PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE (NO. 2) BILL

(Except clauses 4 and 6 to 8, schedule 1, clauses 12, 27 and 28, 53 to 66, 68 to 71 and 84 to 92, schedules 12 and 13, clause 93 and schedule 14)

First Sitting

Tuesday 14 December 2021

(Morning)

CONTENTS

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not later than

Saturday 18 December 2021

The Committee consisted of the following Members:

Chairs: † Sir Christopher Chope, Philip Davies, Dame Angela Eagle, Dr Rupa Huq

† Anderson, Stuart *(Wolverhampton South West)* (Con)
† Butler, Rob *(Aylesbury)* (Con)
Efford, Clive *(Eltham)* (Lab)
Eshalomi, Florence *(Vauxhall)* (Lab/Co-op)
† Frazer, Lucy *(Financial Secretary to the Treasury)*
† Holden, Mr Richard *(North West Durham)* (Con)
† Howell, Paul *(Sedgefield)* (Con)
† Jones, Andrew *(Harrogate and Knaresborough)* (Con)
† Mackrory, Cherilyn *(Truro and Falmouth)* (Con)
† Mak, Alan *(Lord Commissioner of Her Majesty's Treasury)*
† Mayhew, Jerome *(Broadland)* (Con)
† Murray, James *(Ealing North)* (Lab/Co-op)
† Oppong-Asare, Abena *(Erith and Thamesmead)* (Lab)
† Thewliss, Alison *(Glasgow Central)* (SNP)
† Thomson, Richard *(Gordon)* (SNP)
† Twist, Liz *(Blaydon)* (Lab)
† Whately, Helen *(Exchequer Secretary to the Treasury)*

Chris Stanton, Kevin Maddison, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 14 December 2021

(Morning)

[Sir Christopher Chope *in the Chair*]

Finance (No. 2) Bill

(Except Clause 4, Clauses 6 to 8 and Schedule 1, Clause 12, Clauses 27 and 28, Clauses 53 to 66, Clauses 68 to 71, Clauses 84 to 92 and Schedules 12 and 13, Clause 93 and Schedule 14)

9.25 am

The Chair: We are now sitting in public, and the proceedings are being broadcast. I do not think I need to remind people about the advice being given in relation to the wearing of face coverings; I will assume that anybody not wearing one has a reasonable excuse for not so doing, but we do not challenge people. I also remind colleagues that *Hansard* would be grateful if Members emailed their speaking notes to hansardnotes@parliament.uk. The consumption of tea or coffee is not permitted during sittings, and we would like electronic devices to be switched to silent.

We do not want to see an abuse of the indulgence of laptops and things like that; the impression given to people watching is that Members might not be concentrating on the debate, and might instead be doing other work. The convention is that people should use their electronic devices to help inform their work on this Committee. I am not going to be able to invigilate that, but I rely on Members to be co-operative and think about the impression given to people watching this Committee.

Ordered,

That—

1. the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 14 December 2021) meet—
   (a) at 2.00 pm on Tuesday 14 December 2021;
   (b) at 3.30 pm and 6.00 pm on Wednesday 5 January 2022;
   (c) at 9.25 am and 2.00 pm on Tuesday 11 January 2022;
   (d) at 11.30 am and 2.00 pm on Thursday 13 January 2022;
2. the proceedings shall be taken in the following order: Clauses 1 to 3; Clause 5; Clauses 9 to 11; Clauses 13 and 14; Schedule 2; Clause 15; Schedule 3; Clauses 16 to 24; Schedule 4; Clauses 25 and 26; Clause 29; Schedule 5; Clauses 30 and 31; Schedule 6; Clauses 32 to 41; Schedule 7; Clauses 42 to 45; Schedule 8; Clauses 46 to 49; Schedule 9; Clauses 50 to 52; Clause 67; Clauses 72 to 75; Schedule 10; Clauses 76 to 83; Schedule 11; Clause 94; Schedule 15; Clauses 95 to 99; Schedule 16; Clauses 100 to 102; new Clauses; new Schedules; remaining proceedings on the Bill;
3. the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 13 January 2022.—*(Lucy Frazer.)*

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—*(Lucy Frazer.)*

The Chair: Copies of the written evidence that the Committee receives will be circulated to Members by email, and some was circulated yesterday. The selection list for today's sitting is available in the room. It shows how the selected amendments have been grouped together for debate; generally, that is because they cover the same subject matter. The decisions on amendments do not take place in the order they are debated, but in the order in which they appear on the amendment paper. This is designed to help people who are following these proceedings keep up to speed.

Clause 1

Income tax charge for tax year 2022-23

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss clauses 2, 3 and 5 stand part.

The Financial Secretary to the Treasury (Lucy Frazer): It is a pleasure to serve under your chairmanship, Sir Christopher. Clause 1 legislates for the charge of income tax for 2022-23. Clauses 2 and 3 set the main default and savings rate for income tax for 2022-23, and clause 5 maintains the starting rate for savings limit at its current level of £5,000 for 2022-23.

Income tax is one of the Government's most important revenue streams, expected to raise approximately £230 billion in 2022-23. The starting rate for savings applies to the taxable savings income of individuals with low earned incomes of less than £17,570, allowing them to benefit from up to £5,000 of savings income tax free. The Government made significant changes to the starting rate for savings in 2015. They lowered the rate from 10% to 0%, and increased the band to which it applied from £2,880 to £5,000. These clauses are legislated annually in the Finance Bill.

Clause 1 is essential because it allows for income tax to be collected in order to fund vital public services on which we all rely. Clause 2 ensures that the main rates of income tax for England and Northern Ireland continue at 20% for the basic rate, 40% for the higher rate, and 45% for the additional rate. Clause 3 sets the default and savings rates of income tax for the whole UK—the basic, higher and additional rates of 20%, 40% and 45% respectively. Clause 5 confirms the band of savings income to which it applies, maintaining the starting rate limit at its current level of £5,000 for the 2022-23 tax year. The limit is being held at that level rather than increased by the consumer prices index to ensure simplicity and fairness within the tax system, while maintaining a generous tax relief.

Clauses 1 to 3 ensure that the Government can collect income tax for 2022-23. Clause 5 continues the Government's commitment to support people of all incomes and at all stages of life to save. Taken with the personal savings allowance and the annual individual savings account allowance of £20,000, those generous measures mean that about 95% of savers will pay no tax on their savings income.

James Murray (Ealing North) (Lab/Co-op): I am grateful for the opportunity to respond to the clauses on behalf of the Opposition. As we have heard, clause 1 imposes a charge for income tax for the year 2022-23. It is for Parliament to impose that tax charge for the duration of the financial year. I understand from my well-informed parliamentary researcher that the first income tax that bears a resemblance to the modern graduated form that the clause refers to was introduced by William Pitt the Younger in 1798; as we will see in later clauses of the Bill, there has been some departure from the tax bands of £60 and £200 annually introduced then. We will of course not oppose clause 1, although we note for the record that under this Government the tax burden will rise to its highest level for 70 years.

Clause 2 sets the main rates of income tax for the year 2022-23, which will apply to the non-savings, non-dividend income of taxpayers in England and Northern Ireland. The clause provides that the main rates of income tax for 2022-23 are the 20% basic rate, the 40% higher rate, and the 45% additional rate. Income tax rates on non-savings, non-dividend income for Welsh taxpayers are set by the Welsh Parliament. The UK main rates of income tax are reduced for Welsh taxpayers by 10p in the pound, and the Welsh Parliament sets the Welsh rates of income tax, which are added to the reduced UK rates. Income tax rates and thresholds on non-savings, non-dividend income for Scottish taxpayers are set by the Scottish Parliament.

We note that, although the rates of income tax are not rising in the Bill, the same cannot be said for national insurance. That tax was increased by the Health and Social Care Levy Act 2021, which we debated in September. As I said at the time, that national insurance rise and the new levy being introduced represented a tax rise that falls directly on working people and their jobs, which is why we opposed the progress of that Act.

Clause 3 sets the default rates and savings rates of income tax for the tax year 2022-23. Subsection (1) provides for a basic default rate of 20%, a higher rate of 40% and an additional rate of 45%. Subsection (2) provides for savings rates on income tax at the same rates as the default: 20% for basic, 40% for higher and 45% for additional. Those rates match the rates of earned income, and we will not oppose the clause.

Clause 5 freezes the starting rate limit for savings in the tax year 2022-23 at £5,000. As it is not a devolved matter, the freeze applies across the United Kingdom. The starting rate for savings can apply to an individual's taxable savings income, such as interest on bank or building society deposits. The extent to which an individual's savings income is liable to tax at the starting rates for savings rather than the basic rate of income tax depends on the total of their non-savings income, including income from employment, profits from self-employment and pensions income. If an individual's non-savings income is more than their personal allowance and exceeds the starting rate limit for savings, the starting rate is not available for that tax year. Where an individual's non-savings income in a tax year is less than the starting rate limit, their savings income is taxable at the starting rate up to that limit.

Income tax is charged at the 0% starting rate for savings rather than the basic rate of income tax on that element of an individual's income up to the starting rate for savings income. The clause sets the starting rate limit for savings for 2022-23 at £5,000, but it does not override section 21 of the Income Tax Act 2007 in relation to the starting rate limit for savings for 2022-23. We know that the freeze on the limit is taking place in the context of a rising rate of inflation, which will have an impact on savers in real terms. In her reply, I would be grateful if the Minister explained what assessment the Treasury has made of those who will be affected by the freeze.

Lucy Frazer: I will make a couple of points in response. First, the hon. Member for Ealing North mentioned the tax burden rising; he will know that we are still in the midst of a pandemic and that the Government have spent £400 billion to ensure that public services, particularly the NHS, get the money they need. He will know why we are introducing a rise in national insurance contributions for the first time: to fix social care. He asked me about savings and those on the lowest incomes. The Government have raised the personal allowance by nearly 50% in real terms in the last decade. It is the highest basic personal tax allowance of all countries in the G20, and remains one of the most generous internationally.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clauses 2, 3 and 5 ordered to stand part of the Bill.

Clause 9

Liability of Scheme Administrator for Annual Allowance Charge

James Murray: I beg to move amendment 11, in clause 9, page 5, line 20, leave out "6 years" and insert "5 years and 9 months"

The Chair: With this it will be convenient to discuss clause stand part.

James Murray: Clause 9 relates to the liability of insurance scheme administrators for the scheme's annual allowance charge. I welcome the opportunity to discuss the clause and our amendment to it. The clause amends the period within which an individual can give notice to their pension scheme administrator to pay the annual allowance charge of previous tax years, using a system known as "mandatory scheme pays".

The clause also amends the period within which a scheme administrator must provide information about and account for an amount of the annual allowance charge. As we know, mandatory scheme pays is the process that helps an individual pay their annual allowance charge liabilities for a current tax year when certain conditions are met. The individual elects for their pension scheme administrator to be jointly liable for their annual allowance tax charge, in return for an actuarial reduction in the value of their pension pot.

The annual allowance is the maximum amount of tax relieved pension savings that an individual can build up during a tax year. Where an individual exceeds the maximum amount of tax relieved pension savings, they will be liable to a tax charge on the excess amount. That tax charge recoups the excess tax relief that the individual has already received on their pension savings. For mandatory scheme pays, the annual allowance charge must exceed £2,000, and the individual's pension input amount for that pension scheme must exceed the £40,000 annual allowance.

[James Murray]

The clause will enable more individuals who meet the conditions to benefit from the mandatory scheme pays facilities because the measure applies to all individuals that receive a retrospective amendment to their pension input amount for the previous tax year. This is a measure we broadly support—the simplification of a relatively complex tax rule is a good thing both for the pension contributors and for those who hitherto had to disentangle its complexity.

However, we would like to raise a point with the Minister; we have tabled amendment 11 as a probing amendment with that in mind. Amendment 11 would affect clause 9, page 5, line 20, by leaving out "6 years" and inserting "5 years and 9 months". We have tabled the amendment out of concerns drawn to our attention by the Chartered Institute of Taxation about the hard stop deadline being introduced for notices under section 237B of the Finance Act 2004. Clause 9 part 3 introduces a new section

"237BA Time limit for notices under section 237B".

Subsections (4)(b) and 5(b) provide for a hard stop deadline of

"the end of the period of 6 years beginning with the end of the tax year in question"

for both the scheme administrator providing an individual with information about a change to their pension input and output and the individual member giving notice to the scheme administrator to pay the annual allowance charge through scheme pays.

The result of the two subsections is that it is possible for the scheme administrator to issue a statement with a change to the pension input amount in line with the legislation after, say, five years, 11 months and 30 days, meaning that the member would have just one day to make the scheme pays election and give notice to the scheme administrator that they want to do so. That is clearly an unreasonable timeframe for the member, so our amendment suggests one possible way of making sure the scheme member is given fair warning.

Our amendment proposes a ring-fenced three-month period during which the member would have time to process and make arrangements for a scheme pays election and to give notice to the scheme administrator. I hope we can agree that such an approach would simply allow members some protection against unreasonable circumstances that could arise. We will not push the amendment to a vote, but I would be grateful if the Minister addressed the points it raises in her reply.

Lucy Frazer: Clause 9 extends the reporting and payment deadlines so that an individual can ask their pension scheme to settle their annual allowance tax charge of £2,000 or more from a previous tax year by reducing their future pension benefits in a process known as scheme pays. The annual allowance limits the amount of UK tax relieved pension savings that an individual can benefit from in the tax year. If an individual's pension savings exceed the annual allowance, a tax charge is applied. The tax charge recoups the excess tax relief that the individual has already received.

Scheme pays was introduced to help individuals pay an annual allowance charge in their current tax year where certain conditions are met. The unlawful age discrimination found in the 2015 public sector pension reform known as McCloud, which I will come on to in clause 11, highlighted a need for scheme pays to be available also for previous tax years from when an annual allowance tax charge arises. The changes made by clause 9 extend the date by which an individual can ask their pension scheme to pay an amount of their annual allowance tax charge. That means that where the charge arises because of a change of facts and the charge is £2,000 or more, the scheme pays facility is now another option for the individual to pay their tax charge.

The changes made by clause 9 also extend the date by which the pension scheme administrator must report and pay an annual allowance tax charge to Her Majesty's Revenue and Customs using the accounting tax return. The extended date applies where the charge has arisen because of a change of facts about an individual's pension savings. The date for reporting and paying the charge relates to when the scheme administrator is notified of the charge by the individual, following a change of facts rather than a fixed period after the end of the tax year. That means that the scheme pays facility is now available to individuals for their annual allowance tax charge from an earlier tax year.

Amendment 11 seeks to reduce the relevant time for a scheme to notify individuals from six years to five years and nine months. Unfortunately, that would mean that if an individual were notified more than five years and nine months after the tax year, scheme pays would not be available. The individual would, however, still be liable to the tax charge, leaving them to pay it out of their own pocket. I therefore urge the Committee to reject amendment 11.

In summary, clause 9 provides for scheme pays to be an option for individuals to have their pension scheme pay their annual allowance tax charge for a previous tax year where the conditions are met.

James Murray: I recognise that the Minister is unwilling to accept the amendment, although I would have welcomed a reassurance that she would take the principle behind the amendment away, discuss it with her officials and perhaps report back to the Committee at a later stage. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 9 ordered to stand part of the Bill.

Clause 10

Increase of normal minimum pension age

Question proposed, That the clause stand part of the Bill.

9.45 am

Lucy Frazer: Clause 10 makes changes to increase the normal minimum pension age to 57. It also establishes a protection regime, which will enable some individuals to continue to access their pension before the age of 57 without any adverse tax impacts. The normal minimum pension age is the age at which most savers can access their pension without incurring an unauthorised payment tax charge. The coalition Government announced in 2014 that the normal minimum pension age would rise to 57 in 2028, reflecting long-term trends in longevity and changing expectations of how long we will remain in work and in retirement.

Clause 10 legislates to increase the normal minimum pension age to 57 on 6 April 2028. That increase will not apply to members of the police, firefighters, or armed forces public service pension schemes, who will receive protected pension ages to reflect the special nature of their work. Those who have an unqualified right in their scheme rules to take their pension before age 57 will also receive protected pension ages. Those who made a substantive request to transfer their pension before 4 November 2021 will still be able to complete their transfer into a pension scheme that already offered unqualified rights to a pension below age 57 and get a protected pension age.

That is a shorter window during which pension scheme members can transfer their pension to keep a protected pension age than was initially published in the summer. The Government listened carefully to stakeholder concerns that a longer window could have adverse impacts on the pensions market. The shorter window still delivers the original policy intent, so that those who were in the process of transferring their pension when the protection regime was first announced do not lose their protected pension age. Closing the window without prior notice avoided unnecessary turbulence in the pensions market and helped to protect consumers.

