



House of Commons

Thursday 19 November 2020

PUBLIC BILL COMMITTEE

New Amendments handed in are marked thus ★

☆ *Amendments which will comply with the required notice period at their next appearance*

Amendments tabled since the last publication: 19 to 31 and NC1 to NC10

FINANCIAL SERVICES BILL

NOTE

This document includes all amendments remaining before the Committee and includes any withdrawn amendments at the end. The amendments have been arranged in accordance with the Order of the Committee [17 November 2020].

Pat McFadden
Abena Oppong-Asare
Jeff Smith

19

★ **Clause 1, page 2, line 21, at end insert—**

“(7A) The Secretary of State must, within three years of this Act being passed, prepare, publish and lay before Parliament a report on the impact of the amendments to the Capital Requirements Regulation made by this section and Schedule 1 to this Act.

(7B) The report must assess the impact on—

- (a) financial stability;
- (b) competitiveness; and
- (c) consumer risk.”

Member’s explanatory statement

This amendment would ensure that, where departures from current capital requirements take place, the Government carries out a review of the impact on competitiveness and consumer risk.

Financial Services Bill, continued

Pat McFadden
Abena Oppong-Asare
Jeff Smith

20

★ Schedule 2, page 63, line 5, at end insert—

“(ba) the target for net UK emissions of greenhouse gases in 2050 as set out in the Climate Change Act 2008 as amended by the Climate Change Act (2050 Target Amendment) Order 2019, and”

Member’s explanatory statement

This amendment would require that, when making Part 9C rules, the FCA must have regard to the UK’s net zero 2050 goal and the legislation that has been passed in pursuit of this goal.

Pat McFadden
Abena Oppong-Asare
Jeff Smith

21

★ Schedule 2, page 63, line 5, at end insert—

“() high standards in social practice and corporate governance including pay, adherence to equalities legislation, transparency and corporate responsibility, and”

Member’s explanatory statement

This amendment would require that, when making Part 9C rules, the FCA must have regard to high standards in social practice and corporate governance including pay, adherence to equalities legislation, transparency and corporate responsibility.

Pat McFadden
Abena Oppong-Asare
Jeff Smith

22

★ Schedule 2, page 63, line 10, at end insert—

“(2A) The FCA must not make Part 9C rules unless—

(a) a draft of those rules has been submitted for scrutiny by a select committee of either House of Parliament which has a remit which includes responsibility for scrutiny of such rules, and

(b) any such committee has expressed a view on the draft of those rules.”

Member’s explanatory statement

This amendment is designed to enhance the accountability framework for the FCA by requiring it, prior to making Part 9C rules, to submit a draft of those rules for scrutiny by a relevant Parliamentary select committee before making any regulatory changes.

John Glen

1

☆ Schedule 2, page 76, line 31, leave out “143O(4), (6) or (8)” and insert “143O(3), (6) or (8)(b)”

Member’s explanatory statement

This amendment corrects a cross-reference to new provisions inserted by Part 1 of Schedule 2.

Financial Services Bill, continued

Pat McFadden
Abena Oppong-Asare
Jeff Smith

23

★ Clause 3, page 4, line 31, at end insert—

“(9A) The Treasury must, within six months of making any regulations under this section, prepare, publish and lay before Parliament a report setting out—

- (a) the reasons for the revocation of the provisions of the Capital Requirements Regulations being made under the regulations;
- (b) the Treasury’s assessment of the impact of the revocation on—
 - (i) consumers;
 - (ii) competitiveness;
 - (iii) the economy.”

Member’s explanatory statement

This amendment is intended to ensure the Treasury reports to Parliament on the impact of divergence from CRR rules.

Pat McFadden
Abena Oppong-Asare
Jeff Smith

24

★ Schedule 3, page 79, line 29, at end insert—

“(ca) the target for UK emissions of greenhouse gases in 2050 as set out in the Climate Change Act 2008 as amended by the Climate Change Act (2050) Target Amendment Order 2019, and”

Member’s explanatory statement

This amendment would require that, when making CRR rules, the FCA must have regard to the UK’s 2050 net zero goals and the legislation underpinning those goals.

