are considered on their individual merits in accordance with our international obligations under the refugee convention and the European Convention on Human Rights. For each claim, an assessment is made of the risk to the individual owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion. Critically, we also consider the latest available country of origin information.

Under the scheme proposed by the noble Lord, Lord Alton, there would be no assessment of whether, for the individual concerned, there exists the possibility of safe internal relocation, or whether the state in which an individual faces persecution by a non-state actor could suitably protect them. As well as extending beyond our obligations under the refugee convention, this amendment runs counter to our long-held position that those who need international protection should claim asylum in the first safe country they reach—that remains the fastest route to safety.

Amendment 164, tabled by my noble friend Lady Stroud, seeks to enshrine in law a requirement to bring in new safe and legal routes within two months of the publication of the report required by Clause 60 of the Bill. This puts the deadline sometime next spring. I entirely understand my noble friend's desire to make early progress with establishing new safe and legal routes, but it is important to follow proper process.

We are rightly introducing, as a number of noble Lords have observed, a requirement to consult on local authority capacity to understand the numbers we can effectively welcome, integrate and support arriving through safe and legal routes. We have committed to launching such a consultation within three months of Royal Assent of this Bill, but we need to allow local authorities and others time to respond and for us to consider those responses. We also, fundamentally, need to make progress with stopping the boats—stopping the dangerous crossings—to free up capacity to welcome those arriving by safe and legal routes.

Having said all that, I gladly repeat the commitment given by my right honourable friend the Minister for Immigration that we will implement any proposed additional safe and legal routes set out in the Clause 60 report as soon as practicable and in any event by the end of 2024. In order to do something well, in an appropriate manner, we must have time in which to do so. We are therefore only a few months apart. I hope my noble friend will accept this commitment has been made in good faith and we intend to abide by it and, on that basis, she will be content to withdraw her amendment.

Amendment 165, proposed by the noble Lord, Lord Purvis, would enable those seeking protection to apply from abroad for entry clearance into the UK to pursue their protection claim. Again, such an approach is fundamentally at odds with the principle that a person seeking protection should seek asylum in the first safe country they reach. We also need to be alive to the costs of this and indeed the other amendments proposed here. I note the comments of the noble Lord, Lord Purvis, on the costs of Amendment 165, but I have to say that I disagree. Our economic impact assessment estimates a stream of asylum system costs of £106,000 per person supported in the UK.

The noble Lord's scheme is uncapped; under it, there is a duty to issue an entry clearance to qualifying persons. Let us say for the sake of argument that 5,000 entry clearances are issued in accordance with that amendment each year, under his scheme. That could lead to a liability of half a billion pounds in asylum support each year. What is more, as my noble friend Lord Lilley so eloquently pointed out, it would not stop the boats. Those who did not qualify under the scheme would simply arrive on the French beaches and turn to the people smugglers to jump the queue.

Amendment 166 seeks to create an emergency visa route for human rights defenders at particular risk and to provide temporary accommodation for these individuals. This Government recognise that many brave individuals put their lives at risk by fighting for human rights in their countries. These individuals are doing what they believe to be right, at great personal cost. However, when their lives are at risk, I say again that those in need of international protection should claim asylum in the first safe country they reach. That is the fastest route to safety. Such a scheme would also be open to abuse, given the status of human rights defenders, and that anyone can claim to be a human rights defender.

Lord Purvis of Tweed (LD): Is the UK resettlement scheme that the Government currently operate capped?

Lord Murray of Blidworth (Con): Presently, no, but clearly it will be subject to the cap. The problem, as the noble Lord well knows, is that we cannot take as many people as we would like to from the UNHCR because of the numbers who are coming here, jumping the queue by crossing the channel. That is precisely what these measures in the Bill are designed to address.

Amendment 167 seeks significantly to increase the scope of the UK's family reunion policy, with no consideration as to how these individuals are to be supported in the UK, which could lead of itself to safeguarding issues. The amendment would even allow individuals to sponsor non-relatives. The present family reunion policy provides a safe and legal route to bring families together. Through this route, we have granted over 46,000 visas since 2015. This is not an insignificant number.

[Lord Murray of Blidworth]

Family reunion in the UK is generous, more so than in the case of some of our European neighbours. Sponsors do not have to be settled in the UK, there is no fee and no time limit for making an application, and there are no accommodation or minimum income requirements which applicants must meet. There is also discretion to grant visas outside the Immigration Rules, catering to wider family members when there are compelling and compassionate factors. Given this track record, I remain unpersuaded of the case for the significant expansion of the family reunion route, as proposed by this amendment.

Finally, I apologise to the noble Lord, Lord Purvis, that I still owe him a letter arising from the Committee stage debate. I shall ensure that it is with him this week.

It is worth repeating that the people of this country have been generous in offering sanctuary to over half a million people since 2015. But our willingness to help those fleeing war and persecution must be tied to our capacity to do so. Clauses 59 and 60 are designed to this end. We are committed to introducing safe and legal routes by the end of 2024, and we remain open to a debate about whether the cap provided for in the Bill covers the current schemes set out in the right reverend Prelate's Amendment 162. I hope that, on this basis, he and other noble Lords will be content not to press their amendments to a Division. I commend the government amendments to the House and beg to move.

Amendment 161A agreed.

Amendments 161B and 161C

Moved by ***Lord Murray of Blidworth***

161B: Clause 59, page 63, line 1, after "authorities" insert "as the Secretary of State considers appropriate,

(aa) the Executive Office in Northern Ireland"

Member's explanatory statement

See the explanatory statement for the first amendment in the name of Lord Murray of Blidworth at page 63, line 1.

161C: Clause 59, page 63, line 2, leave out from "bodies" to end of line 3 and insert "as the Secretary of State considers appropriate."

Member's explanatory statement

See the explanatory statement for the first amendment in the name of Lord Murray of Blidworth at page 63, line 1.

Amendments 161B and 161C agreed.

Amendment 162 not moved.

Amendment 162A

Moved by ***Lord Murray of Blidworth***

162A: Clause 59, page 63, line 25, leave out from "1994" to end of line 26

Member's explanatory statement

See the explanatory statement for the first amendment in the name of Lord Murray of Blidworth at page 63, line 1.

Amendment 162A agreed.

Amendment 163 not moved.

Amendment 164

Moved by ***Baroness Stroud***

164: After Clause 59, insert the following new Clause—

"Duty to establish safe and legal routes

(1) The Secretary of State must, within two months of the publication of the report required by section 60(1), make regulations specifying additional safe and legal routes.

(2) In subsection (1), a "safe and legal route" means a route which allows relevant persons to come to the United Kingdom lawfully from abroad.

(3) In subsection (2), a "relevant person" is—

(a) a person who, if they were in the United Kingdom, would be a refugee within the meaning of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and the Protocol to that Convention,

(b) a person who, if they were in the United Kingdom, would be eligible for a grant of humanitarian protection in accordance with the immigration rules, or

(c) a person who, if they were in the United Kingdom, could not lawfully be removed from the United Kingdom by virtue of Article 3 or 4 of the Human Rights Convention."

Baroness Stroud (Con): I wish to test the opinion of the House.

6.14 pm

Division on Amendment 164

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Amendment 164 agreed.

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6.24 pm

Amendments 165 to 167 not moved.

Amendment 168

Moved by ***Lord Coaker***

168: After Clause 61, insert the following new Clause—

"Organised immigration crime enforcement

(1) The Crime and Courts Act 2013 is amended as follows.

(2) In section 1 (the National Crime Agency), after subsection (10) insert—

"(10A) The NCA has a specific function to combat organised crime where the purpose of that crime is to enable the illegal entry of a person into the United Kingdom via the English Channel.

(10B) The NCA must maintain a unit (a "Cross-Border People Smuggling Unit") to coordinate the work undertaken in cooperation with international partners in pursuit of the function mentioned in subsection (10A).""

Member's explanatory statement

This new Clause would give the National Crime Agency a legal responsibility for tackling organised immigration crime across the Channel, and to maintain a specific unit to undertake work related to that responsibility.

Lord Coaker (Lab): My Lords, Amendment 168 would introduce a new clause, giving:

"the National Crime Agency a legal responsibility for tackling organised immigration crime across the Channel, and to maintain a specific unit to undertake work related to that responsibility".

I thank the National Crime Agency for its briefing this morning, which was very helpful, and Home Office Ministers for helping to facilitate it.

Not for one moment am I suggesting in this amendment that any Minister, the Government or any Member of this House does not want to see the criminal gangs which exploit vulnerable people tackled and these criminals prosecuted. I also say at the outset that there will be many officials, officers and various agents working hard to do just that, and we should commend them for their work.

Apart from brief debates, the focus has been on deterring migrants, detention and deportation. All of that has been the subject of lively debate, disagreement and discussion. Clearly, that is a huge area of work which, so far, I suggest—hence my amendment—has not received the scrutiny it merits. This point was forcefully and powerfully made by the noble Baroness, Lady Meacher, in Committee.

There are many questions, some of which were raised in Committee. If I highlight some, I hope noble Lords will see the importance of this amendment and this short debate. One of the plan's objectives is to concentrate on disrupting the provision of dinghies and equipment. How successful has that been in disrupting the flow of migrants? Tackling the criminal gangs requires international co-operation with countries across Europe and beyond. How is this co-ordinated? Are there any problems with such co-operation and agreement? How is the sharing of intelligence working? How is the sharing of data and joint policing working? Is that working effectively and do the Government need to do more to ensure that we achieve our common goal of disrupting these criminal gangs and deterring the flow of boats and migrants across the channel?

Can the Minister give us a figure for prosecutions? I have not seen the most recent and up-to-date figures; it would be useful for your Lordships' House to hear them. Are those arrested from the boats and prosecuted the small fry, so to speak, or the big figures who run these horrific operations? We read in our newspapers that much of it is done and organised online—it is almost advertised. How effective have the social media companies been in taking such sites down? Do the law enforcement and intelligence agencies require government help to inject some urgency into what the social media companies do with these sites?

All of this requires the NCA to be supported by the Government here and across the continent more widely. My amendment, on which I will seek to test the opinion of the House at the appropriate time, asks whether one amendment within the whole range of amendments we have debated around this Bill can demonstrate the concern we all have regarding how we tackle these criminal gangs. It would allow the NCA and others to highlight what they are doing; it would allow us to shine a light on what is happening, and to assess it and inject a focus that will let us all achieve what we want.

We need to deal with the challenge that we face, but we need to ensure, as much as we can, working with our own agencies and our international partners, that the full weight of our state and others will be brought to bear on those who run these criminal gangs. They prey on the vulnerabilities of often desperate people, including children, and exploit others' misfortune. There should be no hiding place for these modern-day smugglers.

Lord Swire (Con): My Lords, Amendment 168AZA stands in my name. When I first tabled this in Committee, it was supported by my noble and learned friend Lord Garnier—who is his place and will, I hope, be saying something about it shortly—and my noble friend Lord Soames of Fletching. However, due to my complete incompetence, they seem to have fallen off this time, although I know that they are here—one physically and the other in spirit.

6.30 pm

I rise without any sense of optimism that my amendment will be taken as part of the Bill, as I think it has failed to catch the imagination of noble Lords on all sides of the House. I say gently: it is up to them to explain why they do not think that it has merit.

I think it is uncontentious and that it is impossible—just to repeat what I said in Committee, having said that I would not—to have an informed and civilised debate about illegal crossings or migratory figures unless we know the total number of immigrants we already have in this country.

To put it into context, it is perhaps worth reminding ourselves that, last year, 1.2 million people moved to the UK, giving a net immigration figure of 606,000. Migration Watch calculates—the noble Lord, Lord Green, is nodding—that, if the levels continue along these same lines, the UK population will rise to between 83 million and 87 million by 2046. That is 15 to 18 new Birminghams in terms of homes. Given the debates that we are having about the pressure on the health service and the pressure for first-time buyers, we really need to think about the sort of country this would be if we had to face those pressures. I am sympathetic to my noble friends Lord Hodgson of Astley Abbotts and Lord Lilley, who talked about this in an honest and open way. I rather fear that my noble friend the Minister will try to tell us that all these figures are available to us. I will return to that in a minute because I contest that point.

I repeat myself but, once we find out, and I believe we can find out, the amount of people who are here already illegally—I have no particular view about an amnesty or whether they should go through some retrospective process—we need to find out where they are. I fundamentally believe that the first duty of any Government is to know who is living in their country, who is coming into their country and, indeed, who is leaving their country. Quite honestly, we simply do not have those figures.

In a humanitarian context, surely we should not do nothing in terms of finding out where these people are and what they are doing. By doing nothing, by ignoring this matter, we are surely consigning them to the twilight of society. They are unable to access services in the same way we do, they are not contributing to society through NICs, we do not get the benefit and they do not get the benefit. There is more that we can do in this area.

As I said, my noble friend the Minister will, I suspect, reject the idea of this amendment and will say that the information is published and is available. Well, that is true, but only up to a point. Not all the information is published, and the information that is published is extremely hard to find and is not all available in one single place where people can see it, understand it and so better inform their views as to what levels of migration they want to see in this country. The same applies to foreign national offenders, who I have also included in this amendment.

All my amendment seeks to do is to say that, on an annual basis, the Secretary of State must lay before each House of Parliament a report on illegal migration in the UK and the statistics as required by this amendment. It is not a particularly contentious or difficult amendment. To those who think, "If they are here illegally, how can we possibly find out where they are?", I say that you can find that out—the supermarkets have a system and there are other systems that I spoke about in Committee, which I will not repeat this evening. It is a question of will to find out how many people are in this country already and what the total population of this country is. I believe that, once we have that information, it will better inform people's views about the levels of migration they want to see in the years ahead.

Baroness Meacher (CB): My Lords, I had not planned to speak in this debate, but I feel I must rise to support the amendment moved by the noble Lord, Lord Coaker.

The Prime Minister repeatedly talks about "stopping the boats" as one of his top five priorities—you often get the feeling that it is in fact his top priority. If this Government really wanted to tackle the villains, the traffickers and the modern slave owners and, along with the French Government, round them up and put them where they need to be, they would have done it. Instead of doing that, however, the Government think, "No, we will leave those guys alone; we will focus on removing the rights of the victims, the trafficked people, the modern slaves, the unaccompanied children, the people escaping persecution and appalling treatment".

This amendment is unusual. In all the debates we have had, the focus has been on the victims and on removing the safeguards for the victims. This amendment is appealing to the Government to give a duty to the NCA to round up the traffickers, the modern slave owners, and so on. It seems to me that the Government cannot say, "Oh, sorry, we cannot do that, it is too difficult; we just have to make life hell for the victims—that way we will deter them from coming". I really hope that everybody in this Chamber will support the amendment in the name of the noble Lord, Lord Coaker, as being the single attempt—throughout all these debates—to have the Government focus their efforts where those efforts should be focused.

Baroness Fox of Buckley (Non-Afl): My Lords, I rise in support of Amendment 168AZA. The noble Lord, Lord Swire, has explained why it is a very modest but important part of this discussion.

One reason why I think there is substantial public support for the Bill, at least in terms of the headlines and broad brush strokes, if not the detail—we have heard from the wide range of amendments the potential problems when looking at the detail of the Bill—is that people feel as though things are out of control. That is viscerally expressed by people seeing the boats arriving. The difficulty is that, in a discussion—even in this Chamber, but certainly beyond this Chamber—about what is really going on, many people feel as though they are confronting smoke and mirrors. They do not know who is here and under what status they are here.