Those with protected pension ages will be able to access their pension benefits before age 57 without incurring an unauthorised payment tax charge. A protected pension age is specific to an individual as a member of a particular scheme. If an individual has a protected pension age in one scheme, they will not automatically have a protected pension age in another scheme: that would depend on the second scheme's rules. Increasing the normal minimum pension age to 57 in 2028 reflects the principle that the normal minimum pension age should be set 10 years below the state pension age. The protection regime balances the need for fairness to pension savers with simplicity for pension providers. I therefore commend the clause to the Committee.

James Murray: As we have heard, clause 10 relates to the increase of the normal pension age to 57 from 6 April 2028. The stated intention of the clause is to protect members of the registered pension schemes who, before 4 November 2021, had a right to take their entitlement to benefit under those schemes at or before the existing normal minimum pension age. It exempts members of certain uniformed service pension schemes from the increase, and it introduces new block and individual transfer rules specific to the new protection framework in order to reduce the restrictions on retaining a protected pension age following a transfer. The UK has a long tradition of protecting and rewarding those who have served their country. It is therefore right that we support clause 10, as it provides that protection by safeguarding recipients' right to retain entitlement to benefits when transferring schemes.

We note, however, that the Low Incomes Tax Reform Group has concerns about the transitional arrangements relating to the clause. Paragraph 28 of the Government's explanatory note regarding this clause states:

> "There may be some transitional issues. For example, an individual who does not have a protected pension age and at 5 April 2028 will have reached age 55 and has started but not completed the process of taking pension savings before the change in normal minimum pension age. The government will provide further advice on the proposed transitional arrangements and provisions in due course."

That raises concerns about when further advice on the proposed transitional arrangements will be made available, as well as questions about the extent to which that advice will be effectively communicated to the people concerned.

It is vital that people have full detail of any transitional provisions well before the increase to age 57 comes into effect; otherwise, there is a risk that people reaching age 55 in the run-up to 6 April 2028 will make decisions without knowing all they need to know. For example, an individual could cash in a pension in full and put the money in the bank so as to crystallise access to those funds, which may well leave them worse off in the long term, having likely incurred a large tax liability on the encashment and potentially affected their means-tested benefit entitlement. They might also have triggered the money purchase annual allowance, therefore restricting—perhaps unwittingly—their ability to make further contributions. In light of this, will the Minister clarify precisely when "due course" is, in relation to the Government's further advice regarding the proposed transitional arrangement for the provisions? Will she also confirm what measures the Government will take to make sure that people are aware of the advice when it is finalised?

Alison Thewliss (Glasgow Central) (SNP): This issue speaks to what I and my colleagues have often asked for in Finance Bills—that is, to be able to take evidence. We have received some very good written evidence from different organisations—I thank Scottish Widows, the Low Incomes Tax Reform Group and the Chartered Institute of Taxation for sending evidence to the Committee—but some of the detail requires a bit more interrogation. It would be useful if Finance Bill Committees were able to take evidence on the detail.

I agree with much of what the hon. Member for Ealing North said. Saying that something will happen in due course is not a great reassurance to many people. We have seen the terrible mess that the Government left for the WASPI women—the Women Against State Pension Inequality—who did not receive enough notice of state pension age changes. As a result, many have lost out on what they expected to happen when they reached retirement.

In its evidence, Scottish Widows makes the point well:

> "Simplicity is a key driver of engagement with pensions… The average person has 11 jobs in their lifetime—with auto enrolment that could mean them having at least 11 pension pots. Some of these will now be accessible at age 55, others at 57."

It also notes that

> "some customers may have different pension ages within the same pension pot."

That is not the simplicity that people really need when it comes to planning for their retirement.

There is a range of views. Scottish Widows appears to welcome the changes. The Chartered Institute of Taxation is not convinced that a change to the normal minimum pension age is necessary or desirable. What ought to be at the centre of this discussion is the people who will claim that pension. They need the clearest possible advice and the longest possible amount of notice in order to plan. I ask for clarity from the Government. It is just not acceptable to come before the Committee today without a date and say, "in due course". People need to be able to plan for one of the most important events in their lives.

Lucy Frazer: The hon. Members for Glasgow Central and for Ealing North both mentioned the transitional arrangements and notice. They are right to identify that the Government have acknowledged the importance of establishing a clear position on the transitional arrangements and that we have said that we will provide further advice on the proposed transitional arrangements and provisions in due course. That remains the position, but I am very happy to keep both Members updated as we progress.

The hon. Member for Glasgow Central made a point about evidence. I know she is interested in the taking of oral evidence—she has made that point before. There is, of course, a standard process on the measures in the Finance Bill. That process involves a huge amount of consultation, with particular milestones, including engagement with industry and stakeholders, often a consultation, and sometimes draft legislation that then comes forward into the Finance Bill. That is the way the Finance Bill operates.

The hon. Member mentioned the WASPI women, which I know many hon. Members from all parties feel strongly about. As she will know, it was decided 25 years ago to make the state pension age the same for men and women in what was then a long overdue reform.

Question put and agreed to.

Clause 10 accordingly ordered to stand part of the Bill.

Clause 11

Public service pension schemes: rectification of unlawful discrimination

Question proposed, That the clause stand part of the Bill.

Lucy Frazer: The clause allows for regulations to be made to address the tax impacts of the remedy to the unlawful age discrimination that arose from the 2015 public service pension reforms. The Government reformed most public service pensions in 2015, but excluded those closest to retirement from the reforms. The court found that that exclusion amounted to unlawful discrimination on the basis of age. That is known as the McCloud case.

Following consultation, the Government are introducing a remedy to rectify that discrimination, which affects about 3 million people. The remedy includes options for them to choose at retirement what type of pension rights they will receive for the remedy period. The remedy period covers the years between 2015 and 2022, with an exception for the judiciary, who will instead make their choice in 2022. That was decided following consultation with the sector.

Most of the legislation required to implement the remedy is contained in the Public Service Pensions and Judicial Offices Bill, which is progressing through the Commons. However, where those changes mean that the Government will provide individuals with different historical pension rights, changes to pension tax legislation are also required. The purpose of clause 11 is therefore to allow the Government to make regulations to put the individual, as far as possible, in the tax position in which they would have been had the discrimination never happened. It also ensures that regulations can be put in place to address the tax impacts of the public service pensions remedy on the employers and those responsible for the tax affairs of the pension schemes.

I mentioned that the legislation implementing the remedy is going through Parliament. Once it is finalised, the Government will use the power in clause 11 to draft regulations that will provide for the tax changes needed as part of our move to rectify the discrimination. For example, the Government will use the power to ensure that compensation payments payable as a result of the remedy can be made tax free, as they are calculated on that basis under the Public Service Pensions and Judicial Offices Bill.

The Government will also use the power in clause 11 to ensure that pensions and lump sums payable as a result of the remedy that would have been authorised payments had they been made at the relevant time are treated as meeting the conditions to be authorised. One further example is that members may choose benefits for the period 2015 to 2022 that lead to a significant increase in their pension accrual in a single tax year. Without a change to legislation, that could result in individuals paying more tax than if the pension that they ultimately chose had accrued annually.

The Government will use the power in clause 11 to make good the tax treatment of those affected by the remedy set out in the Public Service Pensions and Judicial Offices Bill. Regulations made under the power will ensure that, broadly, those affected will be in the tax position that they would have been in had they not suffered discrimination. I therefore commend the clause to the Committee.

James Murray: As we have heard from the Minister, clause 11 relates to public service pension schemes and the rectification of unlawful discrimination. It provides the Treasury with the power to make regulations to address the tax impacts that arise in consequence to or in connection with the rectification of unlawful discrimination set out in part 1 of what is expected to become the Public Service Pensions and Judicial Offices Act 2022. Those changes will have effect on or after 6 April 2022, and are capable of having retrospective effect.

As we are aware, when reformed public service pension schemes were introduced in 2014-15, the Government agreed, following discussions with trade unions, to allow active members of pre-existing public service pension schemes who were close to retirement to remain in those schemes, rather than requiring them to start to accrue pension benefits in a new scheme. That was called transitional protection. In December 2018, the Court of Appeal found in what is known as the McCloud judgment that the transitional protection unlawfully discriminated against younger members of the judicial and firefighter pension schemes, and gave rise to indirect sex and race discrimination.

On 15 July 2019, the then Chief Secretary to the Treasury, the right hon. Member for South West Norfolk (Elizabeth Truss), made a written ministerial statement setting out that the Government considered that the Court of Appeal's judgment had implications for all public service pension schemes, and planned to introduce proposals to remedy the discrimination across the schemes. On 19 July 2021, the Government introduced the Public Service Pensions and Judicial Offices Bill. The provisions of part 1 of that Bill will apply retrospectively, to provide a remedy for the discrimination. The rectification affects individuals who were members of a public service pension scheme on or before 31 March 2012 and at any time between 1 April 2015 and 31 March 2022, and so had pensionable service during that time.

Under chapter 1 of part 1 of Public Service Pensions and Judicial Offices Bill, individuals who were moved to a new scheme will be retrospectively returned to their previous scheme for the period of remediable service. Any member with remediable service will be able to choose to receive pension scheme benefits based on the rules of either the legacy scheme or the new scheme, although for most individuals there will be no significant change in the tax position. The legislation will provide the Treasury with the power to make regulations that make the necessary changes to tax legislation so that, as far as possible, individuals can be put in the position in which they would have been, absent the discrimination. We will therefore not oppose the clause.

Lucy Frazer: I am grateful for the hon. Member's indication that he will not oppose the clause, and have nothing further to add.

Question put and agreed to.

Clause 11 accordingly ordered to stand part of the Bill.

Clause 13

Structures and buildings allowances: allowance statements

Question proposed, That the clause stand part of the Bill.

10 am

Lucy Frazer: Clause 13 makes provisions to improve the operation of the structures and buildings allowances for taxpayers. The clause will require relevant allowance statements to include the date that qualifying expenditure is incurred or treated as incurred in cases where its absence could prevent future owners of an asset from claiming the full amount that they are entitled to.

The SBA allows companies to reduce their taxable profits each year by 3% on the cost of construction, acquisition, renovation or conversion of non-residential buildings and structures. The investment is fully relieved after 33 and a third years. A business must hold a valid allowance statement to claim SBA. That document records information such as the relevant building or structure and the amount of qualifying expenditure incurred. It is passed on to subsequent owners to ensure the right records are kept for an asset.

The allowance period is the period over which SBA can be claimed, and it typically begins on the date when the structure or building is first brought into non-residential use. However, in cases where expenditure is incurred or treated as incurred after non-residential use has commenced, the allowance period will begin from that later date. That may be the case where renovation work is being carried out in a multistorey office building and the first tenants move in to one floor of the office building even though some construction continues on a different floor.

Without the inclusion of that date on the allowance statement, subsequent owners of a structure or building may not claim all the relief they are entitled to. Instead, they may reasonably assume that the allowance period began on the day the asset was first brought into non-residential use, not the date of the subsequent expenditure. Clarity for businesses on the remaining length of the allowance period for each portion of expenditure means they will be able to claim the full relief to which they are entitled.

The changes made by clause 13 are wholly relieving and will only benefit firms towards the end of the allowance period of 33 and a third years. The measure will apply across the UK. The clause will be effective for qualifying expenditure incurred or treated as incurred on or after the date of Royal Assent of the Bill. Therefore, it will not be retrospective and will not impact allowance statements already in existence. Clause 13 ensures that, in future, businesses can claim the full tax relief to which they are entitled.

James Murray: Clause 13 concerns the structures and buildings allowance statements. As we heard, it introduces a new requirement for allowance statements to include the date that qualifying expenditure is incurred or treated as incurred when that is later than the date on which the building or structure was first brought into non-residential use. The clause has effects for qualifying expenditure incurred or treated as incurred on or after the date of Royal Assent.

As we know, SBAs are a capital allowance available for the cost of constructing, renovating, converting or acquiring non-residential structures and buildings. When SBAs were first introduced, from 29 October 2018, the allowances were given at 2% per annum of qualifying expenditure on a straight-line basis. That rate was increased to 3% per annum with effect from April 2020. The period over which SBAs are available to be claimed is known as the allowance period.

A business must hold an allowance statement to claim SBAs, which includes certain details such as the date the asset is first brought into non-residential use. As we heard, that is normally the date that the SBA's allowance period of 33 and a third years commences. However, where qualifying expenditure is incurred after the asset is brought into non-residential use, the allowance period starts on a later date. The new paragraph inserted by the clause adds an additional requirement to record that later date on the allowance statement, where relevant, to ensure the correct amount of SBAs may be claimed over the allowance period. The minor amendment to section 270IA(4)(b) of the Capital Allowances Act 2001 ensures consistency with the new paragraph.

We do not oppose the clause, as it is important to ensure the correct amount of SBA is claimed over the correct time to avoid unnecessary hardship or disruption.

Lucy Frazer: I am happy that the hon. Gentleman recognises that this is a clause worthy of Bill.

Question put and agreed to.

Clause 13 accordingly ordered to stand part of the Bill.

Clause 14

Qualifying Asset Holding Companies

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

Government amendments 1 to 6.

That schedule 2 be the Second schedule to the Bill.

Lucy Frazer: Clause 14 and schedule 2 introduce a new regime for the taxation of certain asset-holding companies being used by funds and institutional investors to make their investments. Asset management firms manage the savings and pensions of millions of UK citizens. The majority of UK households use an asset manager's services, either directly or indirectly, for example through their workplace pensions. The reforms have been developed following extensive consultation as part of the wider review of the UK funds regime announced at Budget 2020. A key objective of the review is to consider reforms to enhance the UK's competitiveness as a location for asset management and investment funds. It is a well-established principle that investors in funds should be taxed broadly as if they had invested directly in the underlying assets.

The new qualifying asset holding companies regime seeks to ensure that, where intermediate holding companies are used to facilitate the flow of capital, income and gains between investments and investors, the tax they pay is proportionate to the limited activities that they perform. With that policy objective in mind, the regime comprises a number of features, including a gains exemption for the disposal of certain shares and overseas property; specific rules where investment returns are passed to investors; withholding tax removed from payments of interest; and exempting repurchases of share and loan capital from stamp tax charges.

The new regime also contains safeguards. For example, the existing taxation of profits from trading activities, UK land and intangibles will not be affected. Furthermore, the new regime will be available only in certain circumstances—to prescribe investment arrangements involving diversified investment funds, charities, long-term insurance business, sovereign immune entities, certain pension schemes and public bodies.

Government amendments 1 to 6 seek to address three technical points better to reflect the original policy intention of the new regime and to ensure consistency with wider tax rules. Those include refinements to the eligibility criteria and ensuring that they are applied consistently. They follow engagement with the industry on the legislation since the introduction of the Finance Bill.

The clause introduces a new regime for qualifying asset holding companies from April 2022 that will build on the UK's strengths as an asset management hub by enhancing the attractiveness of the UK as a location for the establishment of asset holding companies. I recommend that the clause and schedule 2 form part of the Bill.

James Murray: As we have heard, the clause concerns qualifying asset holding companies, and sits alongside schedule 2. The aim of the clause, we understand, is to recognise certain circumstances where intermediate holding companies are used only to facilitate the flow of capital, income and gains between investors and underlying investments to tax investors, broadly as if they had invested in the underlying assets, and to enable the intermediate holding companies to pay tax that is proportionate to the activities they perform.

At Budget 2020, the Government announced that they would carry out a review of the UK funds regime, covering tax and relevant areas of regulation. The review started with a consultation on the tax treatment of asset holding companies in alternative fund structures, also published at Budget 2020. The Government responded to that consultation in December 2020, launching a second-stage consultation on the detailed design features of a new regime for asset holding companies. The Government's response to that consultation was published on 20 July 2021.

The clause and schedule 2 introduce the new regime. We understand that the purpose of the measures is to deliver a proportionate and internationally competitive tax regime for qualifying asset holding companies that will remove barriers to the establishment of such companies in the UK. The Government have said that the new regime will include the following key features: eligibility criteria to limit access to the intended users; tax rules to limit the qualifying asset holding company's tax liability to an amount that is commensurate with its role; and rules for UK investors to ensure that they are taxed so far as possible as if they had invested in the underlying assets directly.

We understand that the eligibility criteria will ensure that the asset holding companies may only be used as part of investment structures where funds are managed for the benefit of a broad pool of investors or beneficiaries. An asset holding company cannot carry out other activities, including trading, to any substantial extent. The tax benefits arising from asset holding company status apply only in relation to qualifying investment activity. The tax treatment of any limited trading activity or any non-qualifying investment activity that is carried on by an asset holding company will not be affected by the company's status as an asset holding company.

We note that the Government have tabled six amendments to schedule 2, which accompanies the clause. Amendments 1 and 2 seek to pin down the definition of investment management profit-sharing arrangements. According to the explanatory statement, that is to ensure that the legislation is capable of encompassing arrangements in which an entitlement to profits arising in connection with the provision of investment management services by an investment manager arises to another person, such as a company or a trust.

