



SUPPLEMENT TO THE VOTES AND PROCEEDINGS

Monday 10 October 2011

REPORT STAGE PROCEEDINGS

PROTECTION OF FREEDOMS BILL

[FIRST DAY]

*NEW CLAUSES AND NEW SCHEDULES RELATING TO, AND AMENDMENTS TO, CHAPTER
1 OF PART 1*

Alan Johnson
Hazel Blears
Mr David Hanson
Siobhain McDonagh
Andrew Percy
Philip Davies

Negated on division **89**

Page **3**, line **43** [*Clause 3*], leave out from ‘offence’ to end of line 44.

Secretary Theresa May

Agreed to **1**

Page **3**, line **44** [*Clause 3*], leave out ‘any prescribed circumstances apply’ and insert ‘the Commissioner for the Retention and Use of Biometric Material has consented under section 63FA to the retention of the material’.

Alan Johnson
Hazel Blears
Mr David Hanson
Siobhain McDonagh
Andrew Percy
Philip Davies

Not called **91**

Page **4**, line **2** [*Clause 3*], leave out ‘3’ and insert ‘6’.

Alan Johnson
Hazel Blears
Mr David Hanson
Siobhain McDonagh
Andrew Percy
Philip Davies

Not called **92**

Page **4**, line **4** [*Clause 3*], leave out ‘3’ and insert ‘6’.

Protection of Freedoms Bill, *continued*

Secretary Theresa May
 Alan Johnson
 Hazel Blears
 Mr David Hanson
 Siobhain McDonagh
 Andrew Percy

Page 4 [*Clause* 3], leave out lines 24 to 31. *Agreed to* 2

Secretary Theresa May

Page 4 [*Clause* 3], leave out lines 43 and 44. *Agreed to* 3

Secretary Theresa May

Page 5 [*Clause* 3], leave out lines 6 to 11. *Agreed to* 4

Secretary Theresa May

Page 5, line 11 [*Clause* 3], at end insert— *Agreed to* 5

‘63FA Retention of section 63D material by virtue of section 63F(5): consent of Commissioner

- (1) The responsible chief officer of police may apply under subsection (2) or (3) to the Commissioner for the Retention and Use of Biometric Material for consent to the retention of section 63D material which falls within section 63F(5)(a) and (b).
- (2) The responsible chief officer of police may make an application under this subsection if the responsible chief officer of police considers that the material was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of an offence where any alleged victim of the offence was, at the time of the offence—
 - (a) under the age of 18,
 - (b) a vulnerable adult, or
 - (c) associated with the person to whom the material relates.
- (3) The responsible chief officer of police may make an application under this subsection if the responsible chief officer of police considers that—
 - (a) the material is not material to which subsection (2) relates, but
 - (b) the retention of the material is necessary to assist in the prevention or detection of crime.
- (4) The Commissioner may, on an application under this section, consent to the retention of material to which the application relates if the Commissioner considers that it is appropriate to retain the material.
- (5) But where notice is given under subsection (6) in relation to the application, the Commissioner must, before deciding whether or not to give consent, consider any representations by the person to whom the

Protection of Freedoms Bill, *continued*

material relates which are made within the period of 28 days beginning with the day on which the notice is given.

- (6) The responsible chief officer of police must give to the person to whom the material relates notice of—
 - (a) an application under this section, and
 - (b) the right to make representations.
- (7) A notice under subsection (6) may, in particular, be given to a person by—
 - (a) leaving it at the person's usual or last known address (whether residential or otherwise),
 - (b) sending it to the person by post at that address, or
 - (c) sending it to the person by email or other electronic means.
- (8) The requirement in subsection (6) does not apply if the whereabouts of the person to whom the material relates is not known and cannot, after reasonable inquiry, be ascertained by the responsible chief officer of police.
- (9) An application or notice under this section must be in writing.
- (10) In this section—
 - “victim” includes intended victim,
 - “vulnerable adult” has the meaning given by section 60(1) of the Safeguarding Vulnerable Groups Act 2006,
 - and the reference in subsection (2)(c) to a person being associated with another person is to be read in accordance with section 62(3) to (7) of the Family Law Act 1996.’.

Alan Johnson
Hazel Blears
Mr David Hanson
Siobhain McDonagh
Andrew Percy
Philip Davies

Not called 94

Page 5, line 32 [*Clause 4*], at end insert ‘Otherwise the retention period is 6 years.’.

Alan Johnson
Hazel Blears
Mr David Hanson
Siobhain McDonagh
Andrew Percy
Philip Davies

Not called 83

Page 5, line 34 [*Clause 4*], at end add—

- ‘(4) If the person was under the age of 18 at the time of the offence the retention period is three years.’.

Protection of Freedoms Bill, *continued*

Secretary Theresa May

Agreed to **6**

Page 7, line 33 [*Clause 8*], after ‘2001’ insert ‘and in respect of whom no proceedings are brought for the offence to which the notice relates’.