I said at Second Reading—or at some stage, anyway—that many people feel as though they are being gaslit. When they raise concerns, they are told—as we have just heard a bit of—that these are trafficked people and victims. One reason why I support the amendment introduced by the noble Baroness, Lady Stroud, a moment ago is that I feel that the terms "asylum seeker" and "refugee status" are being sullied by being used in a way that is unhelpfully broad and vague, often quite promiscuously and illegitimately, in order to say to the British public, "What are you worried about?" The problem is that the generosity of spirit around refugees is being tested, to say the least.

[Baroness Fox of Buckley]

Therefore, we need to have a sense of proportion and to know what is going on. It is quite straightforward: we do not, which means that people bandy around emotive headlines and accusations against the British public—often unfairly—as though they are all xenophobic, they do not care, and so on. Also, quite grand statements are made. I think people want to know very clearly who is here illegally and in what category they are here.

I commend the noble Lord, Lord Swire, for making the point that it is the obligation of this Government—or a Labour Government or any Government—to know who lives within our borders. If you do not know, then you do not have national sovereignty. You cannot run a country in which you say, "Oh, sorry, it is too difficult to know". Anyone who says, "Find out for yourself" has not tried. We have all tried and we want to know that the people who run this society do know and therefore have a handle on it.

Lord Garnier (Con): My Lords, before I speak in support of my noble friend's Amendment 168AZA, which I supported also in Committee, I want to make two very quick points about Amendment 168 in the name of the noble Lord, Lord Coaker. I entirely sympathise with the sentiments expressed by the noble Baroness, Lady Meacher, but it strikes me that there is already a responsibility on the National Crime Agency to tackle organised crime of all types, not just immigration crime. I think we go a step too far if we legislate the internal administration of a police authority. There can be a debate and a disagreement about whether that is right; and perhaps the supporters of Amendment 168 are making a rhetorical point, and I can accept that; but I just caution against passing legislation that imposes a duty on the National Crime Agency that already exists.

Turning to Amendment 168AZA, I complained in Committee that, absent this information, we had government by guesswork, and government by guesswork is not a very attractive way of running anything, let alone an immigration system. For some of the reasons advanced by the noble Baroness, Lady Fox, a moment ago, ignorance creates suspicion, and suspicion leads to poor community relations and general dissatisfaction in the way in which the governed look at the governors. So I urge my noble friend on the Front Bench to provide us with a convincing response, which I have not yet heard; nor have I been given any information by any Minister since we last debated this in Committee. It cannot be suggested that the Government do not like annual reports. One has only to look at Clause 60(1):

> "The Secretary of State must, before the end of the relevant period … prepare and publish a report on safe and legal routes by which persons may enter the United Kingdom".

The detail of what that report is supposed to contain each year is set out in Clause 60(2), and it has to appear within six months of the Act being passed.

The information that we think should be made public and brought together in a single annual report is set out in proposed new subsections (a) to (e) of our amendment. Proposed new subsections (b), (c), (d) and (e) cover information that is available somewhere in the government system: some clever person can press a button and the numbers will come spewing out—easy. I accept that counting the number of illegal immigrants in the United Kingdom presents one or two more problems, because not every illegal immigrant is going to present himself at a counting centre; however, they can make an intelligent estimate.

I ask the Government to condescend to move a little bit towards us and provide the public with the information they feel they need to see and which the Government must know in order to run a sensible, humane and legitimate immigration system. That is all this is about, so let us get on with it.

6.45 pm

Baroness Butler-Sloss (CB): My Lords, I very much support the amendment of the noble Lord, Lord Swire. As has already been said so well by him and by the noble and learned Lord, Lord Garnier, this is an extremely sensible idea. The public, as well as ourselves and the House of Commons, are entitled to know where we stand and what is happening with the numbers.

I share, to some extent, the concerns of the noble and learned Lord, Lord Garnier, about the amendment of the noble Lord, Lord Coaker, purely and simply because I wonder to what extent the National Crime Agency has actually been consulted on what its priorities are. I quite see the importance of giving this priority, and I totally support it, but I would be interested to know, before we make this a part of primary legislation, whether the National Crime Agency, which I happen to know has a large number of different duties and works extremely well in many areas in this country, sees this area as a priority.

Lord Paddick (LD): My Lords, first, I address the amendment in the name of the noble Lord, Lord Swire. He wondered why the amendment had not captured the imagination of the House. Speaking for those of us on these Benches, the Bill is entirely focused on refugees and asylum seekers, who form a very small proportion—a tiny fraction—of the 1.3 million people given leave to remain in the country last year. So while I agree in principle with what the noble Lord says—that we should have a much firmer grip on the number of illegal immigrants in this country—his amendment is not germane to the Bill.

Baroness Fox of Buckley (Non-Afl): My Lords—

Lord Paddick (LD): I am very sorry, but on Report noble Lords are allowed to speak only once.

As the noble Lord, Lord Coaker, and the noble Baroness, Lady Meacher, said, the Bill is focused entirely on criminalising the victims of people smugglers and not on the people smugglers themselves. We intend to support the amendment of the noble Lord, Lord Coaker: if his amendment is carried, at least there will be one line, or a few lines, in the Bill that will focus on the real problem, which is the criminal people smugglers and those who are carrying out modern slavery and trafficking, as the noble Baroness, Lady Meacher, said.

The noble and learned Lord, Lord Garnier, said, in effect, that this amendment was not necessary because under Section 1(4) of the Crime and Courts Act 2013, one reason for the National Crime Agency to exist is:

"The NCA is to have the function … of securing that efficient and effective activities to combat organised crime and serious crime are carried out".

People smuggling, people trafficking and so forth are clearly organised and serious crime, but that then leads to the question raised by the noble and learned Baroness, Lady Butler-Sloss, about priorities for the National Crime Agency. The strategic priorities for the National Crime Agency are set out in Section 3 of the 2013 Act, which says:

"The Secretary of the State must determine strategic priorities for the NCA".

I have looked at the current strategic priorities for the National Crime Agency, as set by the Home Secretary, and people smuggling, trafficking and people facilitating the sorts of things that the Bill is supposed to combat are nowhere to be seen; there is nothing in the strategic priorities about it. How can the Government say that it is a priority of the Prime Minister to tackle small boats coming across the channel when it is not a strategic priority set by the Home Secretary for the National Crime Agency? The only way we can get the National Crime Agency to focus on people smugglers is to support the amendment in the name of the noble Lord, Lord Coaker, which is what we on these Benches will do.

The Advocate-General for Scotland (Lord Stewart of Dirleton) (Con): My Lords, Amendment 168 moved by the noble Lord, Lord Coaker, seeks to confer on the National Crime Agency a specific function in respect of tackling organised immigration crime and to require it to maintain a cross-border people-smuggling unit. The noble Lord opposite has spoken powerfully today, as he did at previous stages of the Bill. I am gratified to hear the powerful expressions of support from the noble Lord and the Benches behind him for the Government's commitment to addressing these repugnant crimes.

I have sympathy for the underlying aim of this amendment, in that we all agree on the need to tackle organised immigration crime, but I put it to the noble Lord that his amendment is unnecessary. As we have heard from noble Lords in the debate, the functions of the National Crime Agency are set out clearly in Section 1 of the Crime and Courts Act 2013. I echo the noble Lord, Lord Paddick, who quoted from Section 1(4) of that Act:

"The NCA is to have the function … of securing that efficient and effective activities to combat organised crime and serious crime are carried out".

At this point, I gratefully echo and adopt the points made by my noble and learned friend Lord Garnier. This function covers all forms of organised crime, and therefore includes organised immigration crime. Accordingly, adding the proposed new function would add nothing to the NCA's remit. One reads in the NCA's annual report of the range of activities in which it is already engaged to help address the problem of cross-channel people-smuggling gangs. That commitment also appears on the face of its website, which looks at border vulnerabilities, modern slavery and human trafficking.

As for the second limb of the amendment, which would require the NCA to establish a bespoke cross-border people-smuggling unit, I put to the noble Lord and to the House that this would undermine the operational independence of the NCA—a point made by the noble and learned Baroness, Lady Butler-Sloss. It is properly a matter for the director-general of the National Crime Agency to determine how best the agency is to be organised to deliver its statutory functions. In saying that, I again respectfully echo the point made by my noble and learned friend Lord Garnier from the Benches behind me.

I say in answer to the noble Baroness, Lady Meacher, that the Government are committed to confronting serious organised crime in and against the UK. To help achieve this outcome, we have made significant progress in strengthening the National Crime Agency. The NCA's budget has increased by at least 21% in the last two years to more than £860 million, which will help it continue to develop the critical capabilities it needs.

I will address a couple of specific points put by the noble Lord, Lord Coaker, in opening this section of the debate. He asked about the manner in which the activities of organised crime through social media are being addressed by the NCA. The National Crime Agency works closely with the major tech companies to take down organised and information crime-related content where it appears on social media. Between November 2021 and March 2023, the NCA made more than 3,400 referrals to social media companies regarding posts and accounts related to suspected organised immigration crime. Some 97% of these referrals have been taken down by the respective platforms. I hope that offers some grounds for confidence to the noble Lord as he carefully addresses the provisions of the Bill and his response.

The noble Lord also asked me about the number of prosecutions arising from this. I will go on to touch upon that subject as I move on to the manner in which the NCA's work, along with that of our partners abroad in other jurisdictions, is organised and co-ordinated. The Government have a dedicated multiagency organised immigration crime task force, to which the NCA contributes and in which it participates. This task force is committed to dismantling organised immigration crime groups engaged in immigration crime internationally, including criminal networks that facilitate people smuggling from source countries to Europe and then to the UK, knowingly putting people in life-threatening situations. If I may, I will rehearse a couple of statistics that I gave to your Lordships' House in Committee. The task force is currently active in 17 countries worldwide, working with its partners to build intelligence sharing as well as investigative and prosecution capability.

I will now address the specific question regarding prosecutions that the noble Lord, Lord Coaker, put to me from the Front Bench. Since 2015 and the inception of Project INVIGOR, the United Kingdom's organised immigration crime task force has been involved in more than 1,400 arrests both in the United Kingdom and overseas with, on conviction, sentences collectively amounting to more than 1,300 years in prison being imposed.

Following the pledge made by the Prime Minister on 13 December to stop the dangerous small boats crossings, the Government have doubled funding for the next two financial years for this task force. This increased

[Lord Stewart of Dirleton]
funding has as its aim doubling the number of disruptions and enforcement activity against organised immigration crime and the criminal gangs that facilitate it.

As the noble Lord said from the Dispatch Box, he has had an opportunity to discuss these matters with the NCA, and I am grateful for his kind words in relation to Home Office Ministers for assisting with facilitating that. I hope that, in light of what he learned in that meeting and what I have been able to say from the Dispatch Box concerning the activities of the NCA, the desirability of maintaining its operational independence and the increased funding under which it is operating, the noble Lord will be content to withdraw his amendment.

I turn to Amendment 168AZA tabled by my noble friend Lord Swire, which would place a duty on the Secretary of State to publish a report on illegal migration, including statistics on the number of illegal migrants in the United Kingdom. I understand that my noble friend Lord Murray of Blidworth has also discussed this amendment with my noble friend following Committee. We recognise the importance of having clear and coherent datasets, but I invite the House to reflect on this: by the very nature of that body, it is not possible to know the exact size of the illegal population or the number of people who arrive illegally, so we do not seek to make any official estimates of the illegal population. I hear what my noble friend has to say about the way in which such figures might be gathered, but they would remain estimates.

My noble friend bemoaned the fact that his amendment has not caught the attention of your Lordships' House and that the House has not demonstrated affection for it. In my experience, your Lordships' House has demonstrated on many occasions its feeling for the importance of statistical evidence as a guide to policy-making. I hear very clearly what the noble Baroness, Lady Fox of Buckley, my noble and learned friend Lord Garnier and my noble friend Lord Swire said about that. However, in circumstances where such figures cannot be known exactly, I invite the House to reflect that it would not be appropriate to pass my noble friend's amendment in its current form.

7 pm

My noble friend knows that the Home Office publishes regularly statistics on levels of migration in the United Kingdom, including on irregular migrants who come to the United Kingdom, on people arriving by small boat and on returns of foreign national offenders. Official statistics published by the Home Office are kept under review in line with the code of practice for statistics, taking into account a number of factors, including user needs. The noble Baroness and my noble friend Lord Swire made this very point when talking about the accessibility and ready comprehensibility of the statistics. Also kept under review is the quality and availability of data. We hope to include data on small boat arrivals who have been returned in a future iteration of the quarterly *Irregular Migration to the UK* release; no doubt during that exercise the Home Office will look at how best statistics can be presented to assist the general public interest in this important matter. I hope that provides an answer to the points about accessibility raised by the noble and learned Baroness, Lady Butler-Sloss, and my noble and learned friend Lord Garnier.

I hope that I have been able to provide some comfort to my noble friend. He sought to pre-empt me by rehearsing the answers I would give from the Dispatch Box, but I hope that I have none the less been able to provide some comfort to him and that he will not feel the need to press his amendment.

Lord Coaker (Lab): My Lords, I thank the Minister for his thoughtful and careful response, which I appreciate. I also thank the noble Baroness, Lady Meacher, and the noble Lord, Lord Paddick, for their comments.

The Minister has put before us a whole range of facts and points that, frankly, we have not considered in any great depth as the Bill has gone through. That is the purpose of my Amendment 168. I accept the point of the noble and learned Lord, Lord Garnier, that it is not the most brilliantly drafted amendment, scrutinised by high-calibre lawyers to be put into the Bill. It does not seek to do that; it attempts at least to allow this House and the other place, I hope, to debate how we will tackle the scourge of criminal gangs.

I have no political desire to say that the Government do not care about tackling criminal gangs—of course they do—but there is a real need for us to debate the most effective way of doing that. As the noble Lord, Lord Paddick, pointed out, it is not a strategic priority under the 2013 legislation. Organised crime is where the Government always go when someone says that they are not giving enough priority to X crime—they say, "Of course we are, because the National Crime Agency has a responsibility to tackle any serious and organised crime". It is an umbrella term, used when the Government are in trouble to say that they are dealing with it.

On the point made by the noble and learned Baroness, Lady Butler-Sloss, I spoke to the National Crime Agency this morning and of course it is currently prioritising this. However, I want that tested. I want a sense of urgency. I want the Government to wake up and put all the efforts of the state into tackling criminal gangs. What is going on is a disgrace. If we were in Committee, I would ask the Government about prosecutions. In drug arrests, often it is the small people doing very limited things who get arrested and prosecuted; no doubt many of the prosecutions and arrests the National Crime Agency will bring forward will be of the people driving the engine. Of course they should be arrested, but they are not the barons in this criminal activity. They are not the people living in great mansions and yachts, organising all this misery right across the continent. That requires international co-operation.

I do not know how much international co-operation is going on, but this Parliament should be asking what pressure is being put on the Government to tackle these international criminals. The Government will say that they are doing this and that, but I want to know what we are doing; it is by me banging on at the Dispatch Box and the Minister having to ask his officials, "What shall I say to Coaker when he gets up?", that the Minister gets the system to respond. The Minister will have been briefed by the NCA, the

intelligence agencies will have fed into that, and people will be watching this debate. That injects something into the system that causes it to react and work more effectively and efficiently. That is why my amendment is so important.