Pat McFadden
Abena Oppong-Asare
Jeff Smith

25

★ Schedule 3, page 79, line 29, at end insert—

“() high standards in social practice and corporate governance including pay, adherence to equalities legislation, transparency and corporate responsibility.”

Member’s explanatory statement

This amendment would require that, when making CRR rules, the FCA must have regard to high standards in social practice and corporate governance including pay, adherence to equalities legislation, transparency and corporate responsibility.

Pat McFadden
Abena Oppong-Asare
Jeff Smith

26

★ Schedule 3, page 79, line 35, at end insert—

“(2A) The PRA must not make CRR rules unless—

Financial Services Bill, *continued*

- (a) a draft of those rules has been submitted for scrutiny by a select committee of either House of Parliament which has a remit which includes responsibility for scrutiny of such rules; and
- (b) any such committee has expressed a view on the draft of those rules.”

Member’s explanatory statement

This amendment would enhance the accountability framework for the FCA by requiring it, prior to making CRR rules, to submit a draft of those rules for scrutiny by a relevant Parliamentary select committee before making any regulatory changes.

Pat McFadden
Abena Oppong-Asare
Jeff Smith

27

- ★ Schedule 3, page 80, line 8, at end insert—

- “(7) The PRA must, at least once every five years, review the provisions of this section.
- (8) The Treasury must lay before Parliament a report setting out—
 - “(a) the outcomes of this review; and
 - (b) any changes the Treasury proposes to make as a result of this review.
- (9) The Treasury may by regulations make any changes identified in subsection (8)(b).
- (10) Regulations under subsection (9) may not be made unless a draft has been laid before and approved by a resolution of each House of Parliament.”

Member’s explanatory statement

This amendment would ensure there is a review of the accountability framework for regulators once in each Parliament and give it a role in approving subsequent changes to the accountability framework.

John Glen

2

- ☆ Schedule 3, page 84, line 19, leave out paragraph (b) and insert—

- “(b) section 144D (explanation to accompany consultation on rules);
- (c) section 144E(1) and (4) to (7) (exceptions from sections 144C and 144D).”

Member’s explanatory statement

This amendment corrects the explanatory words in a list of provisions that apply to section 192XA rules that are not CRR rules.

Pat McFadden
Abena Oppong-Asare
Jeff Smith

28

- ★ Clause 8, page 7, line 38, at end insert—

- “(7) In reviewing critical benchmarks in accordance with Article A20 of the Benchmarks regulation as amended by this Act the FCA must have regard to—
 - (a) ensuring a benchmark is based on actual trades or contracts;
 - (b) preventing a benchmark from manipulation for the benefit of anyone submitting information to that benchmark; and

Financial Services Bill, continued

- (c) robust sanctions up to and including custodial sentences for anyone found to be engaged in manipulation or attempted manipulation of a benchmark.”

Member's explanatory statement

This amendment would require the FCA to have regard to ensuring a benchmark is based on actual trades or contracts, that it is not open to manipulation and that robust sanctions are in place for those who manipulate, or attempt to manipulate, a benchmark.

John Glen

- ☆ Clause 16, page 23, line 13, leave out “latest” and insert “most recent previous” 3
Member's explanatory statement
This amendment clarifies what the FCA has to review before re-exercising the power under Article 23D(2) of the Benchmarks Regulation.
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John Glen

- ☆ Schedule 6, page 100, line 31, at end insert— 4
 “(ia) an order under section 143S, or”
Member's explanatory statement
This amendment extends the definition of “prohibition order” in paragraph 19 of new Schedule 2A to the Financial Services and Markets Act 2000 to include an order under section 143S (inserted by Part 1 of Schedule 2 to the Bill).

John Glen

- ☆ Schedule 6, page 100, line 34, after “56” insert “or 143S” 5
Member's explanatory statement
This amendment extends the definition of “prohibition order” in paragraph 19 of new Schedule 2A to the Financial Services and Markets Act 2000 to include an order under the law of Gibraltar which a UK regulator considers to be equivalent to an order under section 143S (inserted by Part 1 of Schedule 2 to the Bill).