Alan Johnson
Hazel Blears
Mr David Hanson
Siobhain McDonagh
Andrew Percy
Philip Davies

Not called **84**

Page 8, line 5 [*Clause 9*], after ‘retained’, insert ‘for an initial period of six years, then’.

Secretary Theresa May

Agreed to **7**

Page 11, line 43 [*Clause 17*], at end insert—

- ‘(2A) Sections 63D to 63P, 63R and 63S do not apply to material which is, or may become, disclosable under—
- (a) the Criminal Procedure and Investigations Act 1996, or
 - (b) a code of practice prepared under section 23 of that Act and in operation by virtue of an order under section 25 of that Act.
- (2B) Sections 63D to 63S do not apply to material which—
- (a) is taken from a person, but
 - (b) relates to another person.’.

Vernon Coaker
Diana Johnson
Clive Efford
Mark Tami
Yvette Cooper

Negated on division **108**

Page 13, line 26 [*Clause 20*], leave out from ‘must’ to end of line 28 and insert—

‘place a report in both Houses, after consultation with the Association of Chief Police Officers (ACPO), on the suitability of a Commissioner for the Retention and Use of Biometric Material (referred to in this section and sections 21 and 22 as “the Commissioner”.

(1A) Subject to the approval of a report laid under subsection (1) by resolution of both Houses of Parliament, the Secretary of State may appoint a Commissioner to be known as the Commissioner for the Retention and Use of Biometric Material.’.

Protection of Freedoms Bill, *continued*

Secretary Theresa May

Agreed to 8Page 13, line 28 [*Clause 20*], leave out ‘sections 21 and 22’ and insert ‘section 21’.

Secretary Theresa May

Agreed to 9

Page 13, line 38 [*Clause 20*], at end insert—

‘(iiia) paragraph 11 of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011 (paragraph 6 material retained for purposes of national security)’.

Secretary Theresa May

Agreed to 10Page 14, line 10 [*Clause 20*], after ‘functions’ insert ‘under subsection (2)’.

Secretary Theresa May

Agreed to 11

Page 14, line 17 [*Clause 20*], at end insert—

‘(5A) The Commissioner also has the function of keeping under review—

- (a) the retention and use in accordance with sections 63A and 63D to 63S of the Police and Criminal Evidence Act 1984 of—
 - (i) any material to which section 63D or 63Q of that Act applies (fingerprints, DNA profiles and samples), and
 - (ii) any copies of any material to which section 63D of that Act applies (fingerprints and DNA profiles),
- (b) the retention and use in accordance with paragraphs 20A to 20I of Schedule 8 to the Terrorism Act 2000 of—
 - (i) any material to which paragraph 20A or 20G of that Schedule applies (fingerprints, relevant physical data, DNA profiles and samples), and
 - (ii) any copies of any material to which paragraph 20A of that Schedule applies (fingerprints, relevant physical data and DNA profiles),
- (c) the retention and use in accordance with sections 18 to 18E of the Counter-Terrorism Act 2008 of—
 - (i) any material to which section 18 of that Act applies (fingerprints, DNA samples and DNA profiles), and
 - (ii) any copies of fingerprints or DNA profiles to which section 18 of that Act applies,
- (d) the retention and use in accordance with paragraphs 5 to 14 of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011 of—
 - (i) any material to which paragraph 6 or 12 of that Schedule applies (fingerprints, relevant physical data, DNA profiles and samples), and
 - (ii) any copies of any material to which paragraph 6 of that Schedule applies (fingerprints, relevant physical data and DNA profiles).

Protection of Freedoms Bill, *continued*

- (5B) But subsection (5A) does not apply so far as the retention or use of the material falls to be reviewed by virtue of subsection (2).
- (5C) In relation to Scotland—
- (a) the reference in subsection (5A)(b) to use of material, or copies of material, in accordance with paragraphs 20A to 20I of Schedule 8 to the Terrorism Act 2000 includes a reference to use of material, or copies of material, in accordance with section 19C(2)(c) and (d) of the Criminal Procedure (Scotland) Act 1995, and
 - (b) the reference in subsection (5A)(d) to use of material, or copies of material, in accordance with paragraphs 5 to 14 of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011 is to be read as a reference to use only for a purpose mentioned in paragraph 13(1)(a) or (b) of that Schedule to that Act.
- (5D) The Commissioner also has functions under sections 63F(5)(c) and 63FA (giving of consent in relation to the retention of certain section 63D material).’.

Secretary Theresa May

Agreed to 12

Page 14, line 36 [*Clause 21*], leave out ‘carrying out of those’ and insert ‘Commissioner’s’.

Secretary Theresa May

Agreed to 13

Page 14, line 39 [*Clause 21*], leave out from ‘the’ to end of line 40 and insert ‘Commissioner’s functions.’.

Secretary Theresa May

Agreed to 14

Page 15, line 14 [*Clause 22*], after ‘Commissioner’ insert ‘for the Retention and Use of Biometric Material’.

Secretary Theresa May

Agreed to 15

Page 16, line 12 [*Clause 24*], leave out ‘this section’ and insert ‘subsection (2).