I say to the noble and learned Lord, Lord Garnier, that I know this is not the most brilliant amendment in the world, but my putting it down has meant that we are discussing an issue of real importance. If passed by this Chamber, as I hope it will be, it will go to the other place, which will be required—even if it rejects it—to discuss it again, as we will when it comes back here. I will not insist on a defective piece of legislation, in the end, going on to the statute book and I have said that we will not block the Bill. However, at one point during this Bill, I want all of us in this Parliament to discuss how we will tackle the scourge of criminal gangs, as well as concentrating on those fleeing persecution. I beg to move.

7.06 pm

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Amendment 168 agreed.

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7.17 pm

Amendment 168A

Moved by ***The Archbishop of Canterbury***

168A: After Clause 61, insert the following new Clause—

"Ten-year strategy on refugees and human trafficking

(1) The Secretary of State must prepare a ten-year strategy for tackling refugee crises affecting migration by irregular routes, or the movement of refugees, to the United Kingdom through collaboration with signatories to the Refugee Convention or any other international agreement on the rights of refugees.

(2) The strategy must also include provisions for tackling human trafficking to the United Kingdom.

(3) The Secretary of State must make and lay before Parliament a statement of policies for implementing the strategy.

(4) The first statement must be made within twelve months of the passing of this Act; and a subsequent statement must be made within twelve months of the making of the previous statement.

(5) A Minister of the Crown must, within 28 sitting days of a statement under this section being laid before Parliament, move a motion in each House for the approval of the statement.

(6) "Ten-year strategy" means a strategy for the period of ten years beginning with the day on which preparation of the strategy is completed.

(7) "The Refugee Convention" means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and its Protocol.

(8) A "sitting day", in relation to each House of Parliament, means a day on which that House begins to sit."

Member's explanatory statement

This amendment would require the Secretary of State to have a ten-year strategy for collaborating internationally to tackle refugee crises affecting migration by irregular routes, or the movement of refugees, to the United Kingdom and for tackling human trafficking to the United Kingdom.

The Archbishop of Canterbury: My Lords, I rise to move Amendment 168A, tabled in my name. I shall also speak to Amendment 168C, which is consequential to it. I am very grateful to the noble Lords, Lord Bourne of Aberystwyth and Lord Blunkett, and the noble Baroness, Lady Kennedy of The Shaws, for co-signing it. This amendment is a combination of the two amendments that I put forward in Committee. It requires the Secretary of State to produce a 10-year strategy for tackling the global refugee crisis and human trafficking in collaboration with international partners. As I explained the rationale behind this in detail in Committee, I will be very brief.

In aid of this amendment I want to quote the Foreign Secretary, who spoke to an Italian newspaper a couple of days ago. He said that

"there needs to be an international response to this because it is an inherently international issue".

We also need a long-term vision and strategy that reaches beyond short-term electoral cycles and allows this issue to be taken out of an entirely political agenda. The 1951 refugee convention is a fundamental basis for the care and protection of refugees. The convention should be built upon and added to, in collaboration with other signatories and international partners for the particular context that we face today, to ensure that we share responsibility fairly and work together effectively across borders.

In Committee, the Minister questioned the suitability of a 10-year strategy and suggested it would risk tying the hands of future Governments, but we have long-term strategies in other areas of policy, and quite rightly too: defence and security, climate change and many others. No strategy is set in stone; this amendment neither binds future Governments, which we cannot do, nor even specifies what exactly should go into a strategy for refugees and human trafficking. It simply requires that the Government, and future Governments,

have one—a strategy—to consider actions in these areas right across the piece, joining up government in every area. The fact that we are here debating a second migration Bill in as many years suggests that this might well be useful.

There is much wisdom in this House which will be more usefully applied to a strategy than it is often given the chance to speak to. For example, the noble Lord, Lord Green of Deddington, is one of the great experts on migration, whether one always agrees with him or not. We need a calmer and properly structured look at the whole areas of migration.

The UK has led in the past, historically, and does so now. I want to stress that this amendment does not wreck or damage the Bill, or set intentions for the Government to follow. I remind the Minister of the speech made by the noble Lord, Lord Deben, in Committee, where he said he thought I was helping the Government by proposing such an amendment. It is indeed intended to be helpful, to improve the Bill by mitigating some of the concerns about a lack of a global and long-term perspective on the issues, and to offer something which this House and the other place could debate carefully and thoughtfully, whatever our differing views about the rest of the Bill. On the previous set of amendments, the noble Lord, Lord Swire, talked about the need to be able to debate in an open and honest way; that is the intention of this amendment.

Therefore, I hope that the Government and all noble Lords can see that this amendment is a positive and constructive suggestion, whatever I or others may feel about the Bill in general. I urge the Government to develop a strategy that is ambitious, collaborative, worthy of our history and up to the scale of the enormous challenges we face. I beg to move.

Lord Bourne of Aberystwyth (Con): My Lords, it is a great pleasure to follow the most reverend Primate and to support his amendment, the essence of which is constructive and positive.

Over the course of the discussions and debates on this Bill, opinions have been very passionate. Understandably, given that there are so many key issues to look at, the debate has been fractious on occasion. However, this amendment stresses the need for a long-term strategy. Rather than having individual states acting in isolation, which we are in danger of doing, surely, we can come together and say, "Yes, we do need a strategy and to look at this in a multilateral way". This is a problem that I think we all accept will get more serious in the light of climate change, food security issues, warfare and great population movements.

This issue was last looked at in any meaningful way in 1951, and from very much a European perspective. Many states have not been signatories to that convention, but whatever one feels about it, it certainly met the needs of the time. The problems are very different now. These population movements are now much more a global issue, and we need a long-term strategy.

As the most reverend Primate said, in Committee the Government's answer seemed substantially to be that a strategy would bind future Governments—a strange thing for them to be saying in the run-up to an election. However, it is much more important than that. As the most reverend Primate said, we have strategies on all sorts of things. It is important to build some common ground so that this does not become a party-political football. As a permanent member of the United Nations Security Council, we are in a very strong position to take an international lead on this—something that the Government would surely want to do.

I suspect that the Government's stance may have shifted somewhat—from "We don't want a strategy because it binds the hands of future Governments", to "this Bill deals with a short-term issue". This is not a short-term issue but very much a long-term one, and it will get more serious. We need an approach that is not ad hoc, not a stop-gap and not short term. It must be long term and look at these issues much more in the round, and it must do so internationally.

Given that there have been so many defeats, I hope that the Government are thinking positively about accommodating in the Bill the strength of views expressed in this House, and that developing a long-term strategy makes sense and is something we can all get behind. I urge them to do so, or to tell us what their strategy is. If they do have a strategy, it would be good to hear it. In the absence of that commitment and explanation, the conclusion will be that the cupboard is bare.

Baroness Kennedy of The Shaws (Lab): My Lords, I too added my name to the amendment tabled by the most reverend Primate. I did so because, as has been said, this issue will really challenge us in the years ahead. It is imperative that we collaborate with other nations and are involved in meaningful conversations about how to share responsibility for those who are being persecuted.

However, we must recognise that climate change will cause enormous displacements of people. While we can seek comfort, as lawyers do, in saying that the refugee convention does not apply to those fleeing climate change because its definitions do not embrace that possibility, the reality is that people will be fleeing for their lives—just as those who are persecuted do—from places to which they will not be able to return. There will be heavy questions about what we do in the face of that. In any strategy, it is necessary to think about how we support the countries alongside places where there are conflicts, where there will be a dearth of, and conflict over, water; let alone the existing conflicts over resources in parts of Africa such as lithium—the stuff in our phones—rare earth minerals, gold and black diamonds.

We will face many problems in the years ahead, and it is only by collaborating with other nations, especially developed nations and our nearest neighbours, that we will find a solution. It is a cross-party issue, and people should be thinking and talking about it together. We must have a Home Office that works well, that can deal with this issue properly and that is not failing speedily to address valid applications for asylum. It has been failing on that for a number of years because of the cuts made to it.

I support the idea that there should be a clear strategy for parties of any complexion to follow in working through this. I strongly urge the House to support the most reverend Primate's amendment.

Lord Alton of Liverpool (CB): My Lords, it is a pleasure to follow the noble Baroness, Lady Kennedy of The Shaws, and the noble Lord, Lord Bourne of Aberystwyth, in supporting the amendment tabled by the most reverend Primate.

The figures from the United Nations High Commissioner for Refugees alone are justification for this amendment: over 110 million people displaced in the world today. We cannot tackle that alone, and we cannot ignore it either. Therefore, we have a duty to come together with other nations and to take this issue as seriously as we have rightly taken the climate crisis. The COP is not a bad model to look at in the context of the 110 million people.

Why is this great country of ours not taking the lead, as we did with people such as Eleanor Rathbone and Sir Winston Churchill in the period after the Second World War, in convening an international forum to drive an agenda that deals with not the pull factors about which we hear so much but the push factors that send people on these desperate journeys? I was recently in north Africa on the very day that a ship went down off the coast of Greece, killing more than 70 people. Why were they making those desperate journeys? It was mainly to escape destitution and conflict.

7.30 pm

This morning, I spoke to humanitarian workers in Tigray. Some 1 million people have died there, either through the conflict or its follow-through—the hunger, squalor and deprivation driving them into unhygienic refugee camps and centres for displacement where they cannot thrive. A further 1.3 million people have been displaced in Sudan just over the last couple of months, as a result of the violence taking place there. We have to tackle the root causes that drive people on these terrible journeys, without constantly trying to put poultices or bandages on the problem. I passionately believe that we should be driving that agenda.

North Africa is a good example. The Moroccan Government are harnessing the power of the Sahara to create vast amounts of renewable energy. If, using clever Israeli technology, you harnessed the ability to produce desalinated water from the Mediterranean, you could create safe cities—new Carthages along the coast of north Africa. You could then provide people with hope, opportunities and security—all the things they need. That will come only from an international strategy. I believe that this country should be leading it and not indulging itself in what so often feels like dog whistle politics.

Lord Horam (Con): This is an important initiative from the most reverend Primate on this subject, for two reasons. First, as the noble Lord, Lord Alton, just said, it is truly an international subject; there are huge issues here that we cannot escape and generations to come will not be able to escape. Secondly, we have to tackle this on a long-term basis, but that does not mean that it has to be set in concrete for 10 years. I am sure the most reverend Primate meant exactly that.

For example, Australia has a framework with which both its Liberal Party and its Labor Party agree. Each year they look at the numbers and agree how many should come in for work reasons, as asylum seekers, for economic reasons or for family reasons. The number is debated in Parliament and it may change. We ought to debate immigration and how much we should have every year, as we debate the Budget. We will disagree. Governments will change and the numbers will change, but within a framework that we all understand and to which we can relate. It would give ordinary people in this country a better feeling about this subject, rather than the resentment and difficulty that we have faced over many years, as we did over Brexit, for example.

The most reverend Primate may be pushing at an open door. He may be aware that, last week in Brussels, the Governments of eight countries—Denmark, Greece and Austria among them—wrote to the European Commission asking the European Union to pursue a new approach, based on the British model. That is one point.

Secondly, alongside those eight countries, another group—including Italy and the Netherlands—has said that it wants to pursue a new model, based on the British approach. No other practical approach has been forthcoming. We think that we have problems, but Italy is talking about the possibility of 400,000 people crossing the Mediterranean, when we are talking about 45,000 last year. As the noble Lord, Lord Alton, was saying, this is a truly international problem and will have only an international conclusion. As that is what is happening in Europe, the most reverend Primate may be pushing at an open door.

It is not surprising that this is happening because, whichever way you look at this issue, you come back to something along the lines that the Government are proposing. I know that some quite serious amendments have been proposed in this House, some of which will go through and some of which will not. None the less, the basic bones of this—safe and legal routes on the one hand, and some means to deter illegal migrants on the other—will be there whatever we try. Over a year ago, the Tony Blair Institute for Global Change said that, whichever way you look at this, those two elements will probably be there in any solution.

I want to raise a separate point with my noble friend the Minister, which I have raised before but not yet had answered. There is a lot of legality surrounding the Government's proposals, the European Convention on Human Rights and the European Court of Human Rights. We should not get too bogged down in the legalisms, because we need a common-sense approach that deals with the problem as it is today. As I understand it, discussions are going on not only in Europe about adopting the British model for the overall problem but between the UK Government and other Governments about how this would sit against our existing treaties in Europe, in particular the ECHR, and whether elements are incompatible or are largely in agreement. I would like to know whether these discussions are taking place. I am not a lawyer, but it seems sensible, if the legal arrangements allow it, for these sorts of discussions to take place. That seems common sense to me, rather than having ping-pong arrangements in which some people disagree and it goes to the courts. We ought to be able to discuss these issues rationally before they go to the courts.

The most reverend Primate is raising this issue in the right sort of way, but I believe that all this, taken together, means that the Government are right to

persevere on their fundamental track while taking account, sympathetically, of the points that have been made.

Baroness Butler-Sloss (CB): My Lords, I declare my interest on the register in relation to human trafficking. If I may respectfully say so, the most reverend Primate has put forward not only a very shrewd but a very wise proposal. It ought to be cross-party; it certainly should not be brushed aside as though it were just part of the Bill, because it is much deeper and goes much further.

I am very glad that proposed subsection (2) includes provisions for tackling human trafficking, because there is a chance that we might retrieve a little of the Modern Slavery Act—something of which this country ought to have been intensely proud, until last year and this year—if we manage to do something sensible, as the most reverend Primate has suggested.

Lord Waldegrave of North Hill (Con): My Lords, I will say a brief word in support of the most reverend Primate and to follow my noble friend Lord Horam. If we are to deal with this problem, it ultimately has to be on the basis of cross-party support, rather like defence. How are we going to do that without somebody first putting forward a framework that will, undoubtedly, be unsatisfactory to the other parties? Then there will be debate and ultimately consensus.

There has to be international action, but that is so difficult. Unless our own country takes a broad-based approach to this problem, we will drive the solutions to the fringes, which will be very dangerous for our politics. It has happened in Italy and Hungary, and is perhaps happening in the United States. It is happening around the world where Governments have failed to base their response broadly enough and therefore keep the extremists at the very fringes, where they always are.

The most reverend Primate offers a way of introducing that kind of debate into our programme. I am the last person to think that making a strategy is the solution to a problem. That is always the long grass—let us have a strategy and it will disappear for ever into committees. I did that myself as a Minister many a time. What he is offering here—and I hope we respond to it in the right spirit—is perhaps the beginning of a way in which we can broaden the basis of agreement about our approach, so that what does not happen, if, say, by some surprise the party opposite comes into power, is that it reverses everything that we have done. What will the electorate think then? They will say that these people cannot be trusted to deal with this problem, which is right in the general public's mind. If we make it the knockabout of ordinary party politics, we will not have served our people well.

Lord Green of Deddington (CB): My Lords, I had intended to vote against this proposal, but I confess that I am persuaded by the opening speech from the most reverend Primate. It is clearly a useful proposal, and contributions from around the House point to that.

I will make one point. It is a short-term point but I do not apologise for that. We really must not overlook the very serious problems that we now have in the channel. The public are very angry about it, and rightly so. It is extremely difficult to deal with. For all the criticism that is made of the Government, those who may be a future Government understand that it could be difficult for them too. If all that is continuing, there will not be a wider audience for these very important and longer-term considerations.