John Glen

- ☆ Schedule 6, page 123, line 32, leave out “67” and insert “67(1)” 6
Member's explanatory statement
See the explanatory statement for Amendment 11.

John Glen

- ☆ Schedule 6, page 123, line 38, leave out “67” and insert “67(2)” 7
Member's explanatory statement
See the explanatory statement for Amendment 11.

Financial Services Bill, continued

John Glen

8

- ☆ Schedule 6, page 124, line 37, leave out “67” and insert “67(1)”
Member’s explanatory statement
 See the explanatory statement for Amendment 11.

John Glen

9

- ☆ Schedule 6, page 124, line 43, leave out “67” and insert “67(2)”
Member’s explanatory statement
 See the explanatory statement for Amendment 11.

John Glen

10

- ☆ Schedule 6, page 125, line 17, leave out “this Part of this Schedule” and insert
 “paragraph 64 or 65 (or both)”
Member’s explanatory statement
 See the explanatory statement for Amendment 11.

John Glen

11

- ☆ Schedule 6, page 125, line 19, leave out “The power under sub-paragraph (1)
 includes power to” and insert “A UK regulator may, by giving a direction,”
Member’s explanatory statement
 This amendment and Amendments 6, 7, 8, 9 and 10 clarify the UK regulators’ powers to give
 directions altering the meaning of “protected contract” and “existing contract” for the purposes
 of Part 10 of new Schedule 2A to the Financial Services and Markets Act 2000.
-

John Glen

12

- ☆ Schedule 9, page 151, line 16, leave out “granting an application under section
 271A” and insert “under section 271A granting an application under that section”
Member’s explanatory statement
 This amendment clarifies that both the application and the order are made under section 271A.

John Glen

13

- ☆ Schedule 9, page 154, line 43, leave out “271G” and insert “271A”
Member’s explanatory statement
 This amendment and Amendments 14, 15, 16 and 17 correct cross-references to the section under
 which an order recognising a scheme is made.

John Glen

14

- ☆ Schedule 9, page 155, line 14, leave out “271G” and insert “271A”
Member’s explanatory statement
 See the explanatory statement for Amendment 13.

Financial Services Bill, continued

John Glen

15

- ☆ Schedule 9, page 155, line 24, leave out “271G” and insert “271A”
Member’s explanatory statement
 See the explanatory statement for Amendment 13.

John Glen

16

- ☆ Schedule 9, page 156, line 7, leave out “271G” and insert “271A”
Member’s explanatory statement
 See the explanatory statement for Amendment 13.

John Glen

17

- ☆ Schedule 9, page 156, line 29, leave out “271G” and insert “271A”
Member’s explanatory statement
 See the explanatory statement for Amendment 13.
-

John Glen

18

- ☆ Schedule 10, page 164, line 7, leave out “services” and insert “investment services, or performing investment activities,”
Member’s explanatory statement
 This amendment provides that the Treasury’s regulation-making power under new Article 48A of the Markets in Financial Instruments Regulation applies to third-country firms performing investment activities, as well as to third-country firms providing investment services.
-

Pat McFadden

Abena Oppong-Asare

Jeff Smith

29

- ★ Clause 32, page 38, line 22, leave out subsection (2) and insert—
 “(2) Section 7 of that Act (debt respite scheme: regulations) is amended in accordance with subsections (2A), (3) and (4).
 (2A) For subsection (2), substitute—
 “(2) After receiving advice from the single financial guidance body under section 6, the Secretary of State shall make regulations establishing a debt respite scheme within 12 months of this Act coming into force.””
Member’s explanatory statement
 This amendment would require the debt respite scheme to come into force within 12 months of this Act being passed.
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Financial Services Bill, *continued*

Pat McFadden
Abena Oppong-Asare
Jeff Smith

30

- ★ Clause 34, page 40, line 33, after “performance” insert “including information relating to environmental, social and governance standards.”

Member’s explanatory statement

This amendment would require that consumers are given information about the environmental, social and governance standards of PRIIPs.