Amendments 3 and 6 provide that a fund that is 70% controlled by category A investors meets the diversity of ownership condition. Amendment 4 seeks to allow existing funds marketed before the commencement of the qualifying asset holding company regime to be treated as meeting regulation 75(2) of the Offshore Funds (Tax) Regulations 2009 if certain information has been produced by the fund and has been made available to Her Majesty's Revenue and Customs. Amendment 5 modifies the way in which the interests of creditors are accounted for in determining whether a fund is closed. We will not be opposing clause 14 or the Government's amendments to it.

Alison Thewliss: I am a wee bit concerned that the Government have brought these amendments so late in the day. I appreciate that they have brought them now, rather than seeking to come back and amend legislation further down the road. That is something, I suppose. Does the Minister intend to review this legislation, and on what timescale? I am a wee bit worried about the letter we received yesterday, which said that, as originally drafted, the legislation includes some inconsistencies with wider tax rules and within the regime's eligibility criteria. Given those worries and these amendments, I would like some reassurance from the Minister that the Government are going to keep an eye on this legislation to make sure that it is not exploited or used in the way that it is not intended to be. We need to make sure that people are paying the tax that they ought to be and that the legislation is not used as some kind of dodge.

Lucy Frazer: I welcome the lack of opposition to these clauses, which will support UK growth, by the hon. Member for Ealing North. The hon. Member for Glasgow Central made a point about the fact that the Government have made amendments late in the day. I reassure her that they are technical changes. Following engagement with the industry since the introduction of the Finance Bill, the amendments required were pointed out to us and, therefore, it is important that we include the amendments in the Bill. We keep all legislation under review. We are very concerned, as the hon. Member will have seen from other measures in the Bill, about tackling tax avoidance, so we will keep an eye out for any misuse of the measures. I commend the amendments and clause 14 to the Committee.

Question put and agreed to.

Clause 14 accordingly ordered to stand part of the Bill.

Amendments made: 1, in schedule 2, page 97, line 24, leave out "performing investment management services".

This amendment is one of a pair of amendments designed to secure that the definition of investment management profit-sharing arrangements is capable of encompassing arrangements where an entitlement to profits arising in connection with the provision of investment management services by an investment manager arises to another person (such as a company or a trust).

Amendment 2, in schedule 2, page 97, line 25, leave out from "profits of" to end of line 26 and insert

"investments in connection with the provision of investment management services in relation to those investments."

This amendment is one of a pair of amendments designed to secure that the definition of investment management profit-sharing arrangements is capable of encompassing arrangements where an entitlement to profits arising in connection with the provision of investment management services by an investment manager arises to another person (such as a company or a trust).

Amendment 3, in schedule 2, page 99, line 36, leave out paragraph (c) and insert—

"(c) the fund is 70% controlled by category A investors."

This amendment is one of a pair of amendments that provide that a fund that is 70% controlled by category A investors meets the diversity of ownership condition.

Amendment 4, in schedule 2, page 99, line 42, leave out "6 April 2020" and insert "1 April 2022".

This amendment will allow existing funds marketed before the commencement of the QAHC regime to be treated as meeting regulation 75(2) of the Offshore Funds (Tax) Regulations 2009 if certain information has been produced by the fund and has been made available to HMRC.

Amendment 5, in schedule 2, page 100, line 19, at end insert '—

(i) as if in subsection (4) of section 450 of that Act, the reference to a loan creditor were to a creditor of the fund in respect of a normal commercial loan (within the meaning it has in paragraph 3),

(ii) as if in that subsection, at the end there were inserted "and for the purposes of subsection (3)(d)", and

(iii)'

This amendment modifies the way in which the interests of creditors are accounted for in determining whether a fund is "close".

Amendment 6, in schedule 2, page 100, line 30, leave out sub-paragraph (6) and insert—

"(6) A fund is 70% controlled by category A investors if a category A investor, or more than one category A investor between them, directly or indirectly possesses—

(a) 70% or more of the voting power in the fund or, in the case of a fund that is not a body corporate, an equivalent ability to control the fund,

(b) so much of the fund as would, on the assumption that the whole of the income of the fund were distributed among persons with interests in the fund, entitle that investor or those investors to receive 70% or more of the amount so distributed, and

(c) such rights as would entitle that investor or those investors, in the event of the winding up of the fund or in any other circumstances, to receive 70% or more of the assets of the fund which would then be available for distribution among persons with interests in it.

(6A) For the purposes of sub-paragraph (6)—

(a) a category A investor indirectly possesses something if the investor possesses it through a body corporate or a series of bodies corporate;

(b) the interests of the participants in a category A investor that is a collective investment scheme that is transparent (within the meaning given by paragraph 6(7)) are to be treated as interests of the investor (instead of its participants) if that investor meets the diversity of ownership condition as a result of sub-paragraph (2)(a);

(c) in determining, for the purposes of sub-paragraph (6)(b) or (c), proportions of income or assets persons with an interest in the fund would be entitled to, ignore any interest any person has as a creditor of the fund in respect of a normal commercial loan (within the meaning it has in paragraph 3);

(d) paragraphs 5(5) and 6(5) and (6) apply for the purposes of determining the interests of persons in a fund as they apply for the purposes of determining relevant interests in a QAHC.

(6B) For the purposes of sub-paragraphs (5)(a)(i) and (6A)(c), references to a creditor of a fund are to be treated, in the case of a fund that is a partnership, as not including any creditor who is a partner of that fund." *—(Lucy Frazer.)*

This amendment is one of a pair of amendments that provide that a fund that is 70% controlled by category A investors meets the diversity of ownership condition.

Schedule 2, as amended, agreed to.

Clause 15

Real Estate Investment Trusts

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

That schedule 3 be the Third schedule to the Bill.

Lucy Frazer: Clause 15 makes targeted changes to the tax rules for real estate investment trusts. These changes alleviate certain constraints and administrative burdens to enhance the attractiveness of the UK's real estate investment trust regime for real estate investment.

A real estate investment trust, or REIT, is a collective vehicle that allows investors to obtain broadly similar returns from an investment in property as they would have had had they invested directly, through a specific set of tax rules. This regime has proved popular since its introduction in 2006, with around 100 UK REITs currently

[Lucy Frazer]

established. However, recent consultations issued as part of the Government's review of the UK funds regime have identified a number of areas where the REIT regime could be reformed to remove unnecessary barriers and make it more competitive. The Government are now acting to amend these areas of their regime to make the UK a more attractive location for holding real estate assets.

The changes to the REITs tax rules will reform a number of areas. They will remove some administrative and cost burdens for existing UK REITs and remove some barriers to entry, widening the scope of businesses able to elect to be a UK REIT. In particular, the changes will remove the requirement for REIT shares to be admitted to trading on a recognised stock exchange where institutional investors hold at least 70% of the ordinary share capital. They will amend the definition of an overseas equivalent of a UK REIT to allow it to be met by companies and jurisdictions without an equivalent regime and remove the "holder of excessive rights" charge, where property income distributions are paid to investors entitled to receive them without deduction of withholding tax.

Finally, the changes will introduce a new, simplified balance of business test, which are the rules requiring that at least 75% of the rights, profits and assets relate to the property rental business, and exclude certain activities relating to the planning obligations from the test.

The targeted changes introduced by the clause and schedule will make the existing REITs regime more attractive, consistent with the Government's objective for the review of the UK funds regime. The changes will come into force on 1 April 2022.

10.15 am

James Murray: As we have heard, clause 15 and schedule 3 concern real estate investment trusts. The clause and schedule amend the REIT rules and, as the Government have said, seek to remove superfluous restraints and administrative burdens. That includes the removal of the requirement for REIT shares to be admitted to trading in certain circumstances; the amendment of the definition of an overseas equivalent of a UK REIT; the amendment of the "holder of excessive rights" charge to corporation tax; and changes to the rules which ensure that a REIT's business is primarily focused on its property rental business. The changes take effect from 1 April 2022.

A REIT is a company through which investors can invest in real estate directly. Specific tax rules for UK REITs were introduced in the Finance Act 2006. The regime has proved popular, and the number of UK REITs steadily increased to 92, as of June 2021. Subject to meeting certain relevant conditions, the company may notify Her Majesty's Revenue and Customs that it is to be treated as a UK REIT. Its property rental profits and gains are then, in broad terms, treated as exempt from corporation tax, subject to ongoing conditions such as the requirement to distribute 90% of its exempt profits as property income distributions, which are in turn treated as property rental income in investors' hands.

At Budget 2020, the Treasury launched a consultation on the tax treatment of asset holding companies, which included questions about investments in real estate. Responses to the consultation led to the inclusion of proposals for changes to the REIT regime in a second consultation on asset holding companies, which was launched in December 2020. The schedule introduces those changes, which are intended to remove restrictions and administrative burdens where they are no longer necessary. For that reason, we do not oppose the clause or schedule.

Alison Thewliss: I have a question about transparency and how the regime will interact with the Government's draft Registration of Overseas Entities Bill. I remember some discussion about people moving ownership to trusts and other things, but I am not quite clear how this interacts with that work on transparency.

Lucy Frazer: I am grateful to the hon. Member for Ealing North for indicating that he will not oppose this aspect of the Bill. As he has said, the regime is very popular. I am very happy to get back to the hon. Member for Glasgow Central on her particular question.

Question put and agreed to.

Clause 15 accordingly ordered to stand part of the Bill.

Schedule 3 agreed to.

Clause 16

Film tax relief: films produced to be television programmes

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss new clause 14—*Review of effectiveness of film tax relief provisions of Act and of potential for misuse*—

"(1) The Government must publish, within six months of this Act coming into force, a report on the effectiveness of the provisions of section 16 of this Act.

(2) This review must include an assessment of the extent of, and potential for, misuse of the relief provided in section 16.

(3) The assessment under subsection (2) must include an evaluation of the relevance of the experience of misuse of existing film tax relief.

(4) The evaluation provided for in subsection (3) must include—

(a) the—

(i) total number of enforcement actions, and

(ii) number of successful enforcement actions taken against companies suspected of misusing film tax relief,

(b) the actions taken against the promoters of schemes designed to enable misuse of film tax relief, and

(c) a statement as to the plans the Government has for further action against misuse of film tax relief."

This new clause would require a review of the effectiveness of the provisions in section 16. This review would include assessing actual and potential misuse of the relief, drawing on experience of the present film tax relief regime.

Lucy Frazer: Clause 16 makes changes to the film tax relief to give added flexibility to film producers who might decide to change their distribution method. The Government are ensuring that film producers can claim the film tax relief for films that are broadcast or streamed rather than released in cinemas, provided that the film meets the criteria for high-end television tax relief.

There is an imbalance between release for film and TV where some films that are no longer intended for a cinematic release and switch to streaming lose eligibility for tax relief. The distribution landscape has changed significantly since the introduction of these reliefs, and more films are released directly to video on demand services. This trend has accelerated recently due to the covid pandemic.

The changes made by the clause to the film tax relief will provide greater certainty for producers, ensuring that relief is not lost should a company decide to change its distribution method. This will help ensure that the UK remains an attractive place to invest and encourage the production of culturally British films.

New clause 14 would require the Government to review the effectiveness and potential misuse of clause 16 within six months of the Act coming into force, and would include within it an evaluation of misuse of the film tax relief. That evaluation would include the total number of enforcement actions, and the number of successful enforcement actions, taken against the companies suspected of misusing film tax relief.

The Government oppose the new clause on the basis that it is not necessary, as the Government are already monitoring and evaluating the success of their tax reliefs. This follows the structured approach to evaluating tax reliefs that HMRC began in October 2020 as a general good practice policy approach. HRMC has contracted an independent research agency to evaluate the screen tax reliefs, including film tax relief and high-end television tax relief. That evaluation aims to provide a thorough and independent evaluation of the reliefs, including their effect on employment and business growth. The impact of clause 16 will be noted as part of the evaluation, which is expected to be published next year, although that evaluation will not cover misuse of the relief. The requirement in new clause 14 that a review of clause 16 be published in six months is also impractical, because the measure only comes into effect for accounting periods ending on or after 1 April 2022. It is likely to be at least a year before companies make claims in relation to clause 16, and even longer before enforcement action is taken.

It is also worth noting that HMRC is taking actions to clamp down on the abuses that the new clause is concerned about. The current film tax relief was introduced in 2007 to replace film partnership reliefs. It is a corporate relief, and now focuses on film producers, not on investing partnerships. HMRC continues to settle and litigate historic schemes related to the old film partnership reliefs, but the current regime has not been subject to the same abuse, and has had a positive reputation in the industry.

The corporate film tax relief has proved very successful at attracting inward investment. It is highly popular with film-makers, and has contributed to making the UK a top film-making destination. This new relief is well targeted and has not been subject to abuse like the previous scheme. The change made by clause 16 is therefore to support businesses that meet the qualifying criteria for the relief, and while HMRC will remain vigilant regarding any emerging risks, we do not believe that clause 16 poses any significant additional risk. Further, reviews and disclosure of enforcement action statistics as requested by the new clause would not be useful. As such, I urge the hon. Gentleman to withdraw it.

The changes made by clause 16 will help ensure that the film tax relief continues to support the UK's thriving film-making scene. I therefore commend it to the Committee.

James Murray: As we have heard, clause 16 allows films to remain eligible for film tax relief even if those films are no longer intended for theatrical release, provided they are intended for broadcast and meet the four conditions required for high-end television tax relief. The clause is effective for accounting periods ending on or after 1 April 2022. We do not oppose measures that support the entertainment and hospitality industry, particularly given the ongoing challenges brought about by the covid-19 pandemic. Indeed, the measures contained in clause 16 are, in themselves, sensible and appropriate.

More widely, though, we are aware that film tax relief was introduced by the Finance Act 2006, and applied only to films intended to receive theatrical release. That intention must be met at the end of every accounting period. Similarly, high-end television tax relief was introduced by the Finance Act 2013, and allows companies to claim relief on television programmes so long as they meet certain conditions.

The intention to broadcast must be met at the outset of production activities, and is then treated as being met for the remainder of production activities, regardless of the intention for the programme. That raises the possibility that a film that was initially intended for theatrical release may miss out on either relief if the intention changes part-way through production, and it is instead planned to have a television release. This is the case even when such a film would have been eligible for television tax relief if the decision had been made at the very start of production activities. Clause 16 ensures that where a film would have been eligible for high-end television tax relief if not for the date that the broadcast intention was decided on, it will not miss out on that relief, but will be eligible to claim it.

I am sure that the measures in this clause will provide welcome relief to those in the film industry. However, we would like to take this opportunity to ask the Minister about the operation of the film tax relief more widely, which is a debate that our new clause 14 seeks to encourage. Looking back briefly to 2014, the Public Accounts Committee reported on the misuse of tax relief, including the film tax relief, to which it made explicit reference. The report found:

> "There is a lack of transparency and accountability for tax reliefs and no adequate system of control, following their introduction….Tax expenditures are often alternatives to spending programmes, but are not managed or evaluated as closely…The Departments do not keep Parliament adequately informed of changes in the costs of reliefs…The Departments are unable to cope with the demands of an increasingly complex tax system, including tax reliefs…The Departments do not respond promptly to unexpected increases in the costs of tax reliefs. Data on movements in the cost of reliefs is not available until tax returns are received, and HMRC takes time to react when it notices a cost increase, as it wants to ensure its response is appropriate. However, a longer elapsed time in reacting to an increase in the cost of a tax relief raises the total amount of public money at risk. In the case of film tax relief, it took ten years to resolve the problems and cost over £2 billion."

I am aware that the operation of the film tax relief has been changed in recent years, but it is important to ensure that the tax relief continues to be effective. We need the Government to reassure us that they are taking

[James Murray]

adequate action against the possible misuse of tax reliefs. With that in mind, we tabled new clause 14, which would require the Government to include an assessment of the extent of, and potential for, misuse of the relief provided in clause 16. That assessment must also include an evaluation of the misuse of existing film tax relief more widely.

In relation to that wider potential misuse of existing film tax relief, our new clause requires the Government to set out, first, the number of total and successful enforcement actions taken against companies suspected of misusing film tax relief; secondly, a report of what action has been taken against the promoters of schemes designed to enable to misuse of film tax relief; and thirdly, what plans the Government have for further action against the misuse of film tax relief in the future.

The Minister has set out that she will not accept our new clause, but I ask her to commit to a firm timetable for a review of existing film tax relief that would have a similar effect. There are already reports suggesting that the use of film tax relief is increasing. I remind her that the 2014 Public Accounts Committee report said that

"Departments do not respond promptly to unexpected increases in the costs of tax reliefs."

If the Minister will not commission a review along the lines that we have suggested, I would be grateful if first she could reassure us on the record that she does not believe that there are significant levels of misuse of film tax relief. Following the point that she made earlier, I would be grateful if she could also explain what the timetable is for the publication of the evaluation of film tax relief. If she does not have that to hand, could she write to me before the recess?