Baroness Lawlor (Con): My Lords, many noble Lords have made very helpful and interesting points in this debate. Amendment 168A, moved by the most reverend Primate the Archbishop of Canterbury, raises an interesting matter of policy, seeking as it does to introduce a new clause to require the Secretary of State to

"prepare a ten-year strategy for tackling refugee crises affecting migration by irregular routes, or the movement of refugees … through collaboration with signatories to the Refugee Convention or any other international agreement on the rights of refugees".

Although I agree with much of the sentiment behind this worthy aim, I am afraid that I cannot support the amendment.

The Bill is to deter and prevent illegal entry into the UK. It is not a Bill about international agreements into which the UK may enter in the future, modify or make. It is for the Government of the day to propose a policy, not the unelected Chamber. Measures such as that which we are now debating tend to be part of general manifesto proposals, on which a Government is elected. They therefore have the authority of the people in whose name the Government are formed, and they reflect the democratic wish. Yes, such a policy may indeed become part of a future Government's manifesto proposals, but I do not believe that it is for this Chamber to bind the current Government in such a way as Amendment 168A proposes.

Baroness Stowell of Beeston (Con): My Lords, I will make a few brief remarks. Clearly, the most reverend Primate will push his amendment to a Division, and from the contributions that have been made it seems likely that the House will support him in doing that. None the less, I want to offer a slightly different perspective.

There is much that is compelling and sensible about what the most reverend Primate has argued, and a lot of the points made by others in support of his amendment are worthy of serious consideration. I very much welcome what my noble friend Lord Bourne said about the need for us to revisit these issues, which have been in place since the 1950s. However, the wholesale approach to this question proposed by way of this amendment requires confidence from everybody to support our motives in taking that approach. We have to keep in mind that the kind of people who support the Bill and want the priority and exclusive focus now to be on stopping the boats are the kind of people who have lost a lot of confidence in the democratic process and in the institutions of this country.

7.45 pm

I would like to think that I could urge this House, but I do not think that I will be able to. However, when the Bill is sent down to Members of the other place and they come to consider it, I urge this: we all want a wholesale, comprehensive and global approach to these

[Baroness Stowell of Beeston]
very difficult questions about migration—which, as the noble Baroness, Lady Kennedy, said, will become increasingly complex and difficult to deal with because of matters such as climate change and everything else—and, if we want people to support that approach, we have to show them that we want to do it with their support. That requires us in the first instance to say that what matters to them matters to us and we will deal with that first. It is only when we have done that, and gained people's confidence, that we can start to move on to some of these bigger challenges.

I do not support the most reverend Primate's amendment. I will not be voting for it but with the Government. I feel that my comments are somewhat futile, but I hope that they will at least have some resonance with Members of the other place when they come to consider the Bill and all the amendments made during its passage in this House.

The Lord Bishop of Durham: My Lords, the will of the people often gets quoted—for instance, by the noble Baronesses, Lady Stowell and Lady Lawlor. Many of us work on the ground with refugees and people who support refugees. The will of the people is to be a compassionate, welcoming nation to refugees and asylum seekers, as we have seen demonstrated by the welcome to Ukrainians and Afghans, and as I see demonstrated regularly. The will of the people is also that we find ways of stopping the boats—I agree. That is exactly why we need to get on with doing a 10-year strategy. It is about trying to bring all those people together, who can be compassionate and want to stop the boats at the same time. This is the right and proper time to do that, off the back of the Bill, so that we move forward with a 10-year strategy. I think that what the people want is for us to get the refugee thing out of party-political toing and froing and find a way forward together.

Lord German (LD): My Lords, I thank the most reverend Primate, because this amendment gives us an opportunity to look beyond the Bill. It is clear from the days and days that we have been debating the Bill that there are severe doubts about whether it will achieve its aims and severe doubts about the way that it is doing it. But we need to look beyond that if we are trying to find something that will beat the situation that we are all going to face in the years and decades to come.

We support this amendment because it sets out a different approach in responding to the global challenges of refugees and trafficking. Global challenges—that is what they are—require global solutions. We just cannot be isolationists. We need to recognise and take responsibility for the impact of our responses in an interconnected global community. We have to work with our European neighbours and global partners, building on frameworks and building new partnerships that should be broad and inclusive, with the active engagement of refugees and victims of trafficking, who can contribute from their lived experience.

In the UK, there needs to be a cross-departmental approach involving real consultation with a range of stakeholders, including local government, our devolved Governments, civil society organisations and international partners, which deliver some of the resettlement and humanitarian responses we have to deal with in this country. Any strategy should include a diversity of routes to safety and a harmonised approach to entitlements and protection once in the United Kingdom, particularly access to integration support. Partnerships with faith groups and their diasporas should be forged to secure good integration outcomes, and refugee family reunion should underpin all the offers of protection that the strategy outlines.

This amendment speaks to a sensible conversation because that is what it is intended to do: to start us on that route of a journey of thinking. There are great people in this House and great wisdom is expressed in a multitude of views, but in the end we are a humane and compassionate country and I would like to see us start on that journey. I recommend the amendment put forward by the most reverend Primate as a way to begin that sensible conversation .

Lord Ponsonby of Shulbrede (Lab): My Lords, I would like to open by addressing the speech by the noble Baroness, Lady Stowell. To summarise what she said, one can have a strategy only when one has people's trust, and this Bill is about stopping the boats; I think that was the gist of her argument. My argument, and the other argument I have heard in this debate, is that even if this Bill achieves its end completely, the most reverend Primate's amendment would still be appropriate because we still need a strategy as the situation develops over the next 10 years. I think that addresses the point the noble Baroness made.

Baroness Stowell of Beeston (Con): As the noble Lord has referenced what I said, if I may, I shall respond to that point. What we have to understand is that people question our motives now because we have too many times behaved in such a way as to suggest that we do not want to take seriously what they are voting for.

A noble Lord: Order!

Baroness Stowell of Beeston (Con): I will finish this point.

Lord Davies of Gower (Con): Will my noble friend please ask the question?

Lord Ponsonby of Shulbrede (Lab): I do not question the most reverend Primate's motives in putting down this amendment. It is a shame that we are ending like this, because it has been a wide-ranging debate about aspirations beyond the Bill. I have certainly never seen an archbishop move an amendment at any stage of a Bill, let alone the latter stages of such a contentious Bill. As the noble Lord, Lord Bourne, said, this has been a passionate and fractious debate; nevertheless, people have raised their eyes—if I can put it like that—to talk about the wider issues we are trying to address through the Bill and into the future. The most reverend Primate's amendment is about strategy.

My colleague quickly checked on the phone, and I cannot help noting that the noble Lords, Lord Horam, Lord Waldegrave and Lord Green, all voted for the

Government in the previous vote and have all indicated that they will be supporting the most reverend Primate in the forthcoming vote. The noble Lord, Lord Horam, is shaking his head; I beg his pardon.

Nevertheless, this has been a remarkable debate, partly for the reason that it has been initiated, and also because it is ending a Bill which has really caught the attention of the wider public. We are dealing with fundamental issues concerning the way we manage our asylum system. The Government and the Opposition acknowledge that there are fundamental problems with the way we deal with these very vulnerable people.

There has been a number of speeches in this debate about Britain taking a leading role in trying to come up with a migration system which addresses these fundamental problems. I have been in this place a long time—some 33 years—and in that time I have been on the OSCE, the Council of Europe and the relevant committees dealing with migration issues. These are fundamentally problematic issues. Here, we are addressing an amendment moved by the most reverend Primate the Archbishop of Canterbury that tries to put a strategy in place, and I invite the Minister to accept it.

Lord Murray of Blidworth (Con): My Lords, I am very grateful to all noble Lords, but particularly the most reverend Primate, for clearly setting out the rationale behind his amendment. Let me say again from the outset, as I did in Committee, that I entirely understand the sentiment behind the proposed 10-year strategy for tackling refugee crises and human trafficking.

The Government recognise the interconnected nature of migration and the need to work collectively. That is why we are already engaged and working tirelessly with international and domestic partners to tackle human trafficking. As I set out in Committee, we continue to support overseas programmes to fight modern slavery and human trafficking, including through the modern slavery fund, through which more than £37 million of funding has been provided by the Home Office since 2016. The work includes projects across Europe, Africa and Asia, a joint communiqué with Albania and a signed joint action plan with Romania, which reinforce our commitment to working collaboratively to tackle modern slavery and human trafficking in both the short and long term. We also engage with the international community on a global scale by working with multilateral fora such as the G7, the G20, the Commonwealth and the United Nations.

Moreover, while I understand the desire for a published strategy, I would not want this to detract from the work already being done to deliver in this way. This Bill is part of the Government's strategic and interconnected approach to tackling human trafficking and illegal migration. It is the aim of this Bill to tackle the threat to life arising from dangerous, illegal and unnecessary channel crossings and the pressure that places on our public services.

Furthermore, the view of this Government—one which I believe is eminently sensible—is not to create a siloed refugee strategy. As has been highlighted by many noble Lords throughout Committee and Report, refugee crises are complex and something for the entire international community to address. Indeed, migration by irregular routes to the United Kingdom would usually involve individuals travelling through multiple countries, so it follows that, and I agree with many noble Lords that, the United Kingdom cannot tackle this alone. I certainly also agree with the most reverend Primate's challenge: that the best way to address displacement on this scale is through a holistic approach, utilising, where appropriate, developmental, diplomatic, military and humanitarian interventions. This is what we are already doing, working with our international partners.

During the debate on the previous amendments, I also detailed the United Kingdom's work in developing the Global Compact on Refugees and our substantial engagement with the World Bank, which I shall not repeat here. However, I wish to stress that we already engage with our international partners through proper channels and will continue to do so.

8 pm

I accept that there is a place for long-term strategies such as that proposed by this amendment; indeed, just last week the NHS published a much-needed long-term workforce plan. But we should only embark on these where they can add significant value. My noble friend Lord Horam identified some of the challenges in his speech and, as my noble friend Lord Waldegrave highlighted, the development of a strategy cannot be an end in itself but only a means to an end.

We are already working at home and abroad, including through this Bill, to address the challenges posed by migration, irregular routes and human trafficking and, like my noble friends Lady Lawlor and Lady Stowell, I remain to be persuaded that now is the time to divert resources from that work to prepare, consult on and promulgate a strategy of the kind proposed in this amendment. We will, of course, keep the case for such a strategy under review, but for now I hope the most reverend Primate will be content to withdraw his amendment.

The Archbishop of Canterbury: My Lords, I am very grateful to the Minister and to all Members of this House who have contributed to this debate. I agreed with virtually every word the Minister said. Had I not been convinced of the need for this amendment to be on the face of the Bill beforehand, he has absolutely convinced me by how he set out the different ways in which government needs to work; I just did not agree with his conclusion.

"We will keep it under review", is what I spent years saying to our children: "I will think about it". They knew exactly what that meant. When it came to the vote on getting a television after 10 years without—we had an annual family vote—through threats against our middle son, his elder sister swung his swing vote in favour of a television; they knew I would never say yes on my own. With that experience of terror and corruption in the Welby family, and with some regret, I must ask if we may test the opinion of the House.

8.02 pm

Division on Amendment 168A

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Amendment 168A agreed.

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8.12 pm

Amendment 168AZA not moved.

Clause 64: Regulations

Amendment 168AA not moved.

Clause 67: Commencement

Amendment 168AB
Moved by ***Lord German***

168AB: Clause 67, page 68, line 6, leave out "(3) and" and insert "(2A) to"

Lord German (LD): My Lords, in the name of my noble friend Lord Paddick, I shall say a few words about Amendment 168BA and the consequential amendment that is at the rear end of this debate. Essentially, these amendments represent a protection for the Government. The purpose of the Bill is to use removal as a deterrent to people arriving on irregular routes. Without a place to remove people who claim asylum, the intended deterrent is absent, and that applies to a third country to which people can be removed. Therefore, by the Government's logic, without a third country to remove people to, this legislation will, for the greater part, not work.

Once the Government's plans come into force, they will be unable to process asylum claims. All that they will be doing is detaining people. After 28 days, once the individual is able to apply for immigration bail, they will remain in limbo until such time as there is a removal agreement. That may well all be solved by the Supreme Court making its judgment, but in the meantime—and I hope that somebody who has a legal background can explain roughly how long the Supreme Court will take in dealing with the matter—if we have more and more people coming here, all of whom will first be detained and then will be in some form of detention, that will spell disaster.

8.15 pm

As we look ahead to the next few months, when the numbers arriving on small boats will increase with the summer weather, we will see thousands of individuals arriving. We have already seen the highest number of small boat arrivals in June since records began. There will need to be places to detain them that are suitable for children, families and pregnant women. There will need to be an expansion of medical care on site at detention centres for those with physical and mental health conditions who currently are not detained. There will need to be legal aid lawyers in areas all over the country. There will need to be tribunal capacity to determine the increase in bail applications. There needs to be clarity about where these individuals will be accommodated on release while waiting to be removed.

I am sure all noble Lords remember the scenes at Manston last autumn when Home Office systems failed. The chief inspector who recently inspected Manston said that once again he did not think it would work once it was full. So we can see the markers of what happened last year happening again, with predictable consequences for vulnerable people—men, women and children who are victims of trafficking and persecution.

Given that the central tenet of this legislation is removing people and given that no third country currently exists, the Government should have a plan, and we need to know what it is. In the absence of a plan beyond Rwanda, we urge the Government to delay the commencement of the legislation until the appeal announced by the Prime Minister to the Supreme Court against the Court of Appeal's decision has been concluded.

Baroness Lawlor (Con): My Lords, I oppose the amendments in this group that seek to defer the start date for deportation, including to Rwanda, unless and until the Supreme Court overturns the Court of Appeal judgment. My understanding—I stress I am not a lawyer—is that the Court of Appeal found that in principle the removal of people who enter the country illegally to a safe country is lawful, that the Government can designate countries as safe and that the processes for determining eligibility are fair.

However, I want to comment on a matter of principle that is at stake here. The courts interpret the laws of this country but do not make them. Parliament is the legislature, and constitutionally it legislates on laws proposed by the Government on the authority of the people who elect them. It is for this Chamber to scrutinise such laws. International agreements, by contrast, are freely entered into for a variety of reasons. The Government reach an agreement and, given national interests, can renegotiate or otherwise, as judged best. That is the prerogative of a sovereign power. In so far as national interests may clash with international conventions, it will be for the Government to establish the law and for the courts to uphold it.

As a scrutinising and revising Chamber, we should not stand in the way of the Government by deciding that we should await a court decision to decide the law. In our nearest neighbour, France—historically, the most similar country politically and constitutionally to this one—a telling debate has developed about the dangers posed to democracy by the courts obstructing the democratic will on matters particularly of asylum and repatriation. That debate is one that I hope we in this Chamber will not prompt on this side of the channel. I hope the Minister will reject this amendment, which would put the operation of the Bill in the hands of the courts, not Parliament and the elected Chamber.

Lord Coaker (Lab): My Lords, our approach to the Bill has always been to respect the fact that the other place has a right to have its legislation passed. As the noble Baroness, Lady Lawlor, mentioned, we have a

[Lord Coaker]
right to revise, scrutinise and pass amendments seeking to improve or change aspects of the Bill. It is my view and that of His Majesty's Opposition that this Chamber has done its job—not blocking the Bill, however much we oppose it, but improving it. Numerous improved protections and safeguards have been passed, with requirements to uphold traditional judicial oversight and conform to domestic and international laws. In pursuing this, the proper constitutional function of the Lords, I ask of the other place only that sufficient time is given to allow proper scrutiny and thought to be given to our proposals.