Pat McFadden
Abena Oppong-Asare
Jeff Smith

31

- ★ Clause 34, page 40, line 33, at end insert—

“(4A) The FCA shall ensure that in practice the amendment made as a result of subsection (4) does not result in consumers having a reduced understanding of the risks associated with a particular investment product.”

Member’s explanatory statement

This amendment would require that consumers are not left with a reduced understanding of the levels of risk involved in buying products covered by this clause.

Pat McFadden
Abena Oppong-Asare
Jeff Smith

NC1

- ★ To move the following Clause—

“Annual review of the CRR rules

- (1) The Secretary of State must, once each financial year, prepare, publish and lay before Parliament a review of the changes to CRR rules made by the PRA in the relevant financial year.
- (2) The review must include an assessment of the impact of any changes to CRR rules on—
 - (a) consumers;
 - (b) competitiveness; and
 - (c) the wider economy.”

Member’s explanatory statement

This new clause would require regular reviews of any departures from the current regime of capital requirements.

Financial Services Bill, *continued*

Pat McFadden
Abena Oppong-Asare
Jeff Smith

NC2

- ★ To move the following Clause—

“European Union regulatory equivalence for UK-based financial services businesses

- (1) The Treasury must prepare and publish a report on progress towards regulatory equivalence recognition for UK-based financial services firms operating within the European Union.
- (2) This report should include—
 - (a) the status of negotiations towards the recognition of regulatory equivalence for UK financial services firms operating within the European Union;
 - (b) a statement on areas in where equivalence recognition has been granted to UK based businesses on the same basis as which the UK has granted equivalence recognition to EU based businesses; and
 - (c) a statement on where such equivalence recognition has not been granted.”

Member’s explanatory statement

This new clause would require a report to be published on progress towards, or completion of, the equivalence recognition for UK firms which the Government hopes to see following the Chancellor’s statement on EU-based firms operating in the UK.

Pat McFadden
Abena Oppong-Asare
Jeff Smith

NC3

- ★ To move the following Clause—

“Help to Save annual report

- (1) The Treasury must prepare and publish an annual report on the Help to Save scheme for each financial year in which the scheme remains open to new accounts.
- (2) The report must cover the following matters—
 - (a) the performance of the scheme;
 - (b) observations on take-up including, where applicable, reasons for take up being low;
 - (c) actions the Treasury proposes to take to increase take up of the scheme; and
 - (d) progress towards implementing successor accounts for the Help to Save savers.
- (3) A report must be laid before both houses of Parliament no later than 31 October in the financial year following the financial year to which the report relates.

Financial Services Bill, *continued*

- (4) The first annual report would be laid before both Houses of Parliament by 31 October 2021 and relate to the 2020-21 Financial year.”

Member’s explanatory statement

This new clause would require the Treasury to publish an annual report on take up levels of the Help to Save scheme.

Pat McFadden
Abena Oppong-Asare
Jeff Smith

NC4

- ★ To move the following Clause—

“Strategy for financial services

- (1) The Treasury must prepare and publish a report on the Government’s strategy for financial services after the UK has left the European Union.
- (2) The report should include statements on the Government’s proposed approach to—
- (a) regulation of the sector;
 - (b) market access for overseas firms;
 - (c) competitiveness of the sector; and
 - (d) the environmental, social and governance objectives for the sector.
- (3) The report must be published within 6 months of the passage of this Act.”

Member’s explanatory statement

This new clause would require the Treasury to produce a report on the Government’s post Brexit strategy for financial services.

Pat McFadden
Abena Oppong-Asare
Jeff Smith

NC5

- ★ To move the following Clause—

“Regulation of lead generators for debt advice and debt solution services

In section 22 of the Financial Services and Markets Act 2000 (regulated activities), after subsection 1A insert—

- “(1AA) An activity is also a regulated activity for the purposes of this Act if it is an activity of a specified kind which is carried on by way of business and relates to—
- (a) effecting an introduction of an individual to a person carrying on debt advice and debt solution services, or

Financial Services Bill, *continued*

- (b) effecting an introduction of an individual to a person who carries on an activity of the kind specified in paragraph (a) by way of business.””