Alison Thewliss: I am more than happy to support what the Government are proposing here. Consistency in these tax reliefs is really important to allow businesses to plan. My constituency particularly has a booming TV and film production sector, with the recent announcement of the BBC Studioworks development at Kelvin Hall in my constituency, and an £11.9 million investment, £7.9 million of which is coming from the Scottish Government to invest in the high quality TV and film production in Glasgow.

It is important to acknowledge the wider picture. This is not just about one tax relief; it is about the wider ecosystem. We have lots of independent production companies in Glasgow Central, and more widely in Glasgow, working away and producing high quality stuff. We have post production as well in companies such as Blazing Griffin, which does high-end stuff for the likes of Netflix. However, I would be doing them all a wee bit of a disservice if I did not mention the significance of Channel 4, and the importance of keeping it in its current model and standing away from the plans to privatise it. That model is what supports the wider ecosystem in the city of Glasgow—the model where independent production companies are able to keep their intellectual property and products, and sell them. That allows all the certainty within the sector to continue.

As I said, the issue is not just about this one tax relief; it is about the Government looking at and acknowledging the wider ecosystem that supports independent production within Glasgow. Companies such as Blazing Griffin have pointed out to me that, were it not for Channel 4, we would not have Netflix. One thing in the ecosystem depends on another, and I urge the Government to look at that in the round when it considers such tax reliefs. Where tax reliefs have been withdrawn or changed in the United States, all that happens is that production companies lift and shift, and go elsewhere. We do not want to risk doing that with such changes as those that the Government propose for Channel 4.

Lucy Frazer: I will briefly respond to the points made by the hon. Member for Ealing North. There are four short points: first, I hope the hon. Member has taken some reassurance from the fact that I mentioned that the current regime is not subject to the same abuse as the historic regime. Secondly, I mentioned that we were doing an independent review of reliefs. Thirdly, he asked me for the timing of that project. It started in May 2021, and we expect the project to be finished and to have written a report before the end of March 2022, for publication later in the year.

The hon. Member also mentioned avoidance quite a lot; we are also interested in tackling avoidance, and we will be coming to, later on in this Committee, a whole raft of measures tackling promoters. I am sure that he will welcome those.

10.30 am

On the point that the hon. Member for Glasgow Central made, I am very pleased to see that there are thriving creative industries across the UK. She makes an important point about how we need to look at the industry as a whole, but it would be stretching things slightly to include a debate about Channel 4 within the confines of this Bill.

Question put and agreed to.

Clause 16 accordingly ordered to stand part of the Bill.

Clause 17

Temporary increase in theatre tax credit

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss clauses 18 to 22 stand part.

Lucy Frazer: Clauses 17 to 22 make a series of changes to the creative industry tax reliefs, in order to support the cultural sector as it recovers from the effects of the pandemic. These changes include temporary rate increases for theatre tax relief, orchestra tax relief, museums and galleries exhibition relief and an extension of the museum and exhibitions tax relief. The changes ensure that reliefs remain targeted, free from abuse and sustainable.

The effects of covid on the creative industries have varied depending on the nature of the medium. Social distancing and wider restrictions have had a particular impact on theatres, orchestras, museums and galleries, as they rely on live performances and exhibitions to generate revenue. Clauses 17 and 21 temporarily double the headline rate of relief for theatre tax relief and museums and galleries exhibition tax relief, from 20% for non-touring productions and 25% for touring productions to 45% and 50%, respectively. From April 2023, the rates will be reduced to 30% and 35%, and they will return to 20% and 25% on 1 April 2024.

Clause 19 temporarily doubles the headline rate of relief for the orchestra tax relief from 27 October 2021, from 25% to 50%, reducing to 35% from 1 April 2023 and returning to 25% on 1 April 2024. The temporary higher rates of relief will provide a further incentive for theatres, museums, galleries and orchestras to put on new productions, exhibitions and concerts over the next two and a half years. This is a tax relief for culture worth almost a quarter of a billion pounds.

Clauses 18 and 20 make changes to theatre tax relief and orchestra tax relief to help clear up areas of legislative ambiguity and reinforce the original policy intent. The changes will apply to any new productions commencing from 1 April 2022. The clarifications are as follows: first, the commercial purpose condition for theatre tax relief and orchestra tax relief will be clarified so that productions must be separately ticketed to be considered as having been performed before a paying audience.

Secondly, the educational purposes condition will clarify that it is the audience that is being educated, not the performers. Thirdly, the legislation clarifies that productions made for training purposes will be excluded. Fourthly, teaching costs incurred by educational establishments, which are not directly related to performances, will be specifically excluded from relief. Finally, the definition of a "dramatic piece" will be clarified, so that to qualify for the relief, productions must contain a story or a series of stories and must have an expected audience of at least five people.

Clause 22 extends the sunset clause of museums and galleries exhibition tax relief from April 2022 to April 2024 in order to give certainty to museums and galleries through the recovery from the effects of the pandemic. The Government will also take steps to prevent abuse or attempted abuse of museums and galleries exhibition relief by clarifying the existing legislation. The clause makes minor changes to clear up areas of legislative ambiguity and reinforce the original policy intent. The changes will apply to any new exhibitions commencing from 1 April 2022.

The first clarification will be to the definition of an exhibition, which will be clarified so that the

"display of an object or work"

cannot be secondary to another activity. Secondly, to prevent private companies that are not museums or galleries from claiming on temporary outdoor sites, it will be clarified that being responsible for an exhibition is not sufficient for a company to qualify as maintaining a museum or gallery. Finally, the Government are relaxing the criteria for qualifying as a primary production company to allow more flexibility for museums and galleries scheduling touring exhibitions.

The changes will help UK theatres, orchestras, museums and galleries bounce back by incentivising new productions over the next two and a half years; continue Government support for charitable companies to put on high-quality museum and gallery exhibitions; and ensure that the relief is targeted and sustainable.

James Murray: Clause 17 will temporarily increase the rate of theatre tax credit for theatrical productions that commence production on or after 27 October 2021. From 27 October 2021 to 31 March 2023, companies will benefit from relief at a rate of 50% or 45% for touring and non-touring productions. From 1 April 2024, the rates of relief will return to the existing levels of 25% and 20% respectively.

Companies qualifying for theatre tax relief can surrender losses in exchange for a payable tax credit. The amount of loss able to be surrendered in a period is dependent on several factors, but will ultimately depend on the amount of core production expenditure that has been incurred in the UK or European Economic Area. A higher rate of relief is also available to theatrical productions that take place at more than one premise and are considered touring productions. I would be grateful if the Minister could clarify how the definition of touring will be applied.

Section 1217K(6) of the Corporation Tax Act 2009 defines touring thus:

"A theatrical production is a 'touring production' only if the company intends at the beginning of the production phase—

(a) that it will present performances of the production in 6 or more separate premises, or

(b) that it will present performances of the production in at least two separate premises and that the number of performances will be at least 14."

Paragraph (b) indicates that if a theatre company puts on 14 performances that were split between two venues—perhaps in the same town, just round the corner from one another—it would be eligible for 5% more tax credits than if it kept all 14 performances in the same venue. Perhaps the Minister could confirm whether that is the case.

As we have heard, clause 18 concerns theatrical production tax relief. It amends part 15C of the Corporation Tax Act 2009 to clarify several areas of legislative ambiguity relating to eligibility for theatre tax relief in relation to theatrical productions where the production phase will begin on or after 1 April 2022. We understand that the amendments are made to narrow the focus of the legislation and, according to the background of its explanatory note, to

"reinforce the original policy intent".

Subsection (2) requires the intended audience to number at least five people for a production to be considered a "dramatic production". It also stipulates that for a dramatic piece to qualify as a dramatic production, it must tell

"a story or a number of related or unrelated stories."

Subsection (3) adds productions made for training purposes to the list of productions that are not regarded as theatrical and do not qualify for relief.

Subsection (4) amends the commercial purpose condition in section 1217GA of the 2009 Act so that a performance will not meet the condition unless it is separately ticketed and such ticketing is expected to make up a significant proportion of the performance's earnings. A ticket may cover things besides admission to the performance, so long as such things are incidental to the performance and it is possible to apportion the ticket price between the performance and anything else included in the price. The subsection additionally clarifies that for a performance to meet the commercial purpose condition by being educational, it must be provided mainly to educate the audience.

As we have heard, clause 19 provides a temporary increase to orchestra tax credit. It temporarily increases the rate of orchestra tax relief for concerts or concert

[James Murray]

series that commence production on or after 27 October 2021. From 27 October 2021 to 31 March 2023, companies will benefit from relief at a rate of 50%. From 1 April 2023 to 31 March 2024, the rate of relief will be set at 35%. From 1 April 2024, the rate of relief will return to its existing level of 25%.

Companies qualifying for orchestra tax relief can surrender losses in exchange for a payable tax credit. The amount of loss that can be surrendered in a period is dependent on several factors, but ultimately it depends on the amount of core production expenditure that has been incurred in the UK and the European Economic Area. This temporary rate rise is also being introduced to theatre tax relief, in clause 17, and museums and galleries exhibition tax relief in clause 21. It allows companies to claim a larger tax credit and is designed to support the industries as they recover from the adverse economic impact of the covid-19 pandemic.

Orchestral productions are a tremendously important cultural asset in this country, and we are pleased to support the clause, which provides additional support to a cultural industry that has been hit hard by the pandemic. However, will the Minister outline what measures are in place to support musicians of other genres, or who perform in non-orchestral configurations? This is a welcome relief for orchestras, but other musical groups could be left out.

As we have heard, clause 20 pertains to tax relief for orchestras. This clause amends part 15D of the Corporation Tax Act 2009 to clarify several areas of legislative ambiguity within orchestra tax relief. These changes have effect in relation to concerts or concert series where the production process begins on or after 1 April 2022, and they are comparable to the changes concerning theatre productions in clause 18, in so far as the Bill clarifies that relief is not applicable to orchestral productions that take place for training purposes. It amends the Corporation Tax Act so that a concert will not meet the definition unless it is separately ticketed and such ticketing is expected to make up a significant proportion of the performance's earnings.

Those are uncontroversial provisions that we do not oppose, because they reduce the risk of the tax relief being misused and maintain the spirit in which the legislation was originally developed. However, we note the Chartered Institute of Taxation's concern that orchestras that made a series election before the Budget—for example, an orchestra that made a series election in September for its whole annual season—would appear to lose out on the higher rate of relief for their entire season. That is perceived to be unfair, and we would welcome clarity over whether that is the Government's intention.

Clause 21 provides a temporary increase to the rate of relief afforded to museums and gallery exhibitions that commence production on or after 27 October 2021. From 27 October 2021 to 31 March 2023, companies will benefit from relief at a rate of 50% or 45% for touring and non-touring exhibitions respectively. From 1 April 2023 to 31 March 2024, the rates of relief will be set at 35% and 30%. From 1 April 2024, the rates of relief will return to their existing levels of 25% and 20%.

Companies qualifying for this relief can surrender losses in exchange for a payable tax credit. The amount of loss that can be surrendered in a period is dependent on several factors, but it ultimately depends on the amount of core production expenditure that has been incurred in the UK and European Economic Area. We do not oppose the measure, because it relates to another sector that has been hurt by the pandemic and that we want to see back on its feet, providing the best educational and cultural enrichment that it can to the British people.

However, will the Minister clarify where world heritage sites fit into the legislation, and whether they could be considered museums or gallery exhibitions? According to UNESCO, the UK and Northern Ireland have 33 world heritage sites: 28 cultural, four natural and one mixed.

Finally, clause 22 concerns the aforementioned tax relief to museums and gallery exhibitions, clarifying some legislative ambiguities and amending criteria for primary production companies. Those amendments have effect in relation to exhibitions where the production stage begins on or after 1 April 2022. The relief was introduced with a sunset clause and was due to expire from 1 April next year, but this clause extends the relief for a further two years. Any expenditure incurred after 1 April 2024 will not qualify for relief unless there is a further extension.

As we can see, subsection (1) amends the definition of an exhibition so that a public display of an object is not an exhibition if it is subordinate to the use of that object for another purpose. For example, if a historic passenger train offers rides between two towns, although the train may have historical or cultural significance, its main purpose is to provide passenger transport. This does not preclude the possibility of there being an exhibition on board the train.

Finally, and more broadly, we are aware of concerns from within the industry regarding productions that straddle the commencement dates of these reliefs. For each relief, the increased rate applies only to productions where the production stage for the exhibition began on or after the Budget on 27 October 2021, when the change was announced. So, a production that received the green light on 26 October, or earlier, would not gain the benefit of the increased rate, however long it ran for after the commencement date for the increased rate. We understand there are those in the sector who perceive that as harsh and arbitrary, and we welcome the Minister's thoughts on the matter.

10.45 am

Alison Thewliss: Of course, I support the proposed tax credits. They will be a useful part of the picture of support for theatres, museums and orchestras, of which there are many in my constituency of Glasgow Central—which is, of course, the best constituency in the country, as I am sure everyone would agree. We have the Royal Scottish National Orchestra, the BBC Scottish Symphony Orchestra and Scottish Ballet, as well as Tron Theatre company and the Citizens Theatre company. These proposals may be of assistance to them, so I ask the Minister what communication has been put out to the sector to ensure that it is aware of the relief and taking it up as required.

I share the concerns expressed by the hon. Member for Ealing North, and I, too, seek answers from the Minister to the questions that the hon. Gentleman asked. It strikes me that many of these proposals provide assistance for productions of some kind, but that misses the other side of the equation. It is good to support companies, but if the venues and theatres in which they wish to perform go bust because they do not have the support that they need, that will not solve the problems that the companies have faced for the past year as a result of the pandemic. I urge the Minister to look at support for the sector more widely.

Many who work in the sector—in orchestras and in theatres, behind the scenes and on the stage—are freelancers, and many have received no support whatsoever from the Government during the pandemic. They have faced a very difficult time, and the Government need to resolve that part of the equation. They could perhaps do so by looking at extending the VAT relief that they introduced, as the SNP has called for.

We were very glad that the Government brought in the reduction in the rate of VAT, but it would be useful to see that continued beyond the cut-off in April next year. That would give a sector that has faced such a difficult time a bit of extra support into next year. It does not make much sense to me to cut that off, and not to incentivise people to go out and make use of the theatres and music venues we all have in our constituencies.

The sector has had a very difficult time. The proposed tax credits are useful, but we need to look at the wider picture. If there is no venue in which to perform or to showcase an orchestra, ballet, theatre production or pantomime, because those venues have gone bust and no longer exist, the Government are missing a trick. It is important that we support the venues and those who work in the sector, wherever that is, and that we look at the wider picture, rather than at a narrow bracket of tax reliefs.

Lucy Frazer: The hon. Member for Ealing North asked about world heritage sites. The answer to his question is that a world heritage site would be considered to be a site of cultural significance. It would be considered as an exhibition and would qualify, so long as it is maintained by a charity or local authority.

The hon. Gentleman recognised that those who had commenced productions before 27 October would not qualify for the relief. He is right about that, although we have doubled relief until 2023 and increased it until 2024. Productions that started before the announcement have been able to benefit from the normal rates of relief and the comprehensive package of support provided for the cultural sector over the pandemic. They will continue to benefit from relief at the 2020-21 rates. It is important, and we have made it clear, that these proposals relate to new activity, because it is new activity that we want to support through this particular relief.

The hon. Gentleman also asked about touring and musicians. HMRC has recently issued further guidance where industry has asked for it, in relation to the interpretation of the legislation. I will get back to him about those two points.

The hon. Member for Glasgow Central made a few points; I am afraid I must challenge her on her statement that Glasgow Central is the best constituency in the country. The best constituency is, of course, South East Cambridgeshire—fortunately, no one will have an opportunity to respond to that. She made an important point about communication. The Chancellor mentioned these reliefs in the Budget statement and they were included in all the communications about it at the time, which were highly publicised. The hon. Lady makes an important point, however, and I will continue to ensure that when we make reliefs, those who qualify for them are aware that they do. We are doing quite a lot of work on how to spread the message more broadly to enable companies to take up the reliefs that the Government offer.

Alison Thewliss: The point is that large production companies will have accountants who will know what those companies are eligible for, but smaller companies might not even be aware of what is available because they are too small to fill in the paperwork. They may need extra support to do so. Anything the Government could offer in that regard would be useful.

Lucy Frazer: That is a valuable point. I know in my constituency that small organisations got a variety of grants from the Arts Council and were able to access those reliefs, but I will discuss that point further with my officials. I thought the hon. Lady might want to intervene on the question of which constituency is the best in the country.

Alison Thewliss: There is no question!

Lucy Frazer: I commend the clauses to the Committee.

Question put and agreed to.

Clause 17 accordingly ordered to stand part of the Bill.

Clauses 18 to 22 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—(*Alan Mak*.)