(3A) The National DNA Database Strategy Board may issue guidance about the circumstances in which applications may be made to the Commissioner for the Retention and Use of Biometric Material under section 63FA.

(3B) Before issuing any such guidance, the National DNA Database Strategy Board must consult the Commissioner for the Retention and Use of Biometric Material.’.

Protection of Freedoms Bill, *continued*

Vernon Coaker
Diana Johnson
Clive Efford
Mark Tami
Yvette Cooper

Not called **109**

Page 16, line 27 [*Clause* 25], at end insert—

‘(1A) The provisions of this Chapter may not come into force until the conditions of 20(1) have been met.’.

Alan Johnson
Hazel Blears
Mr David Hanson
Siobhain McDonagh
Andrew Percy
Philip Davies

Not called **85**

Page 16, line 33 [*Clause* 25], leave out ‘3’ and insert ‘6’.

Alan Johnson
Hazel Blears
Mr David Hanson
Siobhain McDonagh
Andrew Percy
Philip Davies

Not called **86**

Page 16, line 39 [*Clause* 25], leave out ‘3’ and insert ‘6’.

Alan Johnson
Hazel Blears
Mr David Hanson
Siobhain McDonagh
Andrew Percy
Philip Davies

Not called **87**

Page 17, line 1 [*Clause* 25], leave out ‘3’ and insert ‘6’.

Alan Johnson
Hazel Blears
Mr David Hanson
Siobhain McDonagh
Andrew Percy
Philip Davies

Not called **88**

Page 17, line 4 [*Clause* 25], after ‘derived’, insert ‘6 years or more’.

Protection of Freedoms Bill, *continued*

Alan Johnson
 Hazel Blears
 Mr David Hanson
 Siobhain McDonagh
 Andrew Percy
 Philip Davies

Not called **82**

Page **17**, line **9** [*Clause 25*], at end insert—

- ‘(d) in the case of material taken or derived less than six years before the commencement day from a person who—
 - (i) was arrested for, or charged with, the offence and
 - (ii) has not been convicted of the offence,
 the destruction of the material at the end of the period of six years beginning with the day on which the material was taken or derived.’.

Secretary Theresa May

Agreed to **33**

Page **90**, line **24** [*Schedule 1*], at end insert—

- ‘(da) any of the fingerprints, data or samples obtained under paragraph 1 or 4 of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011, or information derived from such samples.’.

Secretary Theresa May

Agreed to **34**

Page **95**, line **31** [*Schedule 1*], at end insert—

- ‘(1A) Subject to sub-paragraph (1), a relevant search (within the meaning given by paragraph 20A(6)) may be carried out in relation to material to which paragraph 20A or 20G applies if the responsible chief officer of police considers the search to be desirable.’.

Secretary Theresa May

Agreed to **35**

Page **96**, line **10** [*Schedule 1*], after ‘(1)’ insert ‘, (1A)’.

Secretary Theresa May

Agreed to **36**

Page **97**, line **16** [*Schedule 1*], leave out ‘paragraph 20H’ and insert ‘a relevant

Protection of Freedoms Bill, *continued*

search (within the meaning given by paragraph 20A(6)) or for the purposes of’.

Secretary Theresa May

Agreed to **37**

Page **100**, line **18** [*Schedule 1*], at end insert—

‘(1A) Subject to subsection (1), section 18 material may be checked against other fingerprints, DNA samples or DNA profiles held by a law enforcement authority or the Scottish Police Services Authority if the responsible officer considers the check to be desirable.’

Secretary Theresa May

Agreed to **38**

Page **103**, line **6** [*Schedule 1*], at end insert—

‘PART 3A

MATERIAL SUBJECT TO THE TERRORISM PREVENTION AND INVESTIGATION MEASURES ACT 2011

4A After paragraph 10(2) of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011(fingerprints and samples) insert—

“(2A) But a person is not to be treated as having been convicted of an offence if that conviction is a disregarded conviction or caution by virtue of section 88 of the Protection of Freedoms Act 2011.”’

NEW CLAUSES AND NEW SCHEDULES RELATING TO, AND AMENDMENTS TO, CHAPTER 2 OF PART 3

Offence of issuing excess parking charges

Diana Johnson
Vernon Coaker
Clive Efford
Mark Tami
Yvette Cooper

Negated on division **NC15**

To move the following Clause:—

- ‘(1) A person commits an offence who, without lawful authority requires a driver or any person in possession of a vehicle to pay parking charges in relation to a contract to park that vehicle.
- (2) The express or implied consent (whether or not legally binding) of a person otherwise entitled to enter into a contract regarding parking is not lawful authority for the purposes of subsection (1).