In this context, we cannot support Amendment 168AB and the other amendments spoken to by the noble Lord, Lord German. Of course, we understand the motivation and agree with him about Rwanda and his other points, but it appears that the amendment would block, or at the very least significantly delay, the Bill. In the context of what I have said on a number of occasions, and of what my noble friend Lord Ponsonby has said from the Dispatch Box, we do not support that approach.

My Amendment 168BAA says that Schedule 1 cannot come into force for a country not found to be safe until a decision has been overturned on appeal to the Supreme Court. In other words, I ask the Government to confirm that there is no legislative mechanism that they can or will use to avoid or bypass the judgment of the Court of Appeal and deport people to Rwanda before the Supreme Court makes its decision. I am looking for the Minister to confirm the Government's approach with respect to this, so that we have it on the record.

The Government may say that this is all unnecessary, and many of us thought that to be the case. However, in the media over the weekend, there were reports that the former Prime Minister, Boris Johnson, has urged the current Prime Minister to fast-track the implementation of the Rwanda migrant policy by changing the law to designate it a safe country. He said that the Government should use their majority in Parliament to use provisions in the Asylum and Immigration Act that would allow them to designate countries as safe. Were the Government to adopt that recommendation from the former Prime Minister, the implications would be clear. Can the Minister categorically rule that out? Presumably, were this to be done, it could be done by secondary legislation—the Minister will be aware of the debate about this on another matter.

Subject to such assurances, I will not press my amendment to a vote—but it would be helpful for the Minister to outline, alongside this, what happens if the government appeal to the Supreme Court fails. Why would this not throw the Government's policy off course? Do the Government have a plan B, or are they simply ploughing on, in the expectation of a successful appeal? Given the dependence of the Illegal Migration Bill on detention and then deportation, and given the importance of Rwanda to the Government's policy, it would be interesting to hear what, if anything, the Government plan for that.

Even today, we read that the Border Force's own forecasts suggest that the boats pledge will fail. As we have said on numerous occasions, we all want to see this challenge met and dealt with—but efficiently and effectively, in a way that is consistent with our domestic and international laws and requirements.

Lord Murray of Blidworth (Con): My Lords, it will come as no surprise to the noble Lords, Lord German and Lord Coaker, that the Government cannot support these amendments, not least as they are, simply, unnecessary. It may be that they were tabled as a hook to have a further debate about the judgment handed down by the Court of Appeal last week.

As noble Lords will recall, on Thursday afternoon last week, I repeated the Oral Statement that my right honourable friend the Home Secretary had delivered earlier in the day in the Commons; we heard from the noble Lord, Lord Coaker, then. To repeat what my right honourable friend said last Thursday, we respect the Court of Appeal's judgment and welcome the fact that it unanimously found in the Government's favour on the vast majority of the appeals brought against the policy. In particular, the Court of Appeal unanimously confirmed that removing asylum seekers to a safe country is entirely consistent with the refugee convention, including Article 31. Indeed, the court found that it is lawful in principle for the Government to relocate people who come to the United Kingdom illegally to a safe third country; that the Government can designate countries as safe; and that our processes for determining eligibility for relocation were fair. Members of this House contended that these issues were not the case in Committee and on Report, and we are glad that that feature has been confirmed by the Court of Appeal. That aspect of the judgment reaffirms the core principles underpinning the Bill and, on that basis, there is absolutely no reason why we should not continue with the scrutiny of the Bill and see it on to the statute book as quickly as possible.

On the finding of the court, by a majority decision—the Lord Chief Justice dissenting—on whether Rwanda is a safe third country, we have indicated that we will seek leave to appeal to the Supreme Court. The intention is for this application to be determined promptly. If leave to appeal is granted, it is then properly a matter for the Supreme Court to determine when the case will be heard. The Government are disappointed by the judgment, and it is also disappointing for the majority of the British public who have repeatedly voted for controlled migration, and for all those who want to see us deliver on our moral and democratic imperative to stop the boats.

Turning to the amendments, what does the judgment mean for the commencement of the Bill? I will make two points. First, on the core scheme provided for in the Bill—the duty to make arrangements for removal in Clause 2 and the other provisions directly tied to it—our position has always been that we will seek to implement these provisions as soon as practicable. The decision of the Supreme Court and the operation of our ground-breaking partnership with the Rwandan Government are important factors relating to that question of practicality. Clause 67 already provides for Clause 2 and the other elements of the core scheme to be commenced by regulations, so we are not bound to any particular date, and it remains the Government's position that we will commence these provisions as soon as practical.

Secondly, there are a number of free-standing provisions in the Bill not directly tied to the duty in Clause 2. These include provisions in Clauses 11, 15 to 20, 29 to 36 and 57 to 61. There is no good reason why the commencement of these provisions should be tied to the outcome in the Supreme Court. Indeed, in relation to Clauses 29 to 36, which provide for the bans on re-entry, settlement and citizenship, the Bill provides for these clauses to come into force on Royal Assent.

In answer to the noble Lord, Lord Coaker, I do not propose to comment on the recent article written by the former Prime Minister in the *Mail*; the views expressed in it are a matter for him. Having had this further opportunity to debate this important judgment, I hope that the noble Lord will be content to withdraw his amendment.

Lord Coaker (Lab): I thank the Minister for his response. You can understand the concern that was raised by having a former Prime Minister ask the Government to consider bypassing the court judgment by using secondary regulations to give them the power to do that under the Asylum and Immigration Act. All I was asking for is a comment on that. I take heart from what the Minister said because it seemed that, despite what he said about the former Prime Minister, the important part of it was that the Government would of course abide by the consequences of the Court of Appeal judgment, subject to the further appeal, if granted, to the Supreme Court.

Lord Murray of Blidworth (Con): As I have already said, I am afraid that I cannot comment further—tempted though I am—on what the former Prime Minister said. The noble Lord has the sense of the Government's response.

8.30 pm

Lord German (LD): I beg leave to withdraw the amendment.

Amendment 168AB withdrawn.

Amendments 168B to 168BB not moved.

Amendment 168C

Moved by ***Baroness Hamwee***

168C: Clause 67, page 68, line 13, at end insert—

"(ba) section (Ten-year strategy on refugees and human trafficking) (ten-year strategy on refugees and human trafficking)."

Member's explanatory statement

This amendment would provide for the new clause after Clause 61 proposed in another amendment in the name of the Lord Archbishop of Canterbury to come into force on the day on which the Act is passed.

Amendment 168C agreed.

Amendment 168D not moved.

Amendment 169

Moved by ***Lord Murray of Blidworth***

169: Clause 67, page 68, line 29, leave out paragraph (h)

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Murray of Blidworth at page 41, line 19.

Amendment 169 agreed.

House adjourned at 8.31 pm.

Grand Committee

Wednesday 5 July 2023

Arrangement of Business

Announcement

4.15 pm

The Deputy Chairman of Committees (Lord Duncan of Springbank) (Con): My Lords, you know the drill: if there is vote I will let you know and we will adjourn proceedings. I suspect that there will be a vote shortly, but we will hear the bells ringing. Let us kick off.

Healthcare (International Arrangements) (EU Exit) Regulations 2023

Considered in Grand Committee

4.15 pm

Moved by ***Lord Markham***

That the Grand Committee do consider the Healthcare (International Arrangements) (EU Exit) Regulations 2023.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Markham) (Con): My Lords, reciprocal healthcare arrangements enable UK residents to access healthcare when they live, study, work or travel abroad. They not only provide an added safeguard for our residents when they travel but support those with long-term pre-existing conditions to avoid them facing expensive insurance premia or funding private treatment. This is why the UK Government are proud to have concluded healthcare arrangements that provide our residents with greater access to healthcare in countries across the world, such as with the European Union, Switzerland and our overseas territories.

Last year, we amended our primary legislation that enabled the implementation of comprehensive reciprocal healthcare arrangements in the European Economic Area and Switzerland. Thanks to the Health and Care Act, which noble Lords played a crucial role in scrutinising, the UK can now implement comprehensive healthcare arrangements with countries around the world—not just in Europe—where it will be to the benefit of the UK. This means that we can implement arrangements that include the reimbursement of costs and exchange of data, such as the one we have with the European Union, across a wider geographical area where it is in the interest of the UK to do so. Overall, extending arrangements offers potential benefit for all UK residents, providing them with greater reassurance when travelling and deepening diplomatic ties with our international partners.

Following the amendments to our primary legislation, secondary legislation is now necessary to continue implementing our existing reciprocal healthcare arrangements, as well as future ones. I am pleased to introduce the regulations to the Committee. They will replace implementation regulations made under our former primary legislation, the geographical scope of which was limited to the European Economic Area and Switzerland.

While these regulations remain substantively similar to the regulations they replace, they also provide the necessary legal framework to implement any future arrangements with countries around the world. They work by conferring functions on the NHS Business Services Authority and local health boards across the UK to give effect to our existing healthcare arrangements. For example, they enable the NHS Business Services Authority to make payments, process applications and provide information to the public, including issuing the global health insurance card.

The regulations also confer functions on Welsh and Scottish local health boards so that they can deliver planned treatment provisions within our arrangements, which is an area of devolved competence. Until a Northern Ireland Executive are in place, we will save our existing implementation regulations to ensure that planned treatment can be delivered across the UK according to our obligations under the reciprocal healthcare arrangements that we have with the EU, EEA states and Switzerland. We have worked closely with the devolved Administrations in the drafting of the regulations and they have confirmed, through a formal consultation, that they are content.

We have included a Schedule to these regulations, which consolidates all the healthcare arrangements that the UK currently has with countries and territories around the world. It includes not only our arrangements with the European Union, which contain reimbursement provisions, but our existing international arrangements, where no money is exchanged and where the cost of treatment is waived, with countries such as Australia and New Zealand. To add a new country or territory to the Schedule, it must be amended by affirmative statutory instrument, providing noble Lords with the opportunity to scrutinise the implementation of any new arrangements.

The regulations enable the Secretary of State to make payments outside of an arrangement only when there are exceptional circumstances to justify the payment and only in countries or territories where a reciprocal healthcare arrangement with the UK is in place. Having this power means that we can support UK residents when they face difficulties and extraordinary situations when accessing healthcare abroad is critical. This will be accompanied by a policy framework, which we have developed and consulted on publicly. The framework will guide exceptional payment decisions while providing adequate flexibility for the Secretary of State to assess cases individually.

Finally, I take this opportunity to reassure your Lordships on concerns which were raised previously in the House about the interaction of reciprocal healthcare and trade. I reiterate that these regulations are not about trade deals or privatising the NHS; they are about implementing reciprocal healthcare arrangements and supporting UK residents to access healthcare abroad.

I am happy to bring forward this legislation today. These regulations are crucial to honour our current commitments and obligations under our existing healthcare arrangements, and to continue supporting the people who depend on these arrangements to access the healthcare they need while abroad. I beg to move.

Baroness McIntosh of Pickering (Con): My Lords, I congratulate my noble friend on bringing forward what I view as very welcome regulations for us this afternoon. I have to declare an interest, as I currently have an EHIC, which I assume will expire at the end of this year, and visit a very small number of the countries on this list. Given that the list on page 5 in the Schedule seems very full, I take this opportunity for my noble friend to put my mind at rest, because originally—it was a year ago, 2022—it was pointed out that the GHIC, which my noble friend explained will replace the EHIC in the regulations, originally did not cover countries such as Norway, Iceland or Liechtenstein, but they appear on the list. Is that because the original primary legislation did not cover them, or were we just waiting for the regulations before us this afternoon? Can he confirm that the EHIC covers those three countries and that the GHIC will also cover them?

From a practical point of view, I have never yet had to make a claim. I once, rather unfortunately, contracted salmonella poisoning as a Conservative candidate at a hotel which will remain nameless in north London, which rather sorrowfully served chicken drumsticks but did not have the foresight to defrost them. Unwittingly, I was so hungry I ate the chicken drumsticks, and within 36 hours I was in a very sorry way, but not as bad as some of my older colleagues at the time, who had to be hospitalised because of salmonella poisoning. I was then fortunate enough to be injected, not in my arm but in another part of my anatomy by a French doctor and had to have a course of whatever tablets they were.

Are we under these arrangements required to pay similar costs to those in that scenario up front, keep receipts and claim them back when we are back in the UK? Is that how it works? I think most of us are covered, and I know the department and the Foreign Office encourage all of us who travel outside the UK to have the fullest possible medical insurance that we can. Is it reciprocal? Does, say, a Norwegian, a Dane, a Liechtensteiner or someone from whatever third country pay here and is then reimbursed by their medical authorities—just to be absolutely clear on the reciprocity of the situation?

I give the regulations before us this afternoon a very warm welcome.

Lord Naseby (Con): As I understood it, the Schedule on page 5 covers overseas territories and dependent territories. I note that the Cayman Islands is not listed. I have not had time to check whether anywhere else is off the list, but I wondered whether my noble friend could find out and let me know. I ought to declare an interest: one member of my family is working in the Cayman Islands, and there may be others. I recently attended a conference of all the overseas territories and dependent territories, and there seemed to be rather more than appear here, but that may be me and my memory bank. I leave that question with my noble friend.

Lord Allan of Hallam (LD): My Lords, I also welcome this statutory instrument, which seems to be a helpful tidying-up exercise overall. Of course, it is humane and to our credit that we seek the maximum number of reciprocal arrangements so that people in the UK travelling to other countries can get healthcare when they need it and people coming here can benefit from our health service. That is important as a humane response.

First, on the comments from the noble Baroness, Lady McIntosh, I have a GHIC card; I think I was one of the first out of the traps in 2021. My understanding—the Minister will confirm this later—is that the "G" is rather more aspirational than material; that the GHIC is really an EHIC because it does not count in any other places, such as Australia or New Zealand; and that it is really a version of the EHIC rebranded with a rather fetching union jack. I am interested to hear from the Minister whether I have understood that correctly. Of course, it seems to be the Government's aspiration that, one day, the "G" in your GHIC will be meaningful but as I say, as I understand it today, it is an "E" rather than a "G".

We are pleased that there was consultation with Ministers in Northern Ireland, Wales and Scotland. Again, a regular theme of the stuff that we debate in this House is that there have been a number of other instances where that has not happened, such as with the minimum service levels Bill. It is good to see that, here, Ministers have given their approval.

I want to ask a few questions. The first is a material one on the scope of UK-insured persons; that is some of the language used in the instrument. My understanding is that there is a difference. For example, as long as they are a UK-registered resident, somebody who is resident and a taxpayer in the United Kingdom—whatever passport they hold—can get a GHIC card and use it in the European Union but they would not be able to do so in Switzerland because it has a narrower category of people who qualify; people there would, I think, need a UK passport to take advantage of the relationship.

That opens up a wider question: what is the Government's policy? Is it that anyone who is a UK resident and taxpayer here should benefit from the reciprocal arrangements, or are the Government content to leave it such that we limit the scope in some countries? I followed the links to look at the information provided to people on GOV.UK. Oh my God; I am not sure whether I regret going there because it is incredibly complex. If noble Lords look at it, they will see that some countries want a driving licence, some want a passport—some want a UK passport while others want any passport—some want proof of residence and some want the magic card. There is a huge plethora of proofs of identity and qualification. Again, people's expectations would be that, if they live in the UK and pay their taxes here, they should be able to benefit from the reciprocal arrangement. However, that is not what we see at the moment.