10.52 am

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE (NO. 2) BILL

(Except clauses 4 and 6 to 8, schedule 1, clauses 12, 27 and 28, 53 to 66, 68 to 71 and 84 to 92, schedules 12 and 13, clause 93 and schedule 14)

Second Sitting

Tuesday 14 December 2021

(Afternoon)

CONTENTS

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 18 December 2021

The Committee consisted of the following Members:

Chairs: † Sir Christopher Chope, Philip Davies, Dame Angela Eagle, Dr Rupa Huq

† Anderson, Stuart *(Wolverhampton South West)* (Con)
† Butler, Rob *(Aylesbury)* (Con)
Efford, Clive *(Eltham)* (Lab)
Eshalomi, Florence *(Vauxhall)* (Lab/Co-op)
† Frazer, Lucy *(Financial Secretary to the Treasury)*
† Holden, Mr Richard *(North West Durham)* (Con)
† Howell, Paul *(Sedgefield)* (Con)
† Jones, Andrew *(Harrogate and Knaresborough)* (Con)
† Mackrory, Cherilyn *(Truro and Falmouth)* (Con)
† Mak, Alan *(Lord Commissioner of Her Majesty's Treasury)*
† Mayhew, Jerome *(Broadland)* (Con)
† Murray, James *(Ealing North)* (Lab/Co-op)
† Oppong-Asare, Abena *(Erith and Thamesmead)* (Lab)
† Thewliss, Alison *(Glasgow Central)* (SNP)
† Thomson, Richard *(Gordon)* (SNP)
† Twist, Liz *(Blaydon)* (Lab)
† Whately, Helen *(Exchequer Secretary to the Treasury)*

Chris Stanton, Kevin Maddison, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 14 December 2021

(Afternoon)

[Sir Christopher Chope *in the Chair*]

Finance (No. 2) Bill

(Except Clause 4, Clauses 6 to 8 and Schedule 1, Clause 12, Clauses 27 and 28, Clauses 53 to 66, Clauses 68 to 71, Clauses 84 to 92 and Schedules 12 and 13, Clause 93 and Schedule 14)

Clause 23

Returns for disposals of UK land etc

Question proposed, That the clause stand part of the Bill.

2 pm

The Financial Secretary to the Treasury (Lucy Frazer): Clause 23 extends the time for payment of capital gains tax on property disposals from 30 days to 60 days, as well as clarifying the rules for mixed-use properties. It will affect disposals that have a completion date on or after 27 October 2021. Since April 2020, UK resident persons disposing of UK residential property where capital gains tax is due have been required to notify and pay the tax within 30 days of their sale completing.

Most people are not affected by the requirement because the sale of main homes is exempt from capital gains tax through private residence relief. Non-UK resident persons have paid within 30 days since April 2015 for residential property and from April 2019 for disposals of both UK residential and non-residential property, even if they have no tax to pay. However, the Government recognise that having 30 days has not always allowed taxpayers enough time to settle their affairs. In recognition of that, the Government are extending the 30-day time limit to 60 days. The change was informed by taxpayer representations and comes in response to the Office of Tax Simplification report in May 2021, where increasing the time limit to 60 days was a key recommendation.

The measure allows taxpayers more time to produce and provide accurate figures, particularly in more complex cases, as well as sufficient time to engage with advisers. It also clarifies the rules for a UK resident person calculating the capital gains tax notionally chargeable for mixed-use properties. The changes made by clause 23 will, first, extend the time limit for capital gains tax payment on property disposals to 60 days following completion of the relevant disposal. Secondly, for UK residents, the changes clarify that when a gain arises in relation to a mixed-use property, only the portion of the gain that is the residential property gain is to be reported and paid within 60 days.

Increasing the time limit to 60 days will delay some revenue until later in the scorecard. That is because some capital gains tax payments will now be paid in a different tax year. The Office for Budget Responsibility expects the measure to move £80 million out of the scorecard to later years, with the majority incurred in 2021-22. The measure is expected to impact an estimated 75,000 individuals, trustees and personal representatives of deceased persons who sell or otherwise dispose of UK land and property each year.

In summary, those liable to pay capital gains tax will now have 60 days instead of 30 days to report and pay the tax due on UK land and property disposals. I commend the clause to the Committee.

Abena Oppong-Asare (Erith and Thamesmead) (Lab): It is a pleasure to serve under your chairship, Sir Christopher. I want to say for the record that I believe Erith and Thamesmead is the best constituency. As the Minister has described, clause 23 relates to returns for the disposal of UK land. It extends the time limit for payment on property disposal from 30 days to 60 days, as well as clarifying the rules for mixed-use properties. As the Minister has rightly pointed out, that will affect disposals with completion dates on or after 27 October 2021.

A reporting and payment period for selling or otherwise disposing of an interest in UK land was initially introduced to help reduce errors and increase compliance. The measure increased the time available for taxpayers to report their disposals. The increase intends to allow more time for taxpayers to produce and provide accurate figures, which will be particularly helpful in more complex cases, as well as assuring sufficient time to engage with advisers. The change also clarifies the calculation for the capital gains tax notionally chargeable for mixed-use properties.

We do not oppose the doubling of the time period for reporting and paying capital gains tax on UK property. However, we remain concerned about the lack of awareness surrounding the reporting and paying process. I would be grateful if the Minister could outline the measures the Government will take to help individuals selling properties to be aware of their obligations and what support the Government will offer individuals struggling to access the stand-alone digital system for reporting those transactions.

Lucy Frazer: I am grateful to the Labour Front-Bench team for not opposing the measure, which is indeed very sensible. Her Majesty's Revenue and Customs regularly engages with all stakeholders and agents, who will therefore know about the change, but the hon. Lady makes an important point about communication, which we touched on this morning. I commend the clause to the Committee.

Question put and agreed to.

Clause 23 accordingly ordered to stand part of the Bill.

Clause 24

Cross-border group relief

Question proposed, That the clause stand part of the Bill.

The Chair: With this, it will be convenient to discuss that schedule 4 be the Fourth schedule to the Bill.

Lucy Frazer: Clause 24 makes changes to abolish cross-border group relief to ensure that loss relief is limited to UK losses, thereby providing relief only for companies that the UK can tax. It also amends the rules restricting the amount of losses foreign companies with a UK branch can surrender to UK companies, bringing companies resident in the European economic area in line with companies resident in the rest of the world.

Cross-border group relief provides UK companies with the ability to claim relief for the losses of their EEA resident group companies, even though the UK is unable to tax any profit made by those companies. The UK cross-border relief rules were introduced in 2006, owing to a 2005 decision by the Court of Justice of the European Union that found the previous rules to be incompatible with the EU freedom of establishment principle.

Under the current system, the UK Exchequer bears the cost of giving relief to UK companies for losses of EEA companies, as the latter pay no tax to the UK Government. The rules for restricting surrender of losses of a UK branch of a foreign company were also amended to be more favourable to EEA companies as a result of CJEU judgments. Favourable treatment for losses of EEA companies or UK branches of EEA companies is not right, and is inconsistent with our approach to the rest of the world, especially now that the UK has left the EU and is no longer bound by EU law.

Clause 24 will principally affect large, widely-held corporate groups, and will ensure both equal treatment of losses of companies in EEA and non-EEA countries and protection for the UK Exchequer against unfair outcomes. Historically, group relief was available only for losses of UK companies or UK branches, so the abolition of cross-border group relief and the alignment of branch rules is a reversion to a previously accepted position. Other countries generally do not give cross-border loss relief, so abolishing it would be very much in line with the international mainstream.

In summary, the change will allow the UK to depart from this historic position and more effectively pursue its fiscal policy objectives. I therefore commend the clause to the Committee.

Abena Oppong-Asare: As we have heard, clause 24 concerns cross-border group relief and is accompanied by schedule 4. The clause and schedule repeal legislation that provides for group relief for losses incurred outside the UK and amend legislation that provides for group relief for losses incurred in the UK permanent establishment of an EEA resident company.

Following the UK's exit from the EU, the Government are bringing group relief relating to EEA resident companies into line with relief for non-UK companies resident elsewhere in the world. Claims involving companies established in the EEA are currently subject to more favourable rules in the UK relating to relief for non-UK losses and losses incurred by the UK permanent establishment of a foreign company.

These rules were introduced to give effect to the UK's obligations as a member state of the EU. Having left the EU, the UK is no longer required to maintain those rules, and it is inconsistent to treat groups with EEA resident companies more favourably than those with companies resident elsewhere in the world. The clause therefore removes that inequality by aligning group relief rules for all non-UK companies.

The changes to legislation made by the clause broadly restore the group relief rules to what they were before separate rules were introduced for EEA resident companies in line with EU law. We do not oppose this measure, as it rightly removes an inequality between companies and contributes towards a level playing field.

Lucy Frazer: I thank the hon. Lady for indicating her support for clause 24, and I commend it to the Committee.

Question put and agreed to.

Clause 24 accordingly ordered to stand part of the Bill.

Schedule 4 agreed to.

Clause 25

Tonnage tax

Question proposed, That the clause stand part of the Bill.

The Exchequer Secretary to the Treasury (Helen Whately): It is a pleasure to serve under your chairmanship, Sir Christopher.

Clause 25 reforms the UK's tonnage tax regime from April 2022, with the aim that more firms will base their headquarters in the UK, using the UK's world-leading maritime services industry and flying the UK flag. The UK tonnage tax regime was introduced in 2000 to improve the competitiveness of the UK shipping industry. It is a special elective corporation tax regime for operators of qualifying ships. Now that the UK has left the European Union, the Government will make substantive reforms to the regime for the first time since it was introduced, to help the UK shipping industry grow and compete in the global market. The reforms will make it easier for shipping companies to move to the UK, make sure that they are not disadvantaged compared to firms operating in other countries and reduce administrative burdens.

Clause 25 will make changes to the tonnage tax legislation contained in schedule 22 to the Finance Act 2000 to reform the regime from April 2022. Specifically, it will give effect to the following measures announced at the autumn Budget in 2021. The Government will give HMRC more discretion to admit companies to the regime outside the initial window of opportunity, where there is a good reason. The Government will reduce the lock-in period for companies participating in the tonnage tax regime from 10 to eight years, aligning the regime more closely with shipping cycles.

Now that the UK has left the EU, the Government will remove the consideration of flags from EU and EEA countries. Following this legislative change, HMRC will update its guidance to encourage the use of the UK flag by making it an important factor in assessing the value that companies who want to participate in tonnage tax will bring to the UK in the strategic and commercial management test. Finally, following the UK's departure from the EU, the Bill will simplify a rule that may include distributions of related overseas shipping companies in relevant shipping profits.

These changes to modernise the tonnage tax regime will make sure that the UK's maritime and shipping industries can compete in the global shipping market, bringing jobs and investment to nations and regions across the UK. I commend the clause to the Committee.

Abena Oppong-Asare: I thank the Minister for her explanation of clause 25, which makes amendments to the tonnage tax regime. Tonnage tax is a special elective corporation tax regime open to operators of qualifying ships that fulfil certain conditions. The amendments will have effect from 1 April next year. At the autumn Budget in 2021, the Government announced that they would introduce a package of measures to reform the

[Abena Oppong-Asare]

UK's tonnage tax regime from April 2022, which they say aims to ensure that the British shipping industry remains highly competitive in the global market. As part of the package, the Government say these amendments support their aim of simplifying the operation of tonnage tax legislation and making it more flexible following the UK's departure from the European Union. Clause 25 gives effect to some of these measures by amending the tonnage tax legislation contained in schedule 22 to the Finance Act 2000, as the Minister said.

In his Budget speech on 27 October, the Chancellor of the Exchequer said:

> "When we were in the old EU system, ships in the tonnage tax regime were required to fly the flag of an EU state, but that does not make sense for an independent nation. So I can announce today that our tonnage tax will, for the first time ever, reward companies for adopting the UK's merchant shipping flag, the red ensign. That is entirely fitting for a country with such a proud maritime history as ours."—[*Official Report*, 27 October 2021; Vol. 702, c. 282.]

2.15 pm

Unfortunately, TaxWatch has pointed out that the proposed reforms will do no such thing. In fact, TaxWatch has described them as a retrograde step. As the Minister mentioned, the clause will remove the flagging requirement that requires ships to be registered in EU registers, but it does not replace it with anything. Companies will qualify for the tonnage tax regime regardless of where they register their ships, whether it be in Panama, Libya, Bermuda or any other flag of convenience. Can the Minister explain why that is the case? Moreover, we find it deeply regrettable that the Chancellor of the Exchequer, as Mr Speaker put it, ran "roughshod" over Parliament in briefing the press on the tonnage tax before informing Parliament.

I would be grateful if the Minister could respond to two points. First, can she comment on whether she personally feels it is acceptable for a Government Minister, or officials acting on their behalf, to brief the press on Budgets before the House of Commons? Secondly, what assessments has she made of the consequences of this premature briefing, in terms of whether any private company or individual could have profited from advance knowledge of legislation before it was presented to Parliament?

Alison Thewliss (Glasgow Central) (SNP): I support the comments made by the Labour Front-Bench spokesperson on this issue. Switching flag is the most crazy kind of gesture politics. Would it not have been better to look at green shipping? That would create a tax incentive for the industry, which is one of the leading contributors to emissions, to transfer to better forms of power, to reduce its carbon emissions and to have some positive impact on global emissions and the net zero target, rather than pursuing the gesture politics of switching flags on a ship.

Helen Whately: As I set out, the clause reforms the UK's current tax regime to help the UK shipping industry grow and compete in a competitive global market. Overall, this will be to the benefit of our maritime industry and, therefore, to the UK as a whole, supporting GDP, tax revenues and jobs in the UK.

I will pick up on a couple of comments made by the Opposition Front-Bench spokespeople. On the points made by the hon. Member for Erith and Thamesmead, the clause is all about helping our shipping industry compete in a global market and making sure firms are not disadvantaged compared to those operating in other countries. It comes at a minimal cost to the Exchequer and we expect to see tax revenues in the sector increase as a result, because it will mean that more shipping groups are likely to headquarter in the UK. That will bring tax advantages and benefits to the UK, as well as tens of thousands of jobs that relate to that.

On the second point that the hon. Member made, I emphasise that the Treasury takes the recommendations of the Macpherson review very seriously and follows them in full. The reforms to our tax regime were rightly announced some months before they will come into force, in April next year.

The hon. Member for Glasgow Central talked about environmental factors. As part of the reforms, HMRC expects to update the guidance on assessing eligibility for the tonnage tax regime, and environmental factors will be considered as part of that, so it can help us on decarbonisation actions and ambitions.

Abena Oppong-Asare: I thank the Minister for her explanations. Has an assessment been made of whether anyone profited as a result of the Chancellor's premature announcement to the press? Has any assessment been carried out?

Helen Whately: I emphasise what I said a moment ago: the Treasury followed in full the approach that should be taken, as set out in the Macpherson review in 2013. The Government's tonnage tax reforms will ensure that the UK's maritime and shipping industries remain highly competitive and bolster our reputation as a great maritime nation.

Question put and agreed to.

Clause 25 accordingly ordered to stand part of the Bill.

Clause 26

AMENDMENTS OF SECTION 259GB OF TIOPA 2010

Question proposed, That the clause stand part of the Bill.

Lucy Frazer: Clause 26 makes a change to ensure that corporation tax rules for hybrids and other mismatches operate proportionately in relation to certain types of transparent entity. Following recommendations by the OECD, the UK was the first country to implement anti-hybrid rules in 2017. These rules tackle aggressive tax planning by multinational companies that seek to take advantage of differences in how jurisdictions view financial instruments and entities.

With the benefit of three years' experience of operating the rules, and with other countries following suit and introducing their own version of the rules, the Government launched a wide-ranging consultation on this area of legislation at Budget 2020. Following that consultation, several amendments were made to the rules in the Finance Act 2021, but the change that we are now considering, relating to transparent entities, was withdrawn from that Bill to allow the Government additional time to consult stakeholders, so that they could ensure that the amendment had no unintended conse-quences.

We have had further engagement with stakeholders, and the amendment now provides for the specific change for transparent entities that the Government committed to making following last year's consultation. The change made by the clause is technical and will impact multinational groups with a UK presence that are involved in transactions with certain types of entity that are seen as transparent, for tax purposes, in their home jurisdictions. Following the changes, this type of entity will be treated in the same way as partnerships in the relevant parts of the rules for hybrids and other mismatches. It is important that these rules are robust in tackling international tax planning, but also that they are not disproportionately harsh in their application.

Abena Oppong-Asare: The Minister clarified what the clause does. We do not oppose the clause.

Question put and agreed to.

Clause 26 accordingly ordered to stand part of the Bill.

Clause 29

INSURANCE CONTRACTS: CHANGE IN ACCOUNTING STANDARDS

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss that schedule 5 be the Fifth schedule to the Bill.