Protection of Freedoms Bill, *continued*

- (3) Subsection (2) does not apply where—
 - (a) the person or body attempting to enforce the parking charges is a member of an Accredited Trade Association so accredited by the Secretary of State;
 - (b) the penalty charge can be appealed to an independent body;
 - (c) the person or body attempting to enforce the parking charges takes reasonable steps to inform the driver or keeper of the vehicle about the right to appeal; and
 - (d) the person or body follows a prescribed parking enforcement process including clear signage and contact numbers.
 - (4) The Secretary of State can, by way of regulation, introduce a maximum charge, under which parking charges would not be subject to subsection (1).
 - (5) A person who is entitled to remove a vehicle cannot commit an offence under this section in relation to that vehicle.
 - (6) A person guilty of an offence under this section is liable—
 - (a) on conviction on indictment, to a fine,
 - (b) on summary conviction, to a fine not exceeding the statutory maximum which must be no higher than charges for an on-street parking offence.
 - (7) In this section “motor vehicle” means a mechanically propelled vehicle or a vehicle designed or adapted for towing by a mechanically propelled vehicle.’
-

Secretary Theresa May

Agreed to 21Page 38 [*Clause 54*], leave out lines 14 to 18 and insert—

- (3) But, where the restriction of the movement of the vehicle is by means of a fixed barrier and the barrier was present (whether or not lowered into place or otherwise restricting movement) when the vehicle was parked, any express or implied consent (whether or not legally binding) of the driver of the vehicle to the restriction is, for the purposes of subsection (1), lawful authority for the restriction.’

Secretary Theresa May

Agreed to 76Page 39, line 11 [*Clause 56*], leave out from ‘keeper’ to ‘has’ in line 12 and insert ‘or hirer of a vehicle in certain circumstances)’.

Henry Smith

Not selected 81Page 39, line 12 [*Clause 56*], at end add—

- () The Secretary of State shall make provision for the purpose of providing independent redress, which is free to consumers and funded through the industry, where:
 - (a) the driver of a vehicle is required by a relevant contract to pay parking charges in respect of the parking on relevant land; and either
 - (b) those charges are disputed; or

Protection of Freedoms Bill, *continued*

- (c) there are reasonable grounds for challenging any claimed breach of the contract in (a), including disproportionate charging and inadequate signage.’.
-

Secretary Theresa May

Agreed to **39**

Page **113**, line **11** [*Schedule 4*], leave out ‘a relevant contract’ and insert ‘virtue of a relevant obligation’.

Secretary Theresa May

Agreed to **40**

Page **113**, line **14** [*Schedule 4*], leave out ‘or have only been partly paid’ and insert ‘in full’.

Secretary Theresa May

Agreed to **41**

Page **113**, line **22** [*Schedule 4*], leave out ‘claim’ and insert ‘recover’.

Secretary Theresa May

Agreed to **42**

Page **113**, line **24** [*Schedule 4*], leave out from ‘service’ to end of line 25 and insert ‘means—

- (a) in the case of the keeper, an address which is either—
 - (i) an address at which documents relating to civil proceedings could properly be served on the person concerned under Civil Procedure Rules; or
 - (ii) the keeper’s registered address (if there is one); or
- (b) in the case of the driver, an address at which the driver for the time being resides or can conveniently be contacted;’.

Secretary Theresa May

Agreed to **43**

Page **113**, line **30** [*Schedule 4*], at end insert—
 “‘notice to driver’ means a notice given in accordance with paragraph 6A;
 “‘notice to keeper’ means a notice given in accordance with paragraph 6B or 6C (as the case may be);’.

Secretary Theresa May

Agreed to **44**

Page **113**, line **31** [*Schedule 4*], leave out from ‘charge’ to end of line 33 and insert—

- ‘—
- (a) in the case of a relevant obligation arising under the terms of a relevant contract, means a sum in the nature of a fee or charge, and
 - (b) in the case of a relevant obligation arising as a result of a trespass or other tort, means a sum in the nature of damages, however the sum in question is described;’.

Protection of Freedoms Bill, *continued*

Secretary Theresa May

Agreed to 45

Page 113, line 33 [*Schedule 4*], at end insert—
 “registered address” means, in relation to the keeper of a registered vehicle, the address described in paragraph 7(3)(b) (as provided by the Secretary of State in response to the application for the keeper’s details required by paragraph 7);’.

Secretary Theresa May

Agreed to 46

Page 113, line 39 [*Schedule 4*], after ‘on the’ insert ‘relevant’.

Secretary Theresa May

Agreed to 47

Page 114, line 3 [*Schedule 4*], at end insert—
 “relevant obligation” means—
 (c) an obligation arising under the terms of a relevant contract; or
 (d) an obligation arising, in any circumstances where there is no relevant contract, as a result of a trespass or other tort committed by parking the vehicle on the relevant land;’.

Secretary Theresa May

Agreed to 48

Page 114 [*Schedule 4*], leave out lines 4 to 6.

Secretary Theresa May

Agreed to 49

Page 114, line 8 [*Schedule 4*], at end insert—
 (2) The reference in the definition of “parking charge” to a sum in the nature of damages is to a sum of which adequate notice was given to drivers of vehicles (when the vehicle was parked on the relevant land).
 (3) For the purposes of sub-paragraph (2) “adequate notice” means notice given by—
 (a) the display of one or more notices in accordance with any applicable requirements prescribed in regulations under paragraph 7A for, or for purposes including, the purposes of sub-paragraph (2); or
 (b) where no such requirements apply, the display of one or more notices which—
 (i) specify the sum as the charge for unauthorised parking; and
 (ii) are adequate to bring the charge to the notice of drivers who park vehicles on the relevant land.’.