Regulation 6 says that the NHS Business Services Authority has a duty to

"maintain a service making available to the public information".

Something useful could be done on the BSA working with GOV.UK to give people a much easier way to say, "I am going to country X: do I qualify? If I do, what documents do I need? At the moment, there is a long list that is incredibly confusing". This is just a thought for the Minister as to whether Regulation 6 would include asking the Business Services Authority to improve the quality of the information offered at present.

My second substantive point concerns Regulation 7, which says that the

"BSA must assist the Secretary of State with the Secretary of State's exercise of functions".

Another critical piece of information here is understanding what is happening through this arrangement. What are the costs in and out? How many people from another country are using the NHS? How many people from the United Kingdom are using services in another country? Can the Minister clarify whether, as well as information about the workings of the reciprocal arrangement being provided to the Secretary of State, he anticipates such information being provided to the public and to us as parliamentarians? I do not mean to penny-pinch—as I say, the starting point should be that it is humane to offer treatment at both ends—but it is a matter of information.

The Minister referred to how additional countries might be added to the list. We would all welcome that but, again, when that happens, there will have to be a business case that must make predictions about how much usage of the scheme there will be. I welcome the fact that the Minister says that the addition of another country will come back to us for approval, but I hope that he can also commit to us being given the information we need on existing arrangements and predicted future arrangements to help us make those determinations.

Clarifications on those substantive points about eligibility and the provision of information and data on how the arrangements are working would be really helpful but, substantively, we welcome the instrument.

4.30 pm

Baroness Wheeler (Lab): My Lords, I thank the Minister for his introduction to the SI and the other noble Lords who have spoken to it. For the record, we wanted to look very closely at it, given the discussions, commitments and reassurances made last year by the Government and the then Health Minister, the noble Baroness, Lady Penn, about the Government's policy intentions on reciprocal health agreements during the passage of what is now the Health and Care Act.

We had strong concerns that any provisions under the Act which reflected post-Brexit arrangements should be confined to the implementation of reciprocal healthcare arrangements, not to the negotiation of international health agreements which could be used for wider and different purposes, such as the privatisation of parts of healthcare. The Healthcare (European Economic Area and Switzerland Arrangements) Act 2019 included explicit constraints to make such agreements on the powers of Secretary of State in this regard. We also had concerns that the new arrangements should not change the definition of future reciprocal healthcare agreements.

Reassurance from the Government that the purpose of the 2019 Act was not to implement trade deals and that reciprocal healthcare agreements do not relate to the commissioning and provision of services for the NHS were very welcome. We are therefore content that the SI properly reflects this; I thank the Minister for his reassurances in his opening remarks. We are also pleased that the affirmative procedure ensures that Parliament is able to be kept up to date with developments and that these issues are properly debated.

The Explanatory Memorandum is very helpful. I look forward to the Minister's response to the issues raised by the noble Lord, Lord Allan, about scope, because they are important.

We recognise that the regulations are vital to implement international healthcare agreements following our exit from the EU. Reciprocal healthcare agreements support people to access healthcare in the listed countries. Those faced with the stress and worry of a healthcare emergency abroad will rightly expect suitable arrangements to be in place where possible. That is particularly true of people with a disability, those who are older or who live with a pre-existing or chronic health condition.

The amendments to the Act allow the Government to implement more complex agreements with the ability to make financial reimbursement at cost, as the UK currently does with many EEA countries, and confer further powers on the Secretary of State. Can the Minister outline further details about the Government's plans for other international healthcare co-operation outside the EEA and Switzerland and what these plans might look like?

From our understanding of the SI, we think that payments can be made only if both the following conditions are met: the healthcare treatment is in a country with which we have an international healthcare agreement, and the Secretary of State considers that exceptional circumstances justify the payment. Can the Minister explain the Government's thinking on what would constitute exceptional circumstances and how the policy framework might work? What guidance is being issued by the NHS Business Services Authority, which has certain administrative functions conferred on it through the SI?

The public consultation on the policy has just closed but we understand that the results and an analysis of it will be published this month. An early indication of the timetable and results would be welcome.

On the role of the NHS BSA, can the Minister provide more detail on the work currently undertaken to establish and maintain the public information and advice service on healthcare provision under relevant healthcare agreements, as set out in the SI? Again, the noble Lord, Lord Allan, mentioned this important function. The importance of transparency has been underlined. It will be crucial in the future to help people understand how reciprocal healthcare agreements work and can be accessed, to ensure they are doing all the right things to be properly covered, and to make claims, as the noble Baroness, Lady McIntosh, said.

I look forward to hearing answers to the questions about the issue of EHIC and GHIC. Specifically, can the Minister update the House on how the transfer from EHIC to GHIC has worked and whether any complications have been experienced—for example, the impact of the non-application to the UK of the EU cross-border healthcare directive, which enabled UK patients to pay for qualifying private healthcare in Europe and to receive reimbursement up to the amount that the treatment would cost the NHS? UK travellers can now no longer seek reimbursement, and I wondered if there had been any instances where the lack of awareness of that has caused problems—for example, for patients needing kidney dialysis where reimbursement for private treatment has not been allowed.

[Baroness Wheeler]

I appreciate that the Minister might need to come back to me on that. I think we are about to have a vote, but I look forward to his response.

Lord Markham (Con): I will try my best, potential votes notwithstanding. I thank noble Lords for their contributions to today's debate and for the generally received welcome. To try to answer them in turn, on the point made by the noble Baroness, Lady McIntosh of Pickering, I believe the arrangements made with the EFTA countries were signed on 30 June 2023. The expectation is that they will become operational by the middle of 2024—saved by the bell.

4.36 pm

Sitting suspended for a Division in the House.

4.48 pm

The Deputy Chairman of Committees (Lord Duncan of Springbank) (Con): My Lords, I understand that another vote is coming, so I do not think there is any point in having another few minutes of the Minister—fun though that may be. Shall we twiddle our thumbs until the next vote?

Lord Markham (Con): Unless I can finish before then.

The Deputy Chairman of Committees (Lord Duncan of Springbank) (Con): Unless the Minister can finish in the next two minutes.

Lord Markham (Con): Perhaps.

The Deputy Chairman of Committees (Lord Duncan of Springbank) (Con): I will leave it in the Minister's hands.

Lord Markham (Con): I am happy to try. We will see. I will write a detailed letter after all this, so noble Lords can decide, when the bell rings, whether they want me back for more. That was a nice break in terms of being able to get some—

4.48 pm

Sitting suspended for a Division in the House.

4.56 pm

Lord Markham (Con): I guess it is probably easier if I recap. On the question asked by the noble Baroness, Lady McIntosh, on the EFTA countries, the situation was that they were indeed under EHIC, but under the Brexit arrangements they effectively fell out. These arrangements mean that they have signed, so they are back in again and will be covered there.

As regards how it works, first, as I believe the noble Baroness got salmonella at a Conservative event, I apologise on behalf of the ex-CEO of the Conservative Party. The way the system should work in most cases is that you can show your GHIC—or your EHIC, which is still valid—and, in most cases, state-to-state paperwork and payment should be made on that basis rather than you having to pay personally. Unfortunately, there are examples where you have to do that. That might be just because a hospital is not fully aware of it at the time. However, there is also an NHS Business Services Authority hotline that you can ring, which can help you through all of it.

On the questions from the noble Lord, Lord Naseby, there is no reciprocal arrangement with the Cayman Islands and the Pitcairn Islands at the moment. There is a quota system, whereby the Cayman Islands and the Pitcairn Islands—he did not mention the latter but it is another example of the same situation—are allowed to send a number of their residents to us each year and they pay on a fully costed basis. However, there is no reciprocal arrangement; it is just on a pay-as-you-go basis. However, I clearly understand the issue, given the desirability of the Cayman Islands; I personally volunteer for a ministerial mission to negotiate there—with help from all sides, clearly.

On the question from the noble Lord, Lord Allan, about the GHIC rather than the EHIC, it is indeed clearly an aspirational ambition. However, there are additional countries—I think I already mentioned Australia, New Zealand and Montenegro—so it is an E-plus; maybe it does not quite deserve a "G" at the front of it yet, but clearly that is the direction of travel.

5 pm

We know that the arrangements in each country are confusing, and one of my takeaways from this is that we probably need to do more work on our side to make it more user-friendly. However, each country has slightly different flavours of rules, for want of a better term. I understand that Switzerland, to take that as an example, wants to make sure that someone also pays national insurance contributions in the country they come from—the UK in this case—which is why it wants a proof of residency as part of that as well. Informally, it has said that it will accept a GHIC, but that is just informal. The situation with Switzerland is that it is checking whether those national insurance contributions are made.

We are trying to negotiate the wrinkles out of all these things, for want of a better word, but this shows that we need a country-by-country guide. I remember that we had something like that during Covid, with red countries and different rules for each country. I know that exists already but I will make an action to look at that with regard to clarity.

That is exactly the idea on some of the exceptional circumstances, because the picture is so confused. The numbers are handfuls—seven, eight, nine, 10, 15. They are published each year. I will give you a flavour of an exceptional circumstance in which, naturally, the Government paid: some mental health care was needed in the Netherlands, and it was thought that was covered, but in fact it comes under social services there, so that instance was not covered by the GHIC.

On the impact assessment and the analysis, we report things only above £35 million in one year or £50 million over three years, as the noble Lord might be aware. Clearly, in these circumstances, we are happy to make that information available. The detail is also covered in our annual reports. We will make sure that negotiations with new countries are also set out and covered.

I appreciate the comments of the noble Baroness, Lady Wheeler, about our assuaging those concerns—I hope—that this is not a back-door mechanism to negotiate things such as privatisation. I hope that the safeguards are in place. Please correct me if I am not correct, but I think that the team has done a good job on having extensive dialogue with noble Lords in this area. We are happy to do that at any point. I will obviously write in detail on all these points, but the team is always open if things such as round tables would be helpful in the future.

I hope that I have managed to cover the points there. Again, we will follow it up with a detailed letter as well. If that does the business—and before any more bells ring—I will commend the regulations to the Committee.

Motion agreed.

Russia (Sanctions) (EU Exit) (Amendment) (No. 2) Regulations 2023

Considered in Grand Committee

5.05 pm

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

That the Grand Committee do consider the Russia (Sanctions) (EU Exit) (Amendment) (No. 2) Regulations 2023.

Relevant document: 45th Report from the Secondary Legislation Scrutiny Committee. Instrument not yet reported by the Joint Committee on Statutory Instruments.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, these regulations amend the Russia (Sanctions) (EU Exit) Regulations 2019. This instrument was laid on 19 June 2023, under powers provided by the Sanctions and Anti-Money Laundering Act 2018. It contains measures that increase the pressure on Mr Putin as we continue to support Ukraine and its people in their resistance to this illegal war.

I start by addressing the first part of this legislation. This amendment will enable us to keep sanctions in place until Russia pays for the damage it has caused to Ukraine. I know that this been of great importance to noble Lords. In March this year, the World Bank estimated that the reconstruction of Ukraine will cost more than $400 billion, a figure that, sadly and tragically, rises daily. On 21 and 22 June, as noble Lords will be aware, the United Kingdom cohosted the Ukraine recovery conference here in London, galvanising international support—including, importantly, from the private sector. International commitments topped more than $60 billion towards Ukraine's recovery and reconstruction by the end of the conference.

My right honourable friend the Prime Minister's message at the conference was clear: Russia must pay for the destruction it has wreaked. That is why we are keeping up the economic pressure on Russia, with an unprecedented package of sanctions targeting over 1,600 individuals and entities since the start of the invasion. This includes dozens of banks with global assets worth £1 trillion and more than 130 oligarchs, freezing £18 billion- worth of assets and costing Russia £20 billion-worth in trade. We have maximised the impact of these measures by co-ordinating with key international partners. Together, we are constraining the funding of Mr Putin's war machine, inflicting a huge economic cost and demonstrating our direct support for Ukraine.

Russia's economy posted a deficit of nearly $50 billion in 2022, the second highest of the post-Soviet era, and with our partners we are choking off Mr Putin's access to key technologies that he needs on the battlefield. We have not stopped there. This legislation marks further progress in our battle against Mr Putin's unwarranted aggression and more. Building on the commitment by G7 leaders in May that sovereign assets will remain immobilised until Russia pays up, the statutory instrument that we are debating enables us to keep sanctions in place until Russia does just that. I am proud to say that the United Kingdom is the first member of the sanctions coalition to make that commitment real.

We will continue to demonstrate international leadership as we look to increase the pressure on Mr Putin and those who support him. As my right honourable friend the Foreign Secretary said, in light of recent events, it is clear that cracks are emerging in Russian support for the war. As internal criticism of Mr Putin's war grows, we will introduce a new route for those under sanction to request that their frozen funds are used for Ukrainian reconstruction. Let me be clear: there is no negotiation, no quid pro quo, no relief from sanctions, no access for those individuals to their assets while they remain under sanctions. But if they wish to do the right thing and use their frozen funds to help right the wrongs caused by Mr Putin's invasion, there will be an approved route to allow them to do just that.

We will also tighten the net on those hiding assets in the United Kingdom. We will require individuals and entities in the UK, or UK persons overseas designated under the Russia sanctions regime, to disclose assets they hold in this country. Failure to do so could result in financial penalties or the confiscation of assets. We will legislate to require those holding assets in the UK on behalf of the central bank of Russia, the Russian Ministry of Finance or the Russian National Wealth Fund, to disclose them to the Treasury. Our action will increase transparency on where these assets are held, and limit opportunities for sanctions evasion. I am sure that noble Lords listened carefully to the discussion in the other place on 27 June. We continue to welcome parliamentary interest and support on this important matter.

Many noble Lords will be aware of the active debate with our international partners on the use of sanctioned assets to support Ukraine's recovery. No country—as yet—has found a solution, but we are confident that we will work forward together. In that confidence, we must ensure that any solution is legally sustainable. We are also working very closely with our allies on the handling of seized Russian assets and will continue to do so. If progress is made by our international partners, we will learn from that. Nothing is off the table, and a cross-government task force is carefully considering all proposals—including those our partners may bring forward.

[Lord Ahmad of Wimbledon]

I now turn to the second part of this legislation. It amends the definition of non-government controlled Ukrainian territory—including Crimea and the non-government controlled areas of Donetsk and Luhansk Oblasts—to incorporate the non-government controlled areas of the Kherson and Zaporizhzhia Oblasts. This change reflects the dynamic situation on the ground and allows our sanctions to adjust to the developments as they unfold. Measures applying to non-government controlled Ukrainian territory in areas of finance, trade and shipping therefore now apply to all those areas not currently under the control of the Ukrainian Government.

The United Kingdom is unwavering in its support for Ukraine's independence, territorial integrity and sovereignty. These measures will restrict the ability of the so-called authorities in these regions to access UK goods and services, investment and finance. Exceptions are in place to cover the delivery of humanitarian assistance or the maintenance of medical facilities to ensure these sanctions are targeted to avoid affecting civilians.