Lucy Frazer: Clause 29 introduces a power to lay regulations before Parliament in connection with the new international accountancy standard for insurance contracts, known as IFRS 17, introduced by the International Financing Reporting Standard Foundation. These regulations will allow the Government to spread the transitional impact of IFRS 17 for tax purposes, and to revoke the requirement for life insurers writing basic life assurance and general annuity business to spread their acquisition expenses over seven years for tax purposes. The corporation tax liabilities of insurers are based on their accounting profit. IFRS 17 will apply to companies that prepare their accounts under international accounting standards and is expected to become mandatory for accounting periods beginning on or after 1 January 2023, subject to its endorsement by the UK Endorsement Board.

Depending on the types of insurance business written, adoption of IFRS 17 will create a large, one-off transitional accounting profit or loss for many insurers. The Government expect that spreading these one-off transitional profits and losses for tax purposes will greatly reduce volatility in Exchequer receipts and should also help to mitigate the cash flow and regulatory impacts of the accounting change. This will support the long-term stability of the insurance sector in the UK and contribute to the UK maintaining its position as a leading financial services centre.

The adoption of IFRS 17 will also make it more complex for life insurers writing basic life assurance and general annuity business to undertake the necessary calculations to spread their acquisition expenses over seven years for tax purposes, as currently required. Additionally, commercial changes in the life insurance market mean that the need for this requirement has reduced in recent years. Removing it for all life insurers writing basic life assurance and general annuity business, and instead following accounting treatment for tax purposes, will be a welcome simplification. The details of the final legislation will be informed by a consultation that was published alongside the "Tax Administration and Maintenance" Command Paper on 30 November.

The clause will allow the Government to respond to the potentially large and one-off tax implications caused by the adoption of the new international standard for insurance contracts, IFRS 17. I therefore recommend that the clause and schedule 5 stand part of the Bill.

Abena Oppong-Asare: As we have heard, clause 29 sits alongside schedule 5 and refers to insurance contracts and changes in accounting standards. As the Minister has mentioned, the clause has an enabling power that will allow the Government to make provisions in secondary legislation in connection with international financial reporting standard 17, and to revoke the requirement for all life insurance companies to spread acquisition costs over seven years for tax purposes.

The corporation tax liabilities of insurers are based on their accounting profit, and many insurers prepare their accounts under international accounting standards. The new international accounting standard for insurance contracts, IFRS 17, is expected to become mandatory for periods of account beginning on or after 1 January 2023, subject to its endorsement by the UK Endorsement Board. IFRS 17 will affect the timing of recognition of insurers' profits and losses, and its adoption will create transitional accounting profits or losses, which we understand may have significant regulatory consequences. We recognise that the Government will need powers to be able to deal with the tax implications of IFRS 17.

The removal of the requirement for all life insurance companies to spread their acquisition costs over seven years for tax purposes is a simplification that has been allowed by IFRS 17. We welcome the simplification of tax arrangements and do not oppose the clause, but can the Minister tell us what provision will be put in place for insurers, for whom the change in accounting standards could cause a transitional administrative burden?

Lucy Frazer: I thank the hon. Member for her question, but the whole purpose of the clause, which will allow costs to be spread over a number of years, is to make things easier for insurers. I am glad that she is satisfied that the clause is sensible, and I am very grateful for her support for this provision. I ask that the clause stand part of the Bill.

Question put and agreed to.

Clause 29 accordingly ordered to stand part of the Bill.

Schedule 5 agreed to.

Clause 30

DEDUCTIONS ALLOWANCE IN CONNECTION WITH ONEROUS OR IMPAIRED LEASES

Question proposed, That the clause stand part of the Bill.

Lucy Frazer: Clause 30 makes technical amendments to the corporate loss relief rules introduced in 2017. They ensure that the rules continue to operate as originally intended and that eligible companies can claim the relief

[Lucy Frazer]

to which they are entitled. When a company makes a loss, it can carry forward that loss and use it to offset its taxable profits in the future.

The Finance (No. 2) Act 2017 reformed the UK's loss relief regime. The corporation tax loss rules restrict set-off for carried-forward losses for large companies. In general, this means that only 50% of the current-year profits above the deductions allowance of £5 million can be covered by carried-forward losses. The restriction does not apply to accounting profits stemming from lease renegotiations that are aimed at preserving a company's ability to continue trading. The impact of covid and the associated restrictions on businesses has resulted in an increase in the restructuring and renegotiation of leases. The introduction of a new accounting standard has meant that the legislation needs amending to cover the change in accounting treatment for leases, as without that, the lease renegotiations providing companies with the opportunity to remain in business will result in a prohibitive tax charge, which may instead force them into insolvency.

2.30 pm

The changes made by clause 30 will ensure that companies in financial distress continue to benefit from full relief for carried-forward losses that offset accounting profits arising from lease negotiations, regardless of the accounting standard they adopt. The clause introduces a technical amendment to ensure that corporation tax loss relief rules work as intended, ensuring that companies in financial distress can access relief for their carried-forward losses.

Abena Oppong-Asare: Clause 30 concerns deductions allowance in connection with onerous or impaired leases. The clause amends sections of the Corporation Tax Act 2010 to ensure that the legislation continues to work as intended. It does so by continuing to provide an exemption from the loss reform rules for companies in connection with onerous or impaired leases in specific circumstances. As the Minister said, the measure enables such companies to obtain full relief for carried-forward losses that offset profits arising from lease renegotiations where they adopt international financial reporting standard 16.

Loss reform was introduced in section 18 of schedule 4 to the Finance Act 2017, and had effect from 1 April 2017. The reform made two main changes. It increased a company's flexibility to offset carried-forward losses either against the company's own total profits in latter periods or in form of a group relief in a later period. Additionally, it limited the amount of profit against which carried-forward losses can be set. Each group or a company that is not part of a group has an annual deductions allowance of £5 million in profit. Carried-forward losses can be set against that amount, which is restricted to a maximum of 50% of a company's total profits for the period. The restriction to carried-forward losses was extended to include corporate capital losses with effect from 1 April 2020. Having reviewed the clause, the Opposition do not oppose it.

Lucy Frazer: I am grateful for the fact that the Opposition do not intend to oppose the clause.

Question put and agreed to.

Clause 30 accordingly ordered to stand part of the Bill.

Clause 31

Provision in connection with the Dormant Assets Act 2022

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss that schedule 6 be the Sixth schedule to the Bill.

Lucy Frazer: The Committee will be disappointed to learn that this is probably the last clause that we will deal with today. It introduces schedule 6, which supports the expansion of the dormant assets scheme to a wider range of assets. The clause ensures that where an asset is transferred into the dormant asset scheme and an individual later makes a successful claim to the ownership of that asset, they are in the same position for capital gains tax purposes that they would have been in without the scheme.

The dormant asset scheme enables funds from dormant bank and building society accounts to be channelled towards social and environmental initiatives. The scheme allows dormant funds to be unlocked for good causes, while protecting the original asset owner's legal right to reclaim the amount that would have been paid to them had a transfer into the scheme not occurred.

In 2021, following a consultation, the Government announced their intention to expand the scheme to include assets from the pensions, insurance, investments and securities sectors. The process of transferring the assets into the scheme could, in certain cases, qualify as a disposal for CGT purposes, resulting in neither a gain nor a loss. As the asset owner cannot be located and does not know that the transfer has occurred, it is not appropriate or feasible for the tax to be paid by the individual at the point of transfer to the scheme, or for a notice of a loss to be made. The change made by the scheme addresses that by ensuring that a CGT charge arises only where a person comes forward to claim the asset. That ensures that the individual remains in the same position for tax purposes that they would have been in had the asset not been transferred into the dormant asset scheme.

Where the asset had previously been held in an individual savings account, changes made by the schedule ensure that no income or CGT arises when the asset is reclaimed. That ensures that savers in ISAs are not disadvantaged by their accounts being transferred into the scheme. The scheme also updates references in the existing legislation to ensure that it reflects the widest scheme created by the Dormant Assets Bill.

The schedule will commence only on the making of a Treasury order, because the Dormant Assets Bill is not yet law. The intention is to lay the necessary commencement order before Parliament when that Bill becomes law. For that reason, the schedule contains time-limited powers that allow the Treasury to make changes by secondary legislation if changes to the Dormant Assets Bill result in additional tax issues. The Government believe that the provisions strike the right balance between supporting good causes and taxpayer fairness.

Abena Oppong-Asare: As we have heard, clause 31 and schedule 6 concern the Dormant Assets Bill. The changes broadly ensure that individuals remain in the same position for tax purposes as they would have done had the assets not been transferred into the dormant assets scheme. Overall, we do not oppose the measure, but we are aware that the Chartered Institute of Taxation has concerns about the availability of accessible guidance to those making a claim under the dormant assets scheme who may be unaware of the tax consequences of their actions. Will the Minister clarify when guidance will be issued?

Lucy Frazer: I am grateful for the hon. Member's indication that the Opposition will not oppose this measure. HMRC does generally provide guidance, and I am very happy to update the hon. Member on any guidance on this issue.

Question put and agreed to.

Clause 31 accordingly ordered to stand part of the Bill.

Schedule 6 agreed to.

The Chair: I wish all Members a merry Christmas and a happy and healthy new year, and I extend that to the Clerks and officials and everybody involved with the Bill.

Ordered, That further consideration be now adjourned—*(Alan Mak.)*

2.37 pm

Adjourned till Wednesday 5 January at half-past Three o'clock.

Written evidence reported to the House

FB01 Low Incomes Tax Reform Group (LITRG) (re: Clause 10 Increase of normal minimum pension age)

FB02 Chartered Institute of Taxation (CIOT) (Clause 23 Capital gains tax: disposal of UK land etc.)

FB03 Chartered Institute of Taxation (CIOT) (Clause 31 and Schedule 6 Dormant Assets)

FB04 Chartered Institute of Taxation (CIOT) (Part 2 (clauses 32-52) Residential Property Developer Tax)

FB05 Chartered Institute of Taxation (CIOT) (Clauses 9-11; Clause 98 Employment Taxes)

FB06 The Institute of Chartered Accountants in England and Wales (ICAEW) (Clause 94 and Schedule 15 (Notification of uncertain tax treatments by large businesses))

FB07 Chartered Institute of Taxation (CIOT) (clauses 16-22 – Creative reliefs)

FB08 Association of British Insurers (ABI)

FB09 British Property Federation (re: Residential Property Developer Tax in Part 2 of the Bill)

FB10 Scottish Widows

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE (NO. 2) BILL

(Except clauses 4 and 6 to 8, schedule 1, clauses 12, 27 and 28, 53 to 66, 68 to 71 and 84 to 92, schedules 12 and 13, clause 93 and schedule 14)

Third Sitting

Wednesday 5 January 2022

(Afternoon)

CONTENTS

PBC (Bill 184) 2021 - 2022

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Sunday 9 January 2022

The Committee consisted of the following Members:

Chairs: Sir Christopher Chope, Philip Davies, † Dame Angela Eagle, Dr Rupa Huq

† Anderson, Stuart *(Wolverhampton South West)* (Con)
† Butler, Rob *(Aylesbury)* (Con)
Efford, Clive *(Eltham)* (Lab)
† Eshalomi, Florence *(Vauxhall)* (Lab/Co-op)
† Frazer, Lucy *(Financial Secretary to the Treasury)*
† Holden, Mr Richard *(North West Durham)* (Con)
† Howell, Paul *(Sedgefield)* (Con)
† Jones, Andrew *(Harrogate and Knaresborough)* (Con)
† Mackrory, Cherilyn *(Truro and Falmouth)* (Con)
† Mak, Alan *(Lord Commissioner of Her Majesty's Treasury)*
† Mayhew, Jerome *(Broadland)* (Con)
† Murray, James *(Ealing North)* (Lab/Co-op)
† Oppong-Asare, Abena *(Erith and Thamesmead)* (Lab)
† Thewliss, Alison *(Glasgow Central)* (SNP)
† Thomson, Richard *(Gordon)* (SNP)
† Twist, Liz *(Blaydon)* (Lab)
† Whately, Helen *(Exchequer Secretary to the Treasury)*

Chris Stanton, Kevin Maddison, *Committee Clerks*

† attended the Committee

Public Bill Committee

Wednesday 5 January 2022

(Afternoon)

[Dame Angela Eagle *in the Chair*]

Finance (No. 2) Bill

(Except clause 4, clauses 6 to 8 and schedule 1, clause 12, clauses 27 and 28, clauses 53 to 66, clauses 68 to 71, clauses 84 to 92 and schedules 12 and 13, clause 93 and schedule 14)

3.30 pm

The Chair: We are now sitting in public and the proceedings are being broadcast. I have a few preliminary announcements, the first of which is to wish everybody on the Committee a very happy new year—[Hon. Members: "Happy new year!] I hope that you have had a decent rest that will put you all in fine spirits for at least the rest of today.

I remind Members that they are expected to wear a face covering except when speaking or if they are exempt, in line with the recommendations of the House of Commons Commission. Please also give each other and members of staff space when seated, and when entering and leaving the room. I remind Members that they are asked by the House to have a covid lateral flow test twice a week if coming on to the parliamentary estate, which can be done either at the testing centre in the House or at home. *Hansard* colleagues would be grateful if Members could email their speaking notes to hansardnotes@parliament.uk. Please switch electronic devices to silent. As I am sure you all know by now, tea and coffee are not allowed during sittings.

Any decisions on new clauses that have been debated with related clauses are taken formally after consideration of the Bill in the order that they appear on the amendment paper. It is helpful to the Chair if Members indicate at the end of those debates whether they expect or want to vote on any such new clause when the appropriate time comes.

Clause 32

Introduction

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

Clause 33 stand part.

Clause 52 stand part.

New clause 3—*Review of impact of Residential property developer tax on the tax gap*—

"The Government must publish within 12 months of this Act coming into effect an assessment of the impact of Part 2 of this Act (Residential property developer tax) on the tax gap, and of whether it has increased opportunities for tax evasion and avoidance."

This new clause would require a Government assessment of the impact of the Residential Property Developer Tax introduced in this Bill, and of its effect on opportunities for tax evasion and avoidance.

New clause 18—*Review of the residential property developer tax*—

"(1) The Government must publish a review of the residential property developer tax within three months of the end of the first year of it applying.

(2) The review under subsection (1) must be updated annually, within three months of the end of each subsequent year that the residential property developer tax applies.

(3) The review under subsection (1), updated as set out in subsection (2), must assess—

(a) how much the RPDT has raised in each year of its operation so far;

(b) how much it is estimated that RPDT would have raised at a level of—

(i) 6%,

(ii) 8%, and

(iii) 10%; and

(c) any wider effects of setting the RPDT at the levels set out in subsection (3)(b)."

This new clause would require the Government to review the RPDT each year in order to assess the revenue it has raised and also what revenue it would raise, and the other wider effects it would have, at certain higher levels.

The Financial Secretary to the Treasury (Lucy Frazer): It is a pleasure to serve under your chairmanship, Dame Angela. Like you, I wish all members of the Committee a happy new year. As the Committee will know, the Government are determined to bring an end to unsafe cladding, to reassure homeowners and to support confidence in the housing market. As part of the building safety package announced in February 2021, we are introducing a new residential property developer tax, which will raise at least £2 billion over the next decade to help to pay for building safety remediation.

As announced on 10 February 2021 by the previous Secretary of State for Housing, Communities and Local Government, my right hon. Friend the Member for Newark (Robert Jenrick), the RPDT is one of two new revenue-raising measures that will ensure that developers make a fair contribution to the costs of remediation. Clauses 32 and 33 introduce a new residential property developer tax to be charged at a rate of 4% on the profits of businesses carrying out residential property development activity that exceed its allowance for an accounting period. The clauses confirm that the RPDT is charged as if it were an amount of UK corporation tax.

Clause 52 is an anti-avoidance provision, which prevents taxpayers from adjusting their profits arising in an accounting period in order to obtain a tax advantage. The clause will apply where trading profits derived from residential property development activities arise in the accounting period ending before the commencement of RPDT, and arose only because of arrangements made on or after 29 April 2021.

New clause 3, tabled by the hon. Member for Glasgow Central, seeks to require the Government to publish an assessment of the impact of RPDT on the tax gap, and of whether it has increased opportunities for tax evasion and avoidance. As the RPDT has been designed to be aligned with UK corporation tax, the existing corporation tax compliance mechanisms, such as inquiries, information powers and penalties, will apply to RPDT, as well as anti-avoidance rules including transfer pricing and the general anti-abuse rule.

Her Majesty's Revenue and Customs regularly reports on the taxes that it is responsible for collecting, and the RPDT will be no exception. HMRC will assess the impact of RPDT on the tax gap in its annual "Measuring tax gaps" reports, and will monitor RPDT revenue in its annual tax receipts statistical publications. The Government also carefully assessed the impacts of RPDT throughout the consultation period and published a detailed impact assessment of RPDT at the autumn Budget. For those reasons, I believe that a further impact assessment is not appropriate, and I therefore ask the Committee to reject the new clause.