Secretary Theresa May

Agreed to 50

Page 114, line 40 [*Schedule 4*], leave out ‘claim payment of’ and insert ‘recover’.

Secretary Theresa May

Agreed to 51

Page 114, line 42 [*Schedule 4*], leave out sub-paragraphs (2) to (6) and insert—

Protection of Freedoms Bill, *continued*

- (2) The right under this paragraph applies only if—
- (a) the conditions specified in paragraphs 5, 6, 7 and 7A (so far as applicable) are met; and
 - (b) the vehicle was not a stolen vehicle at the beginning of the period of parking to which the unpaid parking charges relate.
- (3) For the purposes of the condition in sub-paragraph (2)(b), the vehicle is to be presumed not to be a stolen vehicle at the material time, unless the contrary is proved.
- (4) The right under this paragraph may only be exercised after the end of the period of 28 days beginning with the day on which the notice to keeper is given.’.
-

Secretary Theresa May

Agreed to **52**

Page **115**, line **17** [*Schedule 4*], leave out ‘claimed’ and insert ‘recovered’.

Secretary Theresa May

Agreed to **53**

Page **115**, line **18** [*Schedule 4*], leave out ‘the driver under paragraph 6(2)(d) less’ and insert ‘keeper under paragraph 6B(2)(c) or (d) or, as the case may be, 6C(2)(d) (less’.

Secretary Theresa May

Agreed to **54**

Page **115**, line **20** [*Schedule 4*], leave out ‘notice is given’ and insert ‘time so specified’.

Secretary Theresa May

Agreed to **77**

Page **115**, line **23** [*Schedule 4*], at end insert—

‘(9) The right under this paragraph is subject to paragraph 7B (which provides for the right not to apply in certain circumstances in the case of a hire car).’.

Secretary Theresa May

Agreed to **55**

Page **115**, line **26** [*Schedule 4*], leave out from ‘vehicle’ to ‘but’ in line 28 and insert ‘the requirement to pay the unpaid parking charges;’.

Secretary Theresa May

Agreed to **56**

Page **115**, line **29** [*Schedule 4*], leave out ‘enforce those terms’ and insert ‘take steps to enforce that requirement’.

Secretary Theresa May

Agreed to **57**

Page **115**, line **32** [*Schedule 4*], leave out sub-paragraph (2) and insert—

‘(2) Sub-paragraph (1)(b) ceases to apply if (at any time after the end of the period of 28 days beginning with the day on which the notice to keeper is given) the creditor begins proceedings to recover the unpaid parking charges from the keeper.’.

Protection of Freedoms Bill, *continued*

Secretary Theresa May

Agreed to 58Page 115, line 34 [*Schedule 4*], leave out sub-paragraph (3).

Secretary Theresa May

Agreed to 59Page 115, line 38 [*Schedule 4*], leave out paragraph 6 and insert—

- ‘6 (1) The second condition is that the creditor (or a person acting for or on behalf of the creditor)—
- (a) has given a notice to driver in accordance with paragraph 6A, followed by a notice to keeper in accordance with paragraph 6B; or
 - (b) has given a notice to keeper in accordance with paragraph 6C.
- (2) If a notice to driver has been given, any subsequent notice to keeper must be given in accordance with paragraph 6B.
- 6A (1) A notice which is to be relied on as a notice to driver for the purposes of paragraph 6(1)(a) is given in accordance with this paragraph if the following requirements are met.
- (2) The notice must—
 - (a) specify the vehicle, the relevant land on which it was parked and the period of parking to which the notice relates;
 - (b) inform the driver of the requirement to pay parking charges in respect of the specified period of parking and describe those charges, the circumstances in which the requirement arose (including the means by which it was brought to the attention of drivers) and the other facts that made those charges payable;
 - (c) inform the driver that the parking charges relating to the specified period of parking have not been paid in full and specify the total amount of the unpaid parking charges relating to that period, as at a time which is—
 - (i) specified in the notice; and
 - (ii) no later than the time specified under paragraph (f);
 - (d) inform the driver of any discount offered for prompt payment and the arrangements for the resolution of disputes or complaints that are available;
 - (e) identify the creditor and specify how and to whom payment may be made;
 - (f) specify the time when the notice is given and the date.
 - (3) The notice must relate only to a single period of parking specified under subparagraph (2)(a) (but this does not prevent the giving of separate notices each specifying different parts of a single period of parking).
 - (4) The notice must be given—
 - (a) before the vehicle is removed from the relevant land after the end of the period of parking to which the notice relates, and
 - (b) while the vehicle is stationary,
 by affixing it to the vehicle or by handing it to a person appearing to be in charge of the vehicle.
- 6B (1) A notice which is to be relied on as a notice to keeper for the purposes of paragraph 6(1)(a) is given in accordance with this paragraph if the following requirements are met.
- (2) The notice must—
 - (a) specify the vehicle, the relevant land on which it was parked and the period of parking to which the notice relates;