To conclude, these latest measures demonstrate our collective determination to target those who participate in, or facilitate, Mr Putin's continuing illegal war on Ukraine. I assure noble Lords that we will continue to work in unison with Ukraine and our important international partners until Ukraine is restored and the region is secure. The United Kingdom Government will not stop the pressure on Mr Putin and his associates until they have withdrawn from Ukraine, and we welcome the clear and continued strong cross-party support for the actions we have taken. I beg to move.

Lord Collins of Highbury (Lab): My Lords, I start by picking up the point that the Minister made at the end of his contribution, which is that the Opposition remain absolutely at one with the Government in supporting Ukraine and to ensure that there is a full withdrawal of Russia after its illegal invasion. I also welcome these new regulations, particularly as they are designed to ensure that Russia pays for its actions and that certain assets remain frozen so that it pays proper compensation, as the Minister said.

The noble Lord referred to the World Bank estimate of $411 billion as the cost of rebuilding Ukraine; of course, that figure is likely to increase. However, we know that some $300 billion in foreign exchange reserves held by the Russian central bank are currently frozen. The noble Lord knows I am going to ask this question because I have asked it before. At what point will we consider bringing forward legislation to repurpose those frozen assets, so that we can deliver on the commitments made at the excellent reconstruction conference and see that there will be progress in this regard?

I do not know whether the Minister is in a position to update the Committee on the implementation of the 2022 UN General Assembly resolution to establish an international mechanism for Ukraine's reconstruction, but it would be good to have regular updates on that so that we can follow through on the commitments made at the reconstruction conference. That deals with the first part of the regulations.

5.15 pm

The second part extends these sanctions and regulations to non-government controlled areas, such as Crimea and Sevastopol, to reflect latest developments in the war. Of course, Crimea and Sevastopol have been affected by UK sanctions for almost a decade, since the Government implemented the Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014, in response to the illegal invasion—or taking over—of Crimea. Will the Minister explain why this extension is only now being considered, given that we have had those export controls since 2014? I certainly welcome the extension and the action, but it would be good to get an understanding about those original sanctions and where we are now.

The other point is that, of course, Ukraine aims to liberate these areas to which sanctions now apply, so can the Minister tell us how the department is preparing to ensure that, in the event that places such as Donetsk and others are liberated by Ukraine, we can respond quickly to relieve sanctions on those areas and make sure that the Ukrainian Government can focus on rebuilding them?

My final point is about the impact assessment. It estimates a net cost to business of £24 million a year. Will the Minister explain exactly the cause of that cost? Is it monitoring or additional administration, or does it imply that we had substantial business interests still trading in those areas?

I conclude by repeating that we welcome these regulations, and we certainly support the Government's actions in supporting the Government of Ukraine in trying to repel the Russian invasion.

Lord Ahmad of Wimbledon (Con): My Lords, first, I again put on record our thanks to His Majesty's Official Opposition for their strong support of the Government's actions when it comes to sanctions on Russia and, indeed, those supporting Russia. I acknowledge many noble Lords, across all parts of your Lordships' House, in this regard. We very much send a consistent message.

The noble Lord raised frozen assets. As I said, we are working closely with our key partners to look at the assets that are now frozen and what the legal and sustainable routes will be to ensure that no challenge is brought forward on the funds we hold. Those apply to UK funds—previously we have discussed Chelsea FC and its proceeds—and I assure him that much work is being done, particularly by our colleagues in His Majesty's Treasury, to ensure that, first and foremost, structures are set up appropriately and that the measures we take are sustainable and withstand any legal challenge we may face.

In the same way, as we work very closely with our partners in the US, Canada and the EU, they are equally seized of this issue. If good practice prevails in one area, we will look to see how we can replicate that. Of course, as we find solutions, we will share them with our colleagues in the EU.

The noble Lord asked specific questions about settling our CB assets. We continue to explore lawful fund routes, as I have said, and we focused on this at the Ukrainian reconstruction conference. To add to what I have already said, I point out that beyond the EU—including our G7 partners—there is no legally

tested solution yet, but I assure him that we will continue to provide updates as we make further progress in this regard.

The noble Lord asked the pertinent question of why we are doing this now and not before, particularly as these regions were annexed months ago. He will be aware of the sanctions we have introduced; his party has strongly supported them. Since the start of the invasion, the UK has sanctioned over 1,600 individuals and entities, including 29 banks, with global assets worth £960 billion; over 130 oligarchs, with a combined net worth of £145 billion; and over £20 billion-worth of UK-Russia trade. Together with our international partners, we have unleashed the largest and most severe package of sanctions ever imposed on a major economy. On his specific point, we are monitoring a very fluid area, particularly those regions which have been illegally annexed. We need to ensure that the actions that we are taking are co-ordinated and have the desired effect.

In terms of what I have announced about the governance of these new sanctions, we are certainly ahead of our partners. We are ensuring that they are replicated; I am sure that our partners are looking at how they can replicate some of the steps we have taken.

The noble Lord made an equally valid point about how quickly the sanctions can be lifted if these territories are liberated. We are watching a very fluid situation, but we will seek to minimise any kind of disruption as Ukrainian forces liberate regions of their own country which are illegally occupied. Tragically, we are a fair bit off that at the moment, particularly where the liberation of certain key regions is concerned, but I will update him in this respect.

Could I trouble the noble Lord to expand on the specific point he raised at the end and the figure he cited? I will seek to answer that now; if I cannot, I will write to him.

Lord Collins of Highbury (Lab): I was just seeking an explanation in relation to the impact assessment estimating that these regulations will have a net cost to business of £24 million. Is this based on the assumption that UK businesses were continuing to be active and trading in these areas?

Lord Ahmad of Wimbledon (Con): I thank the noble Lord for that clarification. Obviously there are assessments and forecasts made. I will take that back and write on those points.

As someone who many years ago worked with a chief economist, I think the other issue with forecasting is that you are looking at the situations as they stand. With the increasing levels of sanctions imposed, the increasing geographical implications and the increasing number of sectors and entities, there will of course be an increase in the overall cost to countries and businesses which were previously dealing with some of these entities or individuals. When I write to the noble Lord, it will be with a snapshot at a given moment in time, but I will certainly follow up on that.

In closing, I once again thank the noble Lord for his strong support and that of His Majesty's Opposition. I know that he and his party are at one with the Government on this. Once again, this House has sent a consistent and unified message that we stand with the people of Ukraine. This can end now if Mr Putin withdraws, and we will repeat that message through every channel.

The noble Lord also asked about broader issues within the UN structure and the UN Security Council to see how we can take that forward. My right honourable friend the Foreign Secretary will travel to New York—it is currently the United Kingdom's presidency—and he himself will chair the debate on Ukraine, which will include announcements about further developments and recovery.

Motion agreed.

Industrial Training Levy (Engineering Construction Industry Training Board) Order 2023

Considered in Grand Committee

5.26 pm

Moved by ***Baroness Barran***

That the Grand Committee do consider the Industrial Training Levy (Engineering Construction Industry Training Board) Order 2023.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, as the Committee will no doubt appreciate, the engineering construction sector is broad and a significant part of the UK economy. At the heart of the industry is its workforce, and it is vital that the industry has the skills base and expertise to build the infrastructure required to achieve net zero by 2050 and by 2045 in Scotland.

The ECITB predicts that at least 25,000 new roles will be needed for planned projects between now and 2025. This number is expected to grow as other projects are deployed—for example, the retrofitting of industrial sites with carbon capture and hydrogen production technologies, the further expansion of offshore wind, and increasing our plans for the deployment of civil nuclear to provide up to 25% of our projected electricity demand by 2050, as envisaged in the *British Energy Security Strategy* announced last year.

The ECITB was established in 1964 under the Industrial Training Act. It has a clearly defined role in identifying engineering construction skill needs and plays a part, with others, in addressing them. The ECITB has a role in addressing any market failure through its levy and grants system, which gives employees essential skills necessary to access and work on engineering construction sites, drive up skill levels and incentivise training that otherwise simply would not take place. This three-year levy order is expected to raise around £91.5 million, based on average industry growth scenarios, to invest in engineering and construction skills. The levy will be used to support strategic initiatives to help maintain and develop vital skills in the industry and create a pipeline of skilled workers.

I turn now to the details of the draft order; I thank the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee for considering it. The previous 2020 ECITB levy order

[Baroness Barran]
introduced a phased increase to levy rates payable by off-site employees, while maintaining the same levy rates for on-site employees, across its three levy periods. This three-year 2023 levy order seeks to maintain the levy rates prescribed for the third phase of the 2020 order, currently in place, for each of the next three levy periods, and for both off-site and on-site employees. Those rates are 0.33% of the earnings paid by employers to off-site employees and 1.2% of those paid to on-site employees for those businesses that are liable to pay the levy.

Engineering construction employers with an annual wage bill of less than £275,000 for on-site employees will not pay any levy. Employers with an average wage bill of less than £1 million for off-site employees will also be exempted from paying the levy. It is important to note that these exemptions do not stop employers accessing the same ECITB support available to levy-paying employers. It is projected that approximately 18% of all employers in scope of the levy will be exempt from paying it.

5.30 pm

The ECITB has consulted industry on the levy proposals via the consensus process required under the Industrial Training Act 1982. Consensus is achieved by satisfying two requirements: both the majority of employers likely to pay the levy and those employers who, together, are likely to pay more than half the aggregate levy raised must agree that the levy proposals are necessary to encourage adequate training. I reassure your Lordships that both requirements were overwhelmingly satisfied, with 85% of employers in scope of paying the levy—between them, they are likely to pay 97% of the aggregate levy—supportive of the ECITB's proposals. I am delighted to say that this is a significant increase from 2019, when 75% of the likely levy-paying employers, who, between them, were likely to pay 87% of the aggregate levy, were in support of those levy proposals.

This order has significant industry support and will enable the ECITB to continue to carry out its vital training responsibilities. I beg to move.

Baroness Wilcox of Newport (Lab): My thanks go to the Minister for the clear and concise manner in which she laid out this statutory instrument and what it seeks to achieve. The Opposition welcome its current continuance.

We know that the purpose of the instrument is to enable the engineering construction industry to raise and collect a levy on employers. Some years ago, industry training boards were transformed from statutory to non-statutory bodies. The CITB and the ECITB retained their statutory status and powers. We are now considering this routine order.

The CITB exists to ensure that the construction workforce has the right skills for not just now but the future based on three strategic priorities: careers; standards and qualifications; and training and development. However, there is a distinct market failure in the development of skills in the construction industry. This is partly due to the trading conditions, incentives and culture that fail to lead to a sufficient level of investment in skills by employers.

Sadly, it is not just this sector of business. Many employers have failed and continue to fail their employees' upskilling needs, which leads to low levels of productivity. The introduction of the apprenticeship levy six years ago pointed to this fact. The Government needed to encourage employers to invest in skill development, and legislation was needed to support this encouragement.

The economic success of any country relies on delivering key infrastructure. There is a further economic benefit, and this industry provides a wide range of employment opportunities, many of them well paid, highly skilled and with career progression.

Nevertheless, there are intrinsic sectoral barriers that hinder workforce training and the development of skills. Employment in the sector is linked closely to the actual project, which means that there are high numbers of temporary workers and a lot of movement between employers. Furthermore, training costs are high in such a skilled industry and many core engineering skills are transferrable to other industries. This results in individual employers lacking the incentive to train their workforce out of fear of plundering by rival firms. There are few incentives for individual employers to train since the work is often short-term and the labour force highly mobile. This means that long-term skills are overlooked; these are vital, especially in engineering.

The ECITB is right to claim that it helps to make the labour market in engineering construction more efficient and effective. Its intention is to address this market failure by providing grants to employers to train their workforces. I understand that funding from the apprenticeship levy supports apprentices across all sectors and occupations, whereas the ECITB is specifically for the engineering construction industry, using levy funds to provide direct grants to employers to train staff or develop the skills of their existing workforce.

Employers have long asked to be able to use the levy for a wide range of training, not just apprenticeships. Does the Minister have any update for us on whether that change might happen? We have seen more than a decade of decline in skills and training opportunities, which is making the United Kingdom poorer. Businesses, especially those in the engineering construction industry, are unable to fill job vacancies, are being held back by a lack of people with the skills they need and have growing skills shortages. How are the Government addressing these skills shortages in the short, medium and longer term?

Young people and adults are ambitious for their families' futures. They want to learn new skills to get new jobs or progress at work. However, they are being let down and are unable to find training opportunities. Apprenticeship starts have plummeted, with 200,000 fewer people starting these training opportunities. More than 11 million people in the UK lack the basic digital skills needed in our economy while four in 10 young people are leaving education without the qualifications that they need to get on.

By harnessing the ambition and determination of British people, a Labour Government will face these challenges and create a skills system that works for businesses and people across our country. Labour will give businesses the flexibility that they are asking for to train their workforce and deliver growth. We will

start by turning the apprenticeships levy into a growth and skills levy so that it can be used on the greater range of training courses that businesses tell us they need, so that adults can gain new skills and businesses not just in this sector but across the whole economy can grow.

In the intervening time, His Majesty's Opposition support the continuance of the current scheme through this industrial training levy order.

Baroness Barran (Con): I thank the noble Baroness for her support for this order and for recognising the importance of skills training in this area. She paints a rather bleaker picture of the situation as it stands today but certainly raises some helpful points, which I will try to clarify.

The noble Baroness asked what the Government's vision for skills is, both in the short and medium term. I am not sure that time permits me to go into all that but I hope she will recognise that the Government have made a huge investment in skills and apprenticeships, whether that be in the new T-levels, many of which are targeted towards some of the skills demands in engineering and construction, as well as more widely, with the reform of level 4 and level 5 qualifications, the introduction of the lifelong learning entitlement and the provision of boot camps for skills—including digital skills, to which the noble Baroness referred.

With regard to the apprenticeship levy, although I absolutely do not suggest that the noble Baroness is in this camp, for the record, I feel that there is a slightly outdated understanding of the use of the apprenticeship levy. In the financial year 2021-22, 99.6% of the £2.5 billion apprenticeship budget was spent. I appreciate that, in previous years, there were underspends but, in fact, demand for apprenticeships is going up. The awareness and absolutely rightful recognition of the value of apprenticeships, including degree apprenticeships, is much more widespread among young people today than it was even just a few years ago. That programme has gained a lot of traction.

Returning to the order, it is clear from the support that the ECITB's proposals received from levy-paying employers that the engineering construction industry continues to believe that it is right that training is funded through a statutory levy system. As previously stated, this sector is absolutely critical to delivering the infrastructure projects required to meet the environmental challenge of reducing the UK's carbon emissions to zero by 2050. The levy system must continue to be used to help develop a pool of skilled labour, both now and in the future, for this critical sector.

If the levy ceased, it would fall on employers to determine their own training arrangements, devise their own standards and qualifications, and cover the full cost of training. Further, without the grants provided by the levy, many small businesses would simply not be able to afford to train their workforce. There is a firm belief that, without the levy, there would be a serious deterioration in the quality of training, creating a deficiency in skills levels and capacity and, crucially, leaving the sector unable to deliver key projects vital to the UK's economic growth.

Motion agreed.

Electricity Capacity (Amendment) Regulations 2023

Considered in Grand Committee

5.41 pm

Moved by ***Lord Callanan***

That the Grand Committee do consider the Electricity Capacity (Amendment) Regulations 2023.