New clause 18, tabled by the hon. Members for Ealing North, for Erith and Thamesmead and for Blaydon, seeks to require the publication of an annual review of the tax, including the revenue raised, the estimated yield that would have been raised had the tax been set at various differential rates—6%, 8% and 10%—and the wider effects of the higher rates. HMRC regularly reports on the taxes that it is responsible for collecting, and the RPDT will be no exception. The revenue raised from RPDT will be published in HMRC's annual tax receipts statistics publications.

The RPDT rate was carefully considered in the context of the upcoming increase in the main rate of corporation tax in 2023, other taxes and forthcoming regulatory changes, as well as the wider macroeconomic environment. The 4% rate of RPDT balances the need to raise £2 billion over a decade—at the same time as seeking a fair contribution from the residential property development sector—against the need to ensure that the tax does not have a significant impact on housing supply. The Government monitor the tax system continuously and will keep the tax under review. For those reasons, I believe that a further annual review of RPDT is not appropriate, and I therefore ask the Committee to reject new clause 18.

In conclusion, the clauses in this group form the first part of the legislation needed to introduce RPDT in April 2022 and the necessary anti-avoidance provisions. I therefore recommend that the clauses stand part of the Bill.

James Murray (Ealing North) (Lab/Co-op): It is a pleasure to serve on a second Finance Bill Committee under your chairship, Dame Angela.

I will address the clauses that the Minister set out in her remarks, starting with clause 32, which notes that the new residential property developer tax will be applicable from 1 April 2022, as announced at the spring Budget of 2021. As we have heard, this is a new, time-limited tax on the profits of residential property development companies' property development activity, with a rate of 4% over a £25 million allowance. The Government estimate that it will generate £2 billion over the course of a decade, and they said that the funds are earmarked to help with cladding remediation costs, according to the former Secretary of State for Housing, the right hon. Member for Newark (Robert Jenrick), who spoke to the Building Safety Bill in February 2021. The explanatory note for the clause states that the tax is to

"ensure that the largest developers make a fair contribution to help fund the Government's cladding remediation costs."

We support the principle behind the new tax, but I intend to use this Committee sitting to question the Ministers on the detail of its design and to probe their views on its place in the Government's wider response to the cladding scandal. We know that the Bill has been consulted on, but we also note stakeholders' disappointment that the consultation process was truncated, as stage 1—setting out objectives and identifying options—was cancelled. Although we recognise the importance of moving quickly to raise revenue in order to help meet the costs of remediating unsafe cladding on buildings, it is disappointing that the Government were not able to conduct a thorough consultation.

Clause 33 sets the rate of the RPDT charge at 4% on profits that exceed the allowance of £25 million. The tax is charged as if it were an amount of corporation tax chargeable on the developer. As I mentioned earlier, the Government expect that £2 billion of revenue will be generated while the tax is in effect, so I will ask the Minister several questions in order to try to clarify the reasoning behind some of the Government's decisions on the detail of the tax. First, we note that the tax does not come with a sunset clause, and therefore active legislation will be required to repeal it when it comes to an end. Will the Minister explain the reasoning behind that decision? If the tax is intended to be time-limited, why have the Government have chosen to leave it in need of active repeal, rather than simply adding a sunset clause?

Secondly, I mentioned that the expected revenue from the tax is £2 billion. We know, however, that that is just a fraction of the total cost of remediating unsafe cladding, which was estimated by the then Housing, Communities and Local Government Committee in April 2021 to be about £15 billion. What is more, labour and material shortages have significantly driven up the cost of construction. That is thought to add £1.2 billion to the overall cost of remediation, wiping out most of any gain from this tax. With the cost of cladding remediation already thought to be so much greater than the amount that the tax is expected to raise, and with that gap likely only to increase, will the Minister try to explain further why the rate was set at 4%? Will she confirm whether, if the amount raised should fall short of £2 billion or if costs should increase substantially, the Government would be open to considering raising the level of the tax?

It was in pursuit of an answer to that question that we tabled new clause 18, which would require the Government to publish a review of the residential property developer tax within three months of the end of the first year of it applying, and thereafter annually, within three months of the end of each subsequent year that the tax applies. The review, as updated, must assess how much the RPDT has raised in each year of its operation so far and how much it is estimated that it would have raised at levels of 6%, 8% and 10%.

As I mentioned, the cost of remediating unsafe cladding was estimated last year to be about £15 billion, and the cost of labour and materials has increased due to supply chain crises. Industry experts have estimated an 8% increase in the cost of cladding jobs, compared with last year. As I mentioned, that could increase the total cost by £1.2 billion. As I said, this tax aims to raise £2 billion, which is just a fraction of the total cost and much of which, it seems, will be wiped out by rising costs.

We have therefore tabled this new clause to ask the Government to assess how much they could raise through the tax and how much they could raise with different

[James Murray]

rates. Given the significant discrepancy between the estimated revenue raised by the RPDT and the estimated cost of remediation, will the Minister set out in further detail, when she responds, exactly how the rate of 4% was reached and what specific consideration was given to alternatives? It was with that in mind that we tabled the new clause. We will not seek to put it to a vote, but we hope that it will help us to debate and probe the important and central issue of the rate at which the RPDT has been set.

In summary, I will be grateful if, in her reply, the Minister could set out exactly how the figure of 4% was arrived at and, furthermore, how she expects the rest of the cost of cladding remediation to be met. I would be grateful if she could set out, either in her reply now or in writing, what other sources of funding she anticipates being used to meet the total cost of cladding remediation.

Finally in relation to this group, I will briefly mention clause 52, which is an anti-avoidance provision preventing taxpayers from adjusting their profits arising in an accounting period in order to obtain a tax advantage for the purposes of this tax. We welcome the intent behind that clause and will not oppose it.

Richard Thomson (Gordon) (SNP): It is a pleasure to serve under your chairmanship, Dame Angela. I rise to speak to new clause 3, in the name of my hon. Friend the Member for Glasgow Central. As the Minister outlined, this new clause would require a Government assessment of the impact of the residential property developer tax being introduced by the Bill and of its effect on opportunities for tax evasion and avoidance.

We are all familiar with what this tax sets out to achieve and those on whom it should fall. There is a £25 million annual allowance for construction firms, and the tax will be levied above that at 4%. That does not take a great deal of time to say, but unfortunately, giving it effect requires 16 pages and a further eight pages across two schedules in the Bill and a great many more pages in the explanatory notes to say exactly how it will work in practice. Therefore, the opportunity for genuine confusion, for interpretation and, sadly, for evasion and avoidance is certainly a real and present danger in the legislation.

The anticipated impacts are set out in table 5.1 of the "Autumn Budget and Spending Review 2021". We are not talking huge sums from this tax, but given its stated purpose and the means to which the revenues are going to be put, I think that reviewing its impact—not just in a financial sense, but in the sense of the unintended consequences that it could have and the havoc that it could wreak in terms of confusion, differences of interpretation, and avoidance and evasion—seems to be an eminently reasonable thing to do. I urge the Minister to reconsider how the Government intend to tackle that once the tax is implemented.

3.45 pm

Lucy Frazer: I very much welcome the initial comments of the hon. Member for Ealing North, and that he welcomes the points in principle. That is important, given that we are trying to help those people who have suffered a terrible tragedy and ensure that we have the necessary funds to remedy the situation. He asked several questions, the first of which related to consultation. I reassure him that the Government undertook extensive stakeholder engagement as part of the 12-week consultation—holding 40 consultative meetings—to help ensure that the issues raised in the consultation about the design and impact were considered fully.

The hon. Gentleman also mentioned a sunset clause. We have been clear that this is a measure to raise £2 billion-worth of revenue by way of tax, and that it will be time limited and will be repealed once sufficient revenue has been raised. As with all other taxes, the Government will keep this tax under review.

The hon. Gentleman asked whether the 4% rate was sufficient. However, at the same time, he also mentioned the supply chain issues that might mean that the cost of construction has gone up. It is, of course, important to ensure that what we ask from developers is fair, in order to ensure that their businesses remain viable and sustainable at the same time as contributing to this issue. The rate was carefully considered in the context of the upcoming increase in corporation tax, other taxes, the regulatory changes and the wider macroeconomic environment. We feel that 4% represents the right balance, raising the £2 billion over a decade while being fair and not having an impact on housing supply. The hon. Gentleman asked how we came to this rate; we considered it very carefully and decided on 4%.

James Murray: For the sake of clarity, I would be grateful if the Minister could help my understanding. She said that the tax was intended to raise £2 billion over 10 years, but she may have implied that if it has not raised £2 billion over 10 years, it would keep applying until £2 billion was raised. Is it for 10 years, or is it for £2 billion? The Government will not necessarily raise £2 billion over exactly 10 years; one has to come before the other. Is it going to be for 10 years and then finish—no matter what it has raised—or will it keep going until it has raised £2 billion?

Lucy Frazer: The Government have made clear that they propose to raise £2 billion from this tax. They have done extensive analysis as to what the appropriate rate is to recover that amount. At a rate of 4%, we anticipate that we will raise that £2 billion—in fact, slightly more than that—in 10 years, and that is when the tax will come to an end.

I will address the points made by the hon. Member for Gordon, because he rightly raised an important point about tax avoidance. It is HMRC's duty to ensure that we do not have tax avoidance and evasion. However, I reassure him that the existing corporation tax compliance mechanisms that currently exist—which include inquiries, information powers and penalties—will apply to this tax, as well as anti-avoidance rules, including transfer pricing and the general anti-abuse rule. He did not specifically raise any particular measures that he thought would be anti-avoidance or abuse—if there are any, I would be very interested to hear them in due course and discuss that with him.

For those reasons, we ask the Committee to reject the two new clauses and to agree that clauses 32 and 33 stand part.

Question put and agreed to.

Clause 32 accordingly ordered to stand part of the Bill.

Clause 33 ordered to stand part of the Bill.

The Chair: The decision on clause 52 stand part and any decisions on new clauses 3 and 18 will be dealt with later in our proceedings, though I note that the Labour Front-Bench spokesman indicated that Labour will not push new clause 18 to a Division.

Clause 34

Meaning of "residential property developer"

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

Clauses 35 to 38 and 47 to 49 stand part.

That schedule 9 be the Ninth schedule to the Bill.

Clauses 50 and 51 stand part.

Lucy Frazer: Clauses 34 to 38 set out key definitions for the residential property developer tax, which collectively set out the conditions that need to be satisfied for a business to be in scope of the tax. Clauses 47 to 51 and schedule 9 address a mix of aims within the tax, including the definition of a group, excluding a deduction for the tax when calculating profits or losses for other tax purposes, and the application of transfer pricing principles for the purpose of the residential property developer tax.

Clause 34 defines a residential property developer, and confirms that to be in scope of the RPDT, a business must be a company that undertakes residential property development activities as further defined in clause 35. Clause 34 provides an exclusion for non-profit housing companies and their wholly owned subsidiary companies from being treated as residential property developers for the purposes of the RPDT. The clause defines a non-profit housing company by reference to existing legislation, and a power has been taken that allows the definition to be updated in future in line with any changes to regulatory frameworks.

Clause 35 provides a non-exhaustive list of what amounts to residential property development activities, and confirms that profits from these activities undertaken by the developer on or in connection with UK land in which it has an interest will form the tax base.

Clause 36 explains that a residential property developer or a related company will have an interest in the land for the purposes of the tax where it has an interest in or over the land that forms part of its trading stock used in its development trade. It explains the tax's application to related companies and joint venture companies.

Clause 37 provides a definition of residential property and sets out the types of properties that will not be regarded as residential property. The clause excludes certain types of buildings from the definition of residential property, so that any profits or losses from their development are not taken into account when computing profits that are subject to the tax. These include, typically, specialised institutions that provide temporary or longer-term accommodation for a specific class of residents, and buildings that are occupied purely under licence to occupants who do not hold any lasting rights over the property. Finally, the clause sets out the criteria to be met in relation to buildings that are excluded from the definition of residential property as student accommodation. Clause 38 sets out the formula used to calculate the residential profits or losses from residential property development activity by a developer for an accounting period.

Clause 47 introduces an exit charge that applies when a non-profit housing company ceases to meet the conditions to be exempt from the RPDT, and sets out the operation of the exit charge. This rule has been welcomed by the non-profit sector.

Clause 48 provides the definition of a group of companies for the purposes of the RPDT, other than for the group relief rules in schedule 7. Since a group of companies is entitled to a single £25 million allowance, it is important to set out clearly what constitutes a group for that purpose.

Clause 49 introduces schedule 9, which introduces a rule preventing a residential property developer from obtaining any deduction for the tax when calculating any profits or losses for income tax or corporation tax purposes. Clause 50 sets out where the meaning of various terms used in the RPDT legislation can be found.

Clause 51 confirms that the RPDT will apply for an accounting period for UK corporation tax purposes of a developer that ends on or after 1 April 2022. It sets out the treatment of accounting periods that straddle the commencement date of 1 April 2022. The RPDT will be chargeable only in respect of profits calculated from 1 April 2022 to the end of the accounting period, with an apportionment being made of the profits for the whole accounting period on a time basis.

In summary, this group of clauses defines key terms needed for the RPDT to work and provides the essential framework for the administration of the tax. The clauses will be supported by guidance to provide further clarity for taxpayers.

James Murray: As we have heard, clauses 34 to 38 concern the key concepts contained in the RPDT legislation. Clause 34 sets the basic conditions that, when satisfied, mean that a company is to be designated as a residential property developer, potentially within the charge of the RPDT. Subsection (1) defines an RP developer as either a company that undertakes residential property development activities or one that holds

"a substantial interest in a relevant joint venture company."

The company's interest in such a joint venture is aggregated with those of other members of the same group to determine whether that is a substantial interest.

Subsection (3) clarifies that a non-profit housing association or organisation is not treated as an RP developer for the purposes of the tax. That is a very important distinction that we support. My colleagues in the shadow housing team pressed the Government on that point during Committee stage of the Building Safety Bill, and I welcome that being reflected in this Bill.

Subsection (4) is a logical extension of subsection (3), determining that wholly owned subsidiary companies of non-profit housing companies are also excluded from being treated as RP developers for the purposes of the tax. It makes sense to exclude non-profit housing associations from RPDT, particularly given that they have already made a much more substantial contribution

[James Murray]

to cladding remediation than private developers. Research by the National Housing Federation in October 2021 found that private developers and cladding manufacturers had allocated £643 million of future profits to remediate unsafe cladding, while non-profit housing associations have estimated that their remediations will cost in excess of £10 billion.

Subsection (5) allows the Treasury to amend the definition of a non-profit housing company by regulation, and to make any consequential changes to this part of the legislation. As we have heard, that allows the definition to be updated, in line with any changes to the regulatory framework for registered social housing providers. It may be understandable that the Government want to be able to adjust definitions to match any changes in the way that social housing providers operate, as well as to recognise the impact of any changes to the regulatory framework. However, so that we can better understand the Government's concerns, I would be grateful if the Minister could indicate why it may be necessary to amend the definition of a non-profit housing company.

Clause 35 sets out the criteria and definitions of residential property development activities for the purposes of the tax, as well as setting the territorial scope of the legislation. Subsection (1) brings within scope anything that is done by an RP developer or in connection with land in the United Kingdom for the purposes of the development of a residential property. A developer must have an interest in the land at some point for the activity there to be RP developer activity for the purposes of the tax. Land in that respect is taken to include buildings or structures on a piece of land. The requirement for an interest in land means that profits from similar activities undertaken by companies acting purely as third-party contractors, who are not RP developers, do not come within the charge of the tax.

Clause 36 raises an important question about who the RPDT applies to. Subsection (1) sets out the definition of an interest in land for the purposes of the tax. Broadly, it sets out that, when an RP developer has an interest in land, it must have

"an estate, interest, right or power in or over the land".

That estate, interest, right or power must form

"part of the RP developer's, or the related company's, trading stock".

Subsection (4) elaborates what "trading stock" refers to and makes clear the importance of an estate, interest, right or power in or over land being disposed of. It is the point about disposal that I would like to probe further. Discussions with Clerks about whether new clause 19 was selectable drew out the fact that the residential property developer tax is aimed at developers that do development work in order to trade property once the work has been done. It seems clear to me that the RPDT would apply in the case of a developer who builds homes and sells their freehold interest once the development is complete, but what happens when the developer retains some sort of interest for a specific period of time, or indefinitely?

4 pm

First, what about build to rent? We know that the RPDT is not intended to apply to build-to-rent developers. That point was raised during the consultation on the RPDT last year, and I understand that the Treasury confirmed in October 2021 that build-to-rent developers would be excluded. If I understand it correctly, the exclusion is achieved by clause 36(1)(b) and clause 36(4), which specify that the tax will apply only to developers whose "interest in land" is held as "trading stock", thereby excluding those developers who hold it as a landlord.