Protection of Freedoms Bill, *continued*

- (b) inform the keeper that the driver is required to pay parking charges in respect of the specified period of parking and that the parking charges have not been paid in full;
 - (c) state that a notice to driver relating to the specified period of parking has been given and repeat the information in that notice as required by paragraph 6A(2)(b), (c) and (f);
 - (d) if the unpaid parking charges specified in that notice to driver as required by paragraph 6A(2)(c) have been paid in part, specify the amount that remains unpaid, as at a time which is—
 - (i) specified in the notice to keeper, and
 - (ii) no later than the end of the day before the day on which the notice is either sent by post or, as the case may be, handed to or left at a current address for service for the keeper (see sub-paragraph (4));
 - (e) state that the creditor does not know both the name of the driver and a current address for service for the driver and invite the keeper—
 - (i) to pay the unpaid parking charges; or
 - (ii) if the keeper was not the driver of the vehicle, to notify the creditor of the name of the driver and a current address for service for the driver and to pass the notice on to the driver;
 - (f) warn the keeper that if, at the end of the period of 28 days beginning with the day after that on which the notice to keeper is given—
 - (i) the amount of the unpaid parking charges (as specified under paragraph (c) or (d)) has not been paid in full, and
 - (ii) the creditor does not know both the name of the driver and a current address for service for the driver,the creditor will (if all the applicable conditions under this Schedule are met) have the right to recover from the keeper so much of that amount as remains unpaid;
 - (g) inform the keeper of any discount offered for prompt payment and the arrangements for the resolution of disputes or complaints that are available;
 - (h) identify the creditor and specify how and to whom payment or notification to the creditor may be made;
 - (i) specify the date on which the notice is sent (if it is sent by post) or given (in any other case).
- (3) The notice must relate only to a single period of parking specified under sub-paragraph (2)(a) (but this does not prevent the giving of separate notices which each specify different parts of a single period of parking).
- (4) The notice must be given by—
- (a) handing it to the keeper, or leaving it at a current address for service for the keeper, within the relevant period; or
 - (b) sending it by post to a current address for service for the keeper so that it is delivered to that address within the relevant period.
- (5) The relevant period for the purposes of sub-paragraph (4) is the period of 28 days following the period of 28 days beginning with the day after that on which the notice to driver was given.
- (6) A notice sent by post is to be presumed, unless the contrary is proved, to have been delivered (and so “given” for the purposes of sub-paragraph (4)) on the second working day after the day on which it is posted; and for this purpose “working day” means any day other than a Saturday, Sunday or a public holiday in England and Wales.

Protection of Freedoms Bill, *continued*

- (7) When the notice is given it must be accompanied by any evidence prescribed under paragraph 6D.
- 6C (1) A notice which is to be relied on as a notice to keeper for the purposes of paragraph 6(1)(b) is given in accordance with this paragraph if the following requirements are met.
- (2) The notice must—
- (a) specify the vehicle, the relevant land on which it was parked and the period of parking to which the notice relates;
 - (b) inform the keeper that the driver is required to pay parking charges in respect of the specified period of parking and that the parking charges have not been paid in full;
 - (c) describe the parking charges due from the driver as at the end of that period, the circumstances in which the requirement to pay them arose (including the means by which the requirement was brought to the attention of drivers) and the other facts that made them payable;
 - (d) specify the total amount of those parking charges that are unpaid, as at a time which is—
 - (i) specified in the notice; and
 - (ii) no later than the end of the day before the day on which the notice is either sent by post or, as the case may be, handed to or left at a current address for service for the keeper (see subparagraph (4));
 - (e) state that the creditor does not know both the name of the driver and a current address for service for the driver and invite the keeper—
 - (i) to pay the unpaid parking charges; or
 - (ii) if the keeper was not the driver of the vehicle, to notify the creditor of the name of the driver and a current address for service for the driver and to pass the notice on to the driver;
 - (f) warn the keeper that if, after the period of 28 days beginning with the day after that on which the notice is given—
 - (i) the amount of the unpaid parking charges specified under paragraph (d) has not been paid in full, and
 - (ii) the creditor does not know both the name of the driver and a current address for service for the driver,the creditor will (if all the applicable conditions under this Schedule are met) have the right to recover from the keeper so much of that amount as remains unpaid;
 - (g) inform the keeper of any discount offered for prompt payment and the arrangements for the resolution of disputes or complaints that are available;
 - (h) identify the creditor and specify how and to whom payment or notification to the creditor may be made;
 - (i) specify the date on which the notice is sent (where it is sent by post) or given (in any other case).
- (3) The notice must relate only to a single period of parking specified under subparagraph (2)(a) (but this does not prevent the giving of separate notices which each specify different parts of a single period of parking).
- (4) The notice must be given by—
- (a) handing it to the keeper, or leaving it at a current address for service for the keeper, within the relevant period; or
 - (b) sending it by post to a current address for service for the keeper so that it is delivered to that address within the relevant period.