The Parliamentary Under-Secretary of State, Department for Energy Security and Net Zero (Lord Callanan) (Con): My Lords, these regulations were laid before the House on 12 June 2023. Before I outline the provisions made by this draft instrument, I will provide some context. The capacity market is at the heart of the Government's strategy for maintaining the security of electricity supply in Great Britain. Through capacity auctions, we secure the capacity needed to meet future peak demand under a range of scenarios, based on advice from the capacity market delivery body, the National Grid Electricity System Operator.

Existing and new-build capacity compete in technology-neutral auctions, held one year and four years ahead of delivery, to obtain agreements. Those which win capacity agreements, known as capacity providers, commit to making their capacity available when needed in return for guaranteed payments. This supports the necessary investment in new and existing capacity to ensure security of electricity supply. The most recent capacity auctions, held in February 2023, secured the electricity capacity that Britain needs to cope with peaks in winter demand for 2023-24. Capacity providers that fail to deliver against their obligations are subject to financial penalties. Capacity payments are funded by electricity suppliers, which recover this cost from electricity consumers.

Since its introduction in 2014, the capacity market has contributed to investment in just under 17.5 gigawatts of new, flexible capacity to replace older, less efficient plant as we transition to a net-zero economy. To ensure that the capacity market continues to function effectively, we regularly make adjustments to the implementing legislation based on our day-to-day experiences of operating the scheme. Although the future geopolitical context is, of course, still uncertain, we recognise that the world is likely to face continued challenges next winter around the security of energy supply, considering Russia's illegal invasion of Ukraine. The Government continue to work closely with Ofgem, the gas and electricity system operators, and all relevant stakeholders to build on the measures we put in place for winter 2022-23 and ensure we have the appropriate tools available to secure our energy supply for winter 2023-24.

The changes we are making to the capacity market this year, through both this draft instrument and changes to the capacity market rules, focus on longer-term changes that will impact capacity auctions held from February 2024 onwards, for delivery from winter 2024-25. In this context, this draft instrument makes changes to three electricity capacity regulations to deliver technical improvements that support the functioning of the capacity market, which have been identified and explored over the past year through consultation.

5.45 pm

The capacity market is now well-established, with capacity auctions held every year since their inception in 2014. The Secretary of State has published their intent to hold these capacity auctions every year. This draft instrument aims to reduce the administrative burden associated with the process, as we believe it is more appropriate to instead notify the market when the intention is for an auction not to be held.

We have also been made aware that the existing transfer route that enables capacity agreements to be terminated in order to participate in the contracts for difference scheme cannot be used in practice, due to interactions between the definitions used in the regulations and delivery timeframes. This draft instrument therefore seeks to amend the definition of the contracts for difference transfer notice to better enable transfer routes to be utilised in practice.

Finally, the draft instrument seeks to improve administrative arrangements by extending the timescales associated with the settlement body's calculation of penalties and issuing of associated invoices for non-delivery. This extension is required to ensure that the settlement body has sufficient time to receive relevant data, so that it can accurately calculate the appropriate penalties for capacity providers.

The amendments included in this instrument were consulted on between 9 January and 3 March this year and were broadly supported by respondents. We also consulted on a wider range of changes, including to the capacity market rules. As signalled in the Government's response to the consultation, we intend to follow a two-phased approach to capacity market reforms. First, we intend to proceed with technical changes to strengthen security of supply and ensure better value for money for consumers. In the second phase, we intend to undertake further analysis and development before taking a final decision on implementation. This is to ensure we can have confidence that the changes we make remain aligned with the core objective of ensuring security of electricity supplies at the least cost to consumers, while minimising unintended consequences.

In line with the broad support for greater alignment of the capacity market with net zero, the Government remain committed to introducing an emissions limit reduction into the capacity market to help drive the transition to a net-zero power system by 2035—subject, as always, to security of supply. Further analysis is required to understand the impact these proposals will have on energy security. This is key to ensuring that the Government can progress their ambitions for a clean energy system in a way which takes account of increased geopolitical uncertainty and the resultant impact on energy security.

We also intend to make a number of technical amendments to the capacity market rules, which are due to be laid before the House shortly. These include technical changes to the way capacity is registered during pre-qualification to better reflect what a capacity provider can deliver when needed. The amendments also extend temporary measures introduced last year to increase opportunities for competition in capacity auctions, by removing identified barriers to participation for mothballed plant and allowing enough time for participants to have the necessary verifications in place. Finally, rule changes will be introduced to reduce administrative burdens for prospective capacity providers and to clarify how auctions are operated for the benefit of participants.

In conclusion, this draft instrument introduces a number of technical provisions which are necessary to enable the continued efficient operation of the capacity market, so that it can continue to deliver on its objectives. I commend these regulations to the Committee.

Lord Naseby (Con): My Lords, I will concentrate on the Explanatory Memorandum in relation to the capacity market. As I understand it, last winter something did not go quite right in the sense that, at a certain point we had to use coal, which had not been planned for. Perhaps the Minister will correct me if it had been planned for, but my understanding is that it was not planned for. As we look at the coming winter, we have just experienced one of the hottest Junes ever and it is not inconceivable that we could have the coldest winter ever. As I understand it, there is definitely no coal available for this coming winter. Is that right? If the coal is not there, where is the extra capacity to come from?

I also notice that, for some reason, His Majesty's Government have postponed bringing on small-scale nuclear. A number of us have kept a close watch on Rolls-Royce in particular, which I understand has been ready to get moving on small-scale nuclear, which would be part of a capacity situation. I am deeply concerned—and I am looking for a confident answer from my noble friend—that if we hit a really cold winter this year, we have the capacity for something to come on stream. There would be nothing worse for the United Kingdom as a whole if we found that we needed black-outs and fuel cuts.

Baroness Walmsley (LD): My Lords, I inform the Committee that I have a close family member who works for Ofgem. He is responsible for energy security and has been making plans for next winter, but I have not discussed this SI with him.

The capacity market, brought in by a Liberal Democrat Secretary of State, has been a great success. This statutory instrument aims to continue that success by improving the processes and reducing the administrative burden. We are all in favour of that, especially the flexibility that makes it easier to transfer from capacity market schemes to contracts for difference, where appropriate. However, I have a few questions for the Minister about the scheme in general.

First, how well are the Government succeeding in minimising the use of fossil fuels in the capacity market? What percentage is expected to be clean energy, and within what timescale? I was glad to hear the Minister say in his introduction that there will be an emissions limit on those applying.

Secondly, what is the Government's aim for enabling demand reduction, and what percentage of bids do they want to see for the demand-side reductions? This is just as important as generation if we are to decarbonise and reduce the potentially enormous grid capacity increase needed to reach net zero. How many of the successful companies in offshore wind round 4 auctions

have reached financial close for their projects—that is, they have agreed their financing requirements to deliver the scheme with financial institutions? As I understand it, only one successful bidder has yet managed to reach financial close on their project, so the whole programme of offshore wind coming on stream is coming to a halt.

Moray West offshore wind farm, owned by Ocean Winds and minority shareholder Ignitis Group, has secured £2 billion of non-recourse project finance. Initially, bids were famously low, but with inflation now across the supply chain, perhaps the numbers do not add up for most of the schemes. How are the Government going to solve this? Given the financial situation, can the Minister say whether it is still wise to have most capacity market schemes for only 12-month projects?

I look forward to the Minister's reply—particularly to the questions about coal.

Lord Lennie (Lab): My Lords, I thank the Minister for setting out the instrument and giving us advance warning that more is to come shortly. The capacity market is at the heart of maintaining a secure and reliable electricity system. It provides all forms of electricity capacity on a system during periods of electricity shortage and stress, such as when it is extremely cold or when the wind is low while demand is high. As the Minister said, the capacity market works by allowing eligible bidders to compete in T-1 or T-4 auctions on a one-year or four-year basis ahead of when they must deliver capacity. A successful bidder is awarded a capacity agreement which requires delivery during times of stress.

As the Minister said, this instrument makes changes to three areas of regulation. First, Regulation 10 of the 2014 regulations obliges the Secretary of State to set out whether capacity auctions are to be held. The change will require the Secretary of State to publish a decision only if the Government determine that an auction will not be held, helping to improve administrative efficiency. Does this effectively enrol a current capacity provider into the scheme automatically?

Secondly, Regulation 34 of the 2014 regulations allows capacity providers to seek termination of their capacity agreement with a view to becoming eligible to participate in the contracts for difference scheme. I think the Minister said that they are mutually exclusive as things stand. Currently, the LCCC, as the counterparty, has to give notice of such an intention. However, it cannot know in advance if the CMU will be successful in its bid for a contract for difference.

This instrument means that notice comes from a capacity provider seeking termination of their capacity agreement in order to become eligible to apply in a contract for difference allocation round. How many capacity providers have thus far been unable to use the process set out in Regulation 34? The Minister may say all of them, but how many would have wanted to use the termination process? Have the Government made any assessment of the impact of this, and will this change be kept under review?

Thirdly, I turn to Regulation 41 of the 2014 regulations. Capacity providers can be financially penalised, as the Minister said, if they fail to provide capacity in times of stress. Currently, the settlement body has 21 days to calculate the relevant penalty and to invoice capacity providers which must pay such penalties. This instrument increases the timeframe to 35 days. Does that mean that penalties that should have been paid were previously missed because they were not calculated in time? If so, could the Minister indicate the value of those? By contrast, is this change expected to increase the number and value of penalties that are enforced? I look forward to the Minister's response.

Lord Callanan (Con): First, I thank the noble Lords, Lord Naseby and Lord Lennie, and the noble Baroness, Lady Walmsley, for their valuable contributions on an important subject for the nation's electricity supplies.

As I mentioned in my introduction, the capacity market is our main mechanism for ensuring the security of electricity supply. To address the point made by the noble Lord, Lord Naseby, I say that it has already secured the majority of Great Britain's capacity needs right out to 2026-27, because the Government take no chances with the security of supply. We continue to believe that the capacity market is an effective insurance mechanism, providing secure and affordable electricity that families and businesses can rely on.

The capacity market is, indeed, tried and tested. The fact that it has supported investment in just under 17.5 gigawatts of new-build, flexible capacity since its introduction demonstrates that it can bring forward the capacity needed to meet future peak demand and replace older capacity as it retires and as we transition to a net-zero economy.

Furthermore, we continue to take steps to ensure its ongoing, efficient and effective operation. The Government are committed to ensuring that the right policy tools are in place for delivering a secure and affordable electricity system as we transition to net zero. That includes regularly assessing the performance of the capacity market and, as we are debating today, exploring improvements to the scheme.

As we noted in our 2023 government response to the capacity market consultation, we have set out a two-phased approach for reforms in the capacity market. This instrument seeks to implement purely technical amendments under the first phase to improve the administrative arrangements. In the next phase of reforms to the capacity market, the Government intend to undertake further analysis and development on the remaining proposals prior to taking a final decision on implementation. This includes proposals to align the capacity market with net zero, such as reducing the emission intensity limits for new-build plants and enabling low-carbon capacity with low capital expenditure to access multi-year agreements.

We will also look ahead to the future as part of the review of electricity market arrangements programme. REMA is exploring options to create an electricity market design that will enable us to transition efficiently from fossil fuels to renewables and other forms of low-carbon generation, which I hope will make us more resilient to overseas energy shocks and ensure energy security.

6 pm

I will deal with the specific questions raised, starting with my noble friend Lord Naseby. I emphasise that spells of cold weather in winter 2022-23 actually helped

[Lord Callanan]
to show the resilience of the UK's energy supply. Our gas system was well supplied at all times, and the market responded effectively to increased demand where necessary. Electricity margins were, on occasions, fairly tight. This was resolved through the national grid's standard tools. Our back-up coal plants, to which my noble friend referred, were warmed up, but only called into action once, where two coal-fired units were fired up in West Burton to help to maintain a healthy buffer of supply. For winter 2022-23, National Grid ESO agreed temporary extensions of the operation of certain coal-fired power stations to provide additional back-up generation, which retained about 2.4 gigawatts of non gas-fired electricity capacity.

Of course, while the future geopolitical context is still very uncertain, we recognise that the world is likely to face continued challenges next winter around security of energy supply, given the context of Russia's illegal invasion of Ukraine. Having said that, the Government will continue to work closely with Ofgem, the gas and electricity system operators and all relevant stakeholders to build on and expand the measures that we put in place for winter 2022-23 and ensure that we have the maximum tools available to secure our energy supply for the winter coming up, 2023-24. To take an example, the T-1 capacity market auction has secured 5.8 gigawatts of electricity capacity for the delivery year 2023-24, bringing our total to 53.8 gigawatts.

My noble friend also mentioned small and advanced modular reactors. As I have said to him before in answer to Questions, we have announced £385 million of funding in an advanced nuclear fund to invest further in the next generation of nuclear technology—of course, as always, subject to value for money and future spending rounds. The Government intend to take two projects to final investment decision in the next Parliament, including SMRs and AMRs, subject to scrutiny approvals, value for money, and technology readiness and maturity.

On the points made by the noble Baroness, Lady Walmsley, I emphasise that agreements for up to 15 years are available to new-build projects. I am happy to write to her on the specific developments she mentioned. The capacity market helps to maintain public support for net zero by ensuring a secure electricity supply as we decarbonise the power sector. The Government also remain committed to achieving a fully decarbonised power sector by 2035—again, subject to security of supply—and the actions that will set us on course for this have been set out in our many publications: the energy White Paper, the *Net Zero Strategy*, the *British Energy Security Strategy* and the *Powering Up Britain* energy security plan.

The share of low-carbon technologies, including storage, DSR and renewables, awarded agreements in the capacity market auctions has, in fact, grown significantly in recent years. A second consultation on the review of electricity market arrangements in autumn 2023 will set out further details on a direction of travel and next steps on measures that will facilitate the net-zero transition of the power sector. Across the electricity system, there is a need to significantly increase the deployment of low-carbon flexibility to maintain security of supply, to integrate renewables and to meet our decarbonisation goals—all at the lowest possible cost. The 2021 smart systems and flexibility plan therefore set out a range of actions to remove barriers and reform markets for flexibility. This included considering how the capacity market needs to adapt to better align with our net-zero ambitions.

In response to the noble Lord, Lord Lennie, I emphasise that transfers between the capacity market and contracts for difference will not be automatic. The delivery body must make an assessment of the applications and will issue a termination only if these requirements, as set out in the regulations, are met. We are aware of a handful of capacity providers that have mentioned interest in the transfer route. We expect uptake in the route to be relatively small, but we are committed to monitoring the ongoing impact of the change.

Regarding the respondents who asked for broader consideration of the interactions with other government support schemes, as always, the Government intend to keep this under review to ensure continued alignment with the subsidy control principles and wider energy market developments.

On the requirement for penalties timelines, these changes are required to maintain the efficient delivery of the scheme. We have not had a system stress event since the inception of the scheme, which demonstrates the success of the capacity market in achieving its core objective of maintaining security of supply. We expect that the practical changes made through this instrument will simply improve the accuracy of the penalties that may be issued following a system stress event, but we do not expect impacts on the number of penalties issued.

Returning to the draft instrument before the Committee, the changes respond to three targeted and technical improvements to address issues that we have encountered through the operation of the capacity market. The amendments will ensure that the capacity market continues to deliver on its objective of ensuring secure electricity supplies—as always, at least cost to consumers. I therefore commend these draft regulations to the Committee.

Motion agreed.

Committee adjourned at 6.06 pm.