Member’s explanatory statement

This new clause would empower the FCA to regulate activities such as paid search and social media advertisements, including the impersonation of reputable debt management charities.

Pat McFadden
Abena Oppong-Asare
Jeff Smith

NC6

- ★ To move the following Clause—

“Duty of Care for Financial Service Providers

- (1) The Financial Services and Markets Act 2000 is amended as follows.
- (2) In section 1C, after subsection 2(e) insert—
 - “(ee) the general principle that firms should not profit from exploiting a consumer’s vulnerability, behavioural biases or constrained choices;”
- (3) After section 137C insert—

“137CA FCA general rules: duty of care

- (1) The power of the FCA to make general rules includes the power to introduce a duty of care owed by authorised persons to consumers in carrying out regulated activities under this Act.
- (2) The FCA must make rules in accordance with subsection (1) which come into force no later than six months after the day on which this Act is passed.””

Member’s explanatory statement

This new clause would introduce a duty of care for the FCA which would strengthen the FCA’s consumer protection objective and empower the FCA to introduce rules for financial services firms informed by that duty of care.

Pat McFadden
Abena Oppong-Asare
Jeff Smith

NC7

- ★ To move the following Clause—

“Financial resilience and debt respite

- (1) For the purpose of this section financial resilience is defined as the ability of an individual or household to cope with a reduction in income or unexpected expense without experiencing financial difficulties or borrowing to make ends meet.

Financial Services Bill, *continued*

- (2) The Secretary of State must publish and lay before Parliament a report containing—
- (a) data on the number of individuals and households of different types that do and do not meet the definition of financial resilience in subsection 1;
 - (b) An estimate of how the measures required in (a) may change in the subsequent 12 months;
 - (c) The steps that Government will take over the following 12 months to improve the financial resilience of UK households, including but not limited to—
 - (i) giving respite from vulnerability to debt;
 - (ii) improving precautionary savings;
 - (iii) access to financial services.
- (3) The first report must be published before the end of the financial year ending on 31 March 2022.
- (4) Later reports must be published before the end of each subsequent financial year.”

Member’s explanatory statement

This new clause would require the Secretary of State to produce a report on financial resilience with corresponding action to help prevent households from falling into debt.

Pat McFadden
Abena Oppong-Asare
Jeff Smith

NC8

- ★ To move the following Clause—

“Money laundering: electronic money institutions

- (1) The Proceeds of Crime Act 2002 is amended as follows.
- (2) In section 303Z1(1) after “bank” insert “, authorised electronic money institution”.
- (3) In section 303Z1(6) after “Building Societies Act 1986;” insert—

““authorised electronic money institution” has the same meaning as in the Electronic Money Regulations 2011.”
- (4) In section 340(14)(b) after “Bank” insert “, or
 - (c) a business which engages in the activity of issuing electronic money”.”

Member’s explanatory statement

This new clause would update definitions in the Proceeds of Crime Act 2002 to reflect the growth of financial technology companies in the UK by equalising the treatment of fin tech companies with banks on money laundering and Account Freezing Orders.

Financial Services Bill, *continued*

Pat McFadden
Abena Oppong-Asare
Jeff Smith

NC9

★ To move the following Clause—

“Public country-by-country reporting by financial services companies

- (1) The Treasury must, every year, publish and lay before both Houses of Parliament a report on its progress in pursuit of international action on public country-by-country reporting by relevant bodies.
- (2) The report must include an update on whether the Treasury intends to require the group tax strategies of relevant bodies to include a country-by-country report, pursuant to paragraph 17(6) of Schedule 19 to the Finance Act 2016.
- (3) The first report must be laid before both Houses of Parliament within six months of this Act being passed.
- (4) For the purposes of this section, a “relevant body” means a body authorised by or registered with the Financial Conduct Authority.”

Member’s explanatory statement

This new clause would require the Treasury to report on a regular basis to Parliament on its progress, for FCA-registered and authorised companies, towards international agreement on a model of public country-by-country reporting and whether it will use powers in the Finance Act 2016 to require public country-by-country reporting in the UK.