Protection of Freedoms Bill, *continued*

- (5) The relevant period for the purposes of sub-paragraph (4) is the period of 14 days beginning with the day after that on which the specified period of parking ended.
- (6) A notice sent by post is to be presumed, unless the contrary is proved, to have been delivered (and so “given” for the purposes of sub-paragraph (4)) on the second working day after the day on which it is posted; and for this purpose “working day” means any day other than a Saturday, Sunday or a public holiday in England and Wales.
- (7) When the notice is given it must be accompanied by any evidence prescribed under paragraph 6D.
- 6D (1) The appropriate national authority may by regulations made by statutory instrument prescribe evidence which must accompany a notice which is to be relied on as a notice to keeper for the purposes of paragraph 6(1)(a) or paragraph 6(1)(b) (as the case may be).
- (2) The regulations may in particular make provision as to—
- (a) the means by which any prescribed evidence is to be generated or otherwise produced (which may include a requirement to use equipment of a kind approved for the purpose by a person specified in the regulations); or
 - (b) the circumstances in which any evidence is, or is not, required to accompany a notice to keeper.
- (3) The regulations may—
- (a) include incidental, supplementary, transitional, transitory or saving provision;
 - (b) make different provision for different purposes.’

Secretary Theresa May

Agreed to 60

Page 116, line 23 [*Schedule 4*], leave out paragraph 7 and insert—

- ‘7 (1) The third condition is that—
- (a) the creditor (or a person acting for or on behalf of the creditor) has made an application for the keeper’s details in relation to the period of parking to which the unpaid parking charges relate;
 - (b) the application was made during the relevant period for the purposes of paragraph 6B(4) (where a notice to driver has been given) or 6C(4) (where no notice to driver has been given);
 - (c) the information sought by the application is provided by the Secretary of State to the applicant.
- (2) The third condition only applies if the vehicle is a registered vehicle.
- (3) In this paragraph “application for the keeper’s details” means an application for the following information to be provided to the applicant by virtue of regulations made under section 22(1)(c) of the Vehicle Excise and Registration Act 1994—
- (a) the name of the registered keeper of the vehicle during the period of parking to which the unpaid parking charges relate; and

Protection of Freedoms Bill, *continued*

- (b) the address of that person as it appears on the register (or, if that person has ceased to be the registered keeper, as it last appeared on the register).’.
-

Secretary Theresa May

Agreed to **61**

Page **117**, line **2** [*Schedule 4*], at end insert—

- ‘7A (1) The fourth condition is that any applicable requirements prescribed under this paragraph were met at the beginning of the period of parking to which the unpaid parking charges relate.
- (2) The appropriate national authority may by regulations made by statutory instrument prescribe requirements as to the display of notices on relevant land where parking charges may be incurred in respect of the parking of vehicles on the land.
- (3) The provision made under sub-paragraph (2) may, in particular, include provision—
- (a) requiring notices of more than one kind to be displayed on any relevant land;
 - (b) as to the content or form of any notices required to be displayed; and
 - (c) as to the location of any notices required to be displayed.
- (4) Regulations under this paragraph may—
- (a) include incidental, supplementary, transitional, transitory or saving provision;
 - (b) make different provision for different areas or purposes.’.

Secretary Theresa May

Agreed to **78**

Page **117**, line **2** [*Schedule 4*], at end insert—

‘Hire vehicles

- 7B (1) This paragraph applies in the case of parking charges incurred in respect of the parking of a vehicle on relevant land if—
- (a) the vehicle was at the time of parking hired to any person under a hire agreement with a vehicle-hire firm; and
 - (b) the keeper has been given a notice to keeper within the relevant period for the purposes of paragraph 6B(4) or 6C(4) (as the case may be).
- (2) The creditor may not exercise the right under paragraph 4 to recover from the keeper any unpaid parking charges specified in the notice to keeper if, within the period of 28 days beginning with the day after that on which that notice was given, the creditor is given—
- (a) a statement signed by or on behalf of the vehicle-hire firm to the effect that at the material time the vehicle was hired to a named person under a hire agreement;
 - (b) a copy of the hire agreement; and
 - (c) a copy of a statement of liability signed by the hirer under that hire agreement.
- (3) The statement of liability required by sub-paragraph (2)(c) must—

Protection of Freedoms Bill, *continued*

- (a) contain a statement by the hirer to the effect that the hirer acknowledges responsibility for any parking charges that may be incurred with respect to the vehicle while it is hired to the hirer;
 - (b) include an address given by the hirer (whether a residential, business or other address) as one at which documents may be given to the hirer; (and it is immaterial whether the statement mentioned in paragraph (a) relates also to other charges or penalties of any kind).
- (4) A statement required by sub-paragraph (2)(a) or (c) must be in such form (if any) as may be prescribed by the appropriate national authority by regulations made by statutory instrument.
- (5) The documents mentioned in sub-paragraph (2) must be given by—
- (a) handing them to the creditor;
 - (b) leaving them at any address which is specified in the notice to keeper as an address at which documents may be given to the creditor or to which payments may be sent; or
 - (c) sending them by post to such an address so that they are delivered to that address within the period mentioned in that sub-paragraph.
- (6) In this paragraph and paragraph 7C—
- (a) “hire agreement” means an agreement which—
 - (i) provides for a vehicle to be let to a person (“the hirer”) for a period not exceeding 6 months (whether or not the period is capable of extension by agreement between the parties so as to exceed 6 months); and
 - (ii) is not a hire-purchase agreement within the meaning of the Consumer Credit Act 1974;
 - (b) any reference to the currency of a hire agreement includes a reference to any period during which, with the consent of the vehicle-hire firm, the hirer continues in possession of the vehicle as hirer, after the expiry of any period specified in the agreement but otherwise on terms and conditions specified in it; and
 - (c) “vehicle-hire firm” means any person engaged in the hiring of vehicles in the course of a business.
- 7C (1) If—
- (a) the creditor is by virtue of paragraph 7B(2) unable to exercise the right to recover from the keeper any unpaid parking charges mentioned in the notice to keeper, and
 - (b) the conditions mentioned in sub-paragraph (2) below are met,
- the creditor may recover those charges (so far as they remain unpaid) from the hirer.
- (2) The conditions are that—
- (a) the creditor has within the relevant period given the hirer a notice in accordance with sub-paragraph (5) (a “notice to hirer”), together with a copy of the documents mentioned in paragraph 7B(2) and the notice to keeper;
 - (b) a period of 21 days beginning with the day on which the notice to hirer was given has elapsed; and
 - (c) the vehicle was not a stolen vehicle at the beginning of the period of parking to which the unpaid parking charges relate.
- (3) In sub-paragraph (2)(a) “the relevant period” is the period of 21 days beginning with the day after that on which the documents required by paragraph 7B(2) are given to the creditor.
- (4) For the purposes of sub-paragraph (2)(c) a vehicle is to be presumed not to be a stolen vehicle at the material time, unless the contrary is proved.

Protection of Freedoms Bill, *continued*

- (5) The notice to hirer must—
- (a) inform the hirer that by virtue of this paragraph any unpaid parking charges (being parking charges specified in the notice to keeper) may be recovered from the hirer;
 - (b) refer the hirer to the information contained in the notice to keeper;
 - (c) warn the hirer that if, after the period of 21 days beginning with the day after that on which the notice to hirer is given, the amount of unpaid parking charges referred to in the notice to keeper under paragraph 6B(2)(f) or 6C(2)(f) (as the case may be) has not been paid in full, the creditor will (if any applicable requirements are met) have the right to recover from the hirer so much of that amount as remains unpaid;
 - (d) inform the hirer of any discount offered for prompt payment and the arrangements for the resolution of disputes or complaints that are available;
 - (e) identify the creditor and specify how and to whom payment may be made; and
 - (f) specify the date on which the notice is sent (if it is sent by post) or given (in any other case).
- (6) The documents mentioned in sub-paragraph (2)(a) must be given by—
- (a) handing them to the hirer;
 - (b) leaving them at an address which is either—
 - (i) an address specified in the statement of liability mentioned in paragraph 7B(2)(c) as an address at which documents may be given to the hirer; or
 - (ii) an address at which documents relating to civil proceedings could properly be served on the hirer under Civil Procedure Rules; or
 - (c) sending them by post to such an address so that they are delivered to that address within the relevant period for the purposes of sub-paragraph (2)(a).²

Secretary Theresa May

Agreed to **62**

Page **117** [*Schedule 4*], leave out lines 17 to 34 and insert—

- ‘9 (1) The appropriate national authority may by order made by statutory instrument amend this Schedule for the purpose of—
- (a) amending the definition of “relevant land” in paragraph 3;
 - (b) adding to, removing or amending any of the conditions to which the right conferred by paragraph 4 is for the time being subject.
- (2) The power to amend this Schedule for the purpose mentioned in sub-paragraph (1)(b) includes, in particular, power to add to, remove or amend—
- (a) any provisions that are applicable for the purposes of a condition; and
 - (b) any powers of the appropriate national authority to prescribe anything for the purposes of a condition by regulations made by statutory instrument.
- (3) An order under this paragraph may—
- (a) include incidental, supplementary, transitional, transitory or saving provision;
 - (b) make different provision for different purposes.
- 10 (1) A statutory instrument containing regulations under any provision of this Schedule is subject to annulment by—

Protection of Freedoms Bill, *continued*

- (a) a resolution of either House of Parliament (in the case of regulations made by the Secretary of State); or
 - (b) a resolution of the National Assembly for Wales (in the case of regulations made by the Welsh Ministers).
- (2) A statutory instrument containing an order made under paragraph 9—?

Bill to be further considered tomorrow.