Pat McFadden
Abena Oppong-Asare
Jeff Smith

NC10

★ To move the following Clause—

“FCA recommendation to remove a self-regulatory organisation: Ministerial statement

- (1) When the FCA makes a recommendation that a self-regulatory organisation be removed from Schedule 1 to the MLR pursuant to Paragraph 17 of the Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017, the Treasury must make a statement to Parliament.
- (2) The statement must be made within four weeks of the recommendation being made.
- (3) The statement to Parliament must set out—
 - (a) the Government’s response to the FCA’s recommendation;
 - (b) the likely impact on the sector of any action the Government is proposing to take, including—
 - (i) the impact of the organisation retaining its Anti-Money Laundering supervisory responsibilities if the Government decides not to remove the organisation from Schedule 1 to the MLR; and
 - (ii) where the Government intends to place an organisation’s Anti-Money Laundering supervisory responsibilities if it decides to remove the organisation from Schedule 1 to the MLR; and

Financial Services Bill, *continued*

- (c) where applicable, a timescale for the removal of the self-regulatory organisation from Schedule 1 to the MLR.
- (4) For the purposes of this section, “MLR” means the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.”

Member’s explanatory statement

This new clause would require the Treasury to report to Parliament on its response to any recommendation by the FCA that an organisation have its anti-money laundering supervisory responsibilities removed, including the impact of either accepting or rejecting any such recommendation.

ORDER OF THE HOUSE [9 NOVEMBER 2020]

That the following provisions shall apply to the Financial Services Bill:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Thursday 3 December 2020.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Proceedings on Consideration and up to and including Third Reading

4. Proceedings on Consideration and any proceedings in legislative grand committee shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which proceedings on Consideration are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and up to and including Third Reading.

Other proceedings

7. Any other proceedings on the Bill may be programmed.
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ORDER OF THE COMMITTEE [17 NOVEMBER 2020]

That—

- (1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 17 November) meet—
 - (a) at 2.00 pm on Tuesday 17 November;
 - (b) at 11.30 am and 2.00 pm on Thursday 19 November;
 - (c) at 9.25 am and 2.00 pm on Tuesday 24 November;
 - (d) at 11.30 am and 2.00 pm on Thursday 26 November;
 - (e) at 9.25 am and 2.00 pm on Tuesday 1 December;
 - (f) at 11.30 am and 2.00 pm on Thursday 3 December;
- (2) the Committee shall hear oral evidence in accordance with the following Table:

Financial Services Bill, *continued***TABLE**

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Tuesday 17 November	Until no later than 10.25 am	Prudential Regulation Authority; Financial Conduct Authority
Tuesday 17 November	Until no later than 10.55 am	UK Finance
Tuesday 17 November	Until no later than 11.25 am	International Capital Market Association
Tuesday 17 November	Until no later than 2.45 pm	The Investment Association
Tuesday 17 November	Until no later than 3.30 pm	TheCityUK; City of London Corporation
Tuesday 17 November	Until no later than 4.00 pm	The Association for Financial Markets in Europe
Tuesday 17 November	Until no later than 4.30 pm	The British Private Equity and Venture Capital Association
Tuesday 17 November	Until no later than 5.00 pm	StepChange Debt Charity
Thursday 19 November	Until no later than 12.15 pm	Spotlight on Corruption
Thursday 19 November	Until no later than 2.45 pm	The Association of British Insurers
Thursday 19 November	Until no later than 3.30 pm	Transparency International
Thursday 19 November	Until no later than 4.15 pm	The Finance Innovation Lab; Positive Money
Thursday 19 November	Until no later than 5.00 pm	Hon Albert Isola MP, Minister for Digital, Financial Services and Public Utilities, Her Majesty's Government of Gibraltar

- (3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clause 1; Schedule 1; Clause 2; Schedule 2; Clauses 3 to 5; Schedule 3; Clauses 6 and 7; Schedule 4; Clauses 8 to 21; Schedule 5; Clause 22; Schedules 6 to 8; Clauses 23 and 24; Schedule 9; Clauses 25 to 27; Schedule 10; Clause 28; Schedule 11; Clauses 29 to 44; new Clauses; new Schedules; remaining proceedings on the Bill;
- (4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 3 December.