Most build-to-rent developments are purpose-built and intended for long-term rent, but some developers could consider retaining for-sale developments as rented units for a specific period of time, and then selling later. That could be the case, for instance, where house prices suddenly drop, but the drop is expected to be short term. If a developer completed a development this autumn, say, they could chose to hold the units as build to rent for 10 years, thereby exceeding the expected lifeline of the RPDT, and then dispose of the units afterwards. Assuming that the RPDT is indeed a 10-year tax, as the Minister indicated, will she confirm that that developer could avoid the RPDT altogether in such developments?

Secondly, what would happen where a developer had built a block of flats and then retained the freehold while granting long leases to the leaseholders of individual flats? In that case, the developer might also retain a long-term interest in managing the building, maintaining the communal areas and so on. Technically, by virtue of the developer's status as freeholder, it would be a landlord. Would it be subject to the RPDT?

Clause 37 also deals with definitions. It describes the types of properties that will or will not be regarded as "residential property" for the purposes of the RPDT. The clause provides a general definition of residential property and then exclusions for specialised institutions or accommodation that are restricted in how and by whom they will be occupied. It defines a residential property as a building that is being constructed, adapted or is designed specifically for use as a dwelling, which includes land that forms gardens or grounds around the building. The definition also draws in other land over which the building owner has rights or is seeking planning permission. Thereafter, the clause cites a range of exemptions, wherein the function of the residential building removes it from liability to the RPDT.

It would be useful if the Minister could offer greater clarification on a number of the exempted purposes of residential buildings. Does the exemption for "accommodation with personal care" for people requiring care due to old age, disability, substance dependency or mental illness include permanent sheltered accommodation, where care is available but not routinely provided on a permanent basis? Does the exemption for student accommodation extend to privately owned properties that would otherwise be in scope, but which have been adapted to become houses in multiple occupation and are marketed to university students, which would mean, in effect, that they are privately owned student houses rather than purpose-built student accommodation? Clause 37(3) includes the condition that the occupants of student accommodation would reasonably expect to inhabit the property for at least 165 days a year for the purposes of education, but there is a grey area and we would welcome clarity.

We are also conscious of concerns raised by the British Property Federation about exemptions on build-to-rent properties. The federation notes that most models of build-to-rent developments are "outside the scope of RPDT"—as I mentioned—which it supports. However, it argues that build-to-rent developments that benefit from forward funding arrangements and those that are delivered through for-profit affordable housing developers are both within scope, and that having some build-to-rent models in scope and others out of scope creates an uneven playing field. Will the Minister clarify the intention behind the provision?

Clause 38 deals with the meaning of "residential property developer profits or losses". It sets out the formula used to calculate the RP developer profits or losses that form the base for the purposes of the RPDT for an accounting period. We can see that the starting point is the company's adjusted trading profits or losses for the accounting period, determined in accordance with clause 39. That amount is updated for any RP developer profits or losses from joint ventures that are attributable to the company, in accordance with clause 40. Certain losses and other reliefs can then be deducted, calculated in accordance with parts 1, 2 and 3 of schedule 7, where available, to give the RP developer profits or losses for the accounting period.

Clause 47 concerns the exit charge on non-profit housing companies. The clause provides for an exit charge when a non-profit housing company ceases to meet the conditions to be exempt from the residential property developer tax. The conditions for exemption are provided for in clause 34. The charge may also apply where a non-profit housing company ceases to be owned by another such company and is acquired by another company under the same control as that other company. The clause is aimed at preventing for-profit entities from benefiting from the exemption. It is an understandable clause to bring forward and it is right that for-profit entities should not benefit from an exemption aimed at non-profit entities.

Clause 48 provides the definition of a group of companies for most purposes of the RPDT, including the allocation of the allowance under clause 43. The meaning of a group for the purposes of RPDT group relief and RPDT group relief for carried-forward losses is separately provided in schedule 7.

Within clause 48, subsection (1) confirms that for the purposes of the RPDT, other than for the rules for group relief in schedule 7, a group means two or more companies that together meet the condition in subsection (2). Subsection (2) provides that the condition is that one of the companies is

"the ultimate parent of each of the other companies, and…is not the ultimate parent of any other company."

Subsection (3) explains that a company is the ultimate parent of another if its parent and no other company is the parent of both of them. Subsection (4) explains that a company is the parent of another if the other company is its 75% subsidiary or it is entitled to at least 75% of the other company's distributable profits, or would be entitled to 75% of its assets in a winding-up. For these purposes, the rules relating to corporation tax group relief are used, for example to define equity holders and how beneficial entitlement rules are applied to groups.

Clause 49 and schedule 9 contain a set of miscellaneous provisions. The first of these relates to a rule preventing a company that is liable to pay the RPDT from obtaining any deduction for the tax when calculating any profits or losses for income tax or corporation tax purposes. Similarly, the second paragraph of schedule 9 ignores any payments for RP developer losses of a joint venture company or RP developer group relief when calculating corporation tax, profits or losses, and any such payment will not be treated as a distribution.

Paragraph 3 of schedule 9 applies the arm's length principle included in the transfer pricing rules in part 4 of the Taxation (International and Other Provisions) Act 2010 to an RP developer's RP development activities and its other activities. The provisions in that Act are to be interpreted as if the activities were carried on by separate persons under common control.

Finally, paragraph 4 of schedule 9 applies the arm's length principle included in the transfer pricing rules in part 4 of the 2010 Act to transactions or provisions between companies under common control, where the provision or transaction would be taken into account when computing the RP developer's profits or losses for only one of those companies.

Clause 50 provides definitions for the legislation that ensure consistency of terminology. Finally, clause 51 provides commencement provisions for the RPDT, which apply to profits arising from 1 April 2022. It also provides an amendment to the usual rules for payment of tax by quarterly instalments, where these would otherwise apply to payments before that date.

To that end, subsections (2) and (3) of clause 50 require pre and post-commencement profits to be time-apportioned where a company's accounting period straddles the commencement date of 1 April 2022. For a company with a 31 December 2022 year end, if it sells a development pre-commencement in, for example, January 2022, part of the profits will be brought into the charge, whereas the same profits for a company with a 31 March 2022 year end will fall out of scope.

In summary, we will not oppose this group of clauses, but I hope that in her reply the Minister will be able to answer the questions that I have set out. In particular, I would be grateful if she could fully address the questions that I have raised in relation to clause 36: specifically whether RP developers would be liable to the RPDT if they either held the units on a piece of land for 10 years as build-to-rent or if they retained a long-term interest as a freeholder landlord.

Alison Thewliss (Glasgow Central) (SNP): A happy new year to you, Dame Angela, and to all colleagues.

I have just a few queries about these clauses. First, I want to touch on the issues relating to exempting registered social landlords. During the consultation, the Scottish Federation of Housing Associations asked the Government to exempt all non-profit housing providers and wholly owned subsidiary companies. It highlighted the social housing sector's concerns that developers would look to pass on costs where properties are purchased off the shelf, as it were, rather than housing associations doing it themselves, and it was very pleased that it had that exemption as part of the rules that the Government are introducing. That is very welcome, and I am glad that has been the case.

A "registered social landlord" is defined in clause 34(4)(b), and paragraph (c) refers to the Housing (Scotland) Act 2010. Does the Minister intend to keep in touch with

[Alison Thewliss]

the Scottish Government should there be any further changes to Scottish legislation that might be impacted by the Bill? The definition of a registered social landlord in Scotland is slightly different from that in England. An RSL is not allowed to be for-profit in Scotland, and that is very clear in the legislation. I understand that on the English register there are 1,625 providers of registered social housing, 60 of which are classed as for-profit.

Out of curiosity, has the Minister or her colleagues had any discussions with the for-profit organisations? Looking at some of the names, I think that some of the people they seek to provide housing for appear to be reasonably laudable causes—people we would wish to support—even though it is through for-profit social housing. I am curious about what the impact might be on the sector as a result.

On clause 34(5) and the point made by the hon. Member for Ealing North, it is important that a lot of the measures are going to secondary legislation and we will lose sight of any future changes that the Government make to the definitions of non-profit and any other definitions that they seek to make. How does the Minister intend to report that back to the House in a way that allows Members to ensure that there will be no unintended consequences from things that happen once the Bill leaves Committee?

On the definitions of residential property in clause 37 and the exemptions in subsection (2), I was interested to see that student accommodation is a part of this. In many respects I agree with student accommodation being exempted, particularly accommodation run by universities themselves for no profit. Universities looking not to make a profit but simply to make the accommodation pay for itself are very different from the rapacious student accommodation providers that seek deliberately to make profits from students. Some of the fees that they can charge and the developments that they create are sizeable.

There are huge accommodation providers in Glasgow Central. They have a worthy goal in providing accommodation for students, but students have to pay through the nose for it and they are not quite in the same classes of accommodation. What conversations has the Minister had with student accommodation providers, both those working on a non-profit basis and those working on a commercial basis? It is clear that there are implications from cladding on student accommodation. Unite was mentioned in the press as having in its portfolio 22 high-rise buildings that are affected by cladding. I understand that it is meeting the cost of removing the cladding but, as I say, it is a profitable business in many respects. What more can the Government tell me about their conversations on that?

My other points were covered by the hon. Member for Ealing North, but I have one final point about the preparedness of HMRC to implement the significant and complex new tax. My hon. Friend the Member for Gordon mentioned the complexity. When legislation starts to get into equations, we are talking about something that is quite complicated, especially when we look at the detail in the clauses and the schedules that follow them. What preparations is HMRC meant to be making for this? HMRC has had a busy couple of years, given all the things it has had to do as a result of coronavirus. A lot of that was done at pace, with other stuff put to the side, and I wonder whether this might be one thing that was put to the side while HMRC dealt with coronavirus.

It is clear from some of the press coverage of the coronavirus schemes that HMRC did not have the staff to check up on where the money was going, and that it has been trying to claw back some of that money without the staff complement to do that properly and fully. I would like to know from the Minister the size of the team that has been working on this and what more needs to be done to ensure that this goes smoothly in April 2022.

4.15 pm

Lucy Frazer: There are quite a lot of points to address. I will deal with those that are easy to deal with orally, and I will get back to the hon. Member for Ealing North in writing on some of the more detailed points he raised. I am very grateful to him and to the hon. Member for Glasgow Central for welcoming our decision on affordable housing and the not-for-profit sector. We had obviously thought about that very carefully. I think it is the right decision, and I am pleased that it has cross-party support. I welcome, as does the hon. Member for Ealing North, the work that has already been done to reduce cladding by that sector.

The hon. Member for Ealing North asked why we will not extend the definition beyond that to not-for-profit providers. It is because this measure relates to a charge when people have made a significant profit of more than £25 million. He also asked why we need flexibility to come back, by way of regulation, and change the definitions. The definitions are based on legislation from the devolved Administrations, and if those definitions change, we need the flexibility to change them here as well.

The hon. Gentleman also asked about different scenarios for disposals of land. He will know that, when coming up with this policy, we thought carefully about what should and should not fall within it, and what was right to fall within it. We excluded build-to-rent because it is a very different sector in which profits are earned in a different manner at a different time. It was not comparable to the build-to-sell sector. He posited a number of scenarios in which commercial entities might change their activities in order not to pay this charge over the period of time but may ultimately sell properties in due course. We of course considered the possibility that people might change arrangements in order not to pay the tax, but we took the view, having discussed the issue, that significant change in commercial behaviour or business models in order simply to avoid the tax would be unlikely. I will get back to him on some of his specific points.

The hon. Gentleman also made a point about student accommodation, which I will answer from a broad perspective. Those who build properties and are able to pay the levy, because they have an income of more than £25 million, are subject to the tax. It is on house sales of a particular kind, where the purpose of the sale is essentially a sale of a property but it so happens that some other services are provided at the same time. It is essentially competing with the build-to-sell sector, which is why it is included in the legislation.

The hon. Member for Glasgow Central asked whether we would keep in touch with the Scottish Government, which we of course will and are very happy to. She asked what happens when people provide good services, for example in the affordable housing sector, but are profit making. I want to reiterate that the levy will catch significant property developers earning in excess of £25 million—it is that type of company that will be caught by the levy. We will of course keep everything under review, and the same point relates to the point that the hon. Member for Glasgow Central made about student accommodation. This is about big providers that are selling property to individuals, rather than renting the accommodation in short order.

I am really pleased that the hon. Member for Glasgow Central recognised the successful work that HMRC has done over the course of the pandemic in pretty short order. The furlough scheme and all the grants have largely been administered by HMRC, and it has done a tremendous job, delivering at pace. She is right to point out that HMRC has been stretched at times and that there is a significant amount of work coming its way in due course with the social care levy, but I want to reassure her that it is fully aware that this legislation is coming down the path and that it will be ready to deliver. For those reasons, I commend the clauses to the Committee.

Question put and agreed to.

Clause 34 accordingly ordered to stand part of the Bill.

Clauses 35 to 38 ordered to stand part of the Bill.

The Chair: The decisions on clauses 47 to 49, schedule 9 and clauses 50 and 51 will be dealt with later in our proceedings.

Clause 39

Adjusted trading profits and losses

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to consider the following:

Clauses 40 and 41 stand part.

That schedule 7 be the Seventh schedule to the Bill.

Clause 42 stand part.

Lucy Frazer: Clauses 39 to 42 set out how to calculate the tax base for the purposes of RPDT for an accounting period. Clause 39 sets out what adjustments are made to the UK corporation tax trading profits or losses to arrive at the adjusted trading profits or losses of a residential property developer for the purposes of RPDT. The clause provides that any apportionment of in-scope activity and other activities are to be made on a just and reasonable basis. The clause also provides for an exclusion for any trading profits from residential property development activities that are carried out by a company for charitable purposes.

Clause 40 sets out how any joint venture profits or losses attributable to a developer are determined for the purposes of calculating RPDT profits or losses. The clause confirms the criteria for a relevant joint venture company to fall within the charge to RPDT and how the joint venture profits or losses will be attributed to the developer.

Clause 41 introduces parts 1 to 4 of schedule 7, which make provisions for loss relief and group relief for the purposes of RPDT. As they largely replicate the rules that apply generally for corporation tax, I do not propose to spend long taking the Committee through them. Part 1 of schedule 7 allows any unrelieved RPDT loss to be carried forward against RPDT profits in the next accounting period. Parts 2 to 4 of schedule 7 apply equivalent rules for UK corporation tax group relief for the purposes of RPDT.

Clause 42 restricts the amount of a carried forward loss that can be set against profits of a later period for the purposes of RPDT. This ensures that carried forward losses do not reduce profits above the annual allowance that are chargeable to RPDT by more than 50%, in line with the treatment of carried forward losses under UK corporation tax.

In summary, these clauses and the schedule set out important mechanics for the calculation of the base of the tax, and I therefore recommend that they stand part of the Bill.

James Murray: As we have heard, clause 39 concerns adjusted trading profits and losses relating to the calculation of the RPDT charge. Subsection (2) lists the circumstances in which trading profit and loss can be ignored in the calculation of the charge. These are those profits, losses, and any allowances or charges under the Capital Allowances Act 2001 that do not relate to residential property development activity, corporation tax loss relief, and group relief, and any amounts that are taken into account in calculating trading income by the operation of the loan relationship and the derivative contracts rules.

Also, any trading profits from residential property development activities that are carried out by a charitable company and apply for the purposes of the charitable company are ignored. Furthermore, we can see that in subsection (3) there is provision whereby corporation tax profits, losses or capital allowances and charges that relate to both the company's residential property development activity and any other activities may be apportioned between the RP developer activities and other activities on a just and reasonable basis.

Clause 40 focuses on attributable joint venture profits and losses. The clause sets out how an amount a joint venture profits or losses attributable to a developer is determined for the purposes of calculating RP developer profits or losses under clause 38 for the purposes of this tax. The clause confirms the criteria for a relevant joint venture company to fall within the charge of this tax. Notably, we see that where there are five or fewer persons who between them own at least 75% shareholding, the holdings of members of the group are to be aggregated and treated as one holding.

Clause 41 introduces schedule 7 and relates to RPDT reliefs where provision is made for loss relief and group relief for the purposes of RPDT. Part 1 of schedule 7 clarifies that an unrelieved RPDT loss is to be carried forward against RPDT profits in the next accounting period, but its use is subject to the restriction to setting off against 50% of the profits of any future accounting period, as provided for by clause 42, which I shall refer

[James Murray]

to shortly. Part 2 concerns RPDT group relief, which is comparable to corporate tax group relief that has been set out specifically for the purposes of the tax under discussion today. Part 3 is similar, in that it applies the principles of carried-forward group relief from corporation tax to the RPDT.

Relatedly, we see clause 42 impose a restriction on the use of carried-forward losses for the purposes of the RPDT. That ensures that carried-forward losses do not reduce profits above the annual allowance that are chargeable to RPDT by more than 50%. That corresponds to the treatment of carried-forward losses for the purposes of corporation tax on trading profits. We will not be opposing the clauses or the schedule.

Lucy Frazer: I am grateful for the indication that there will be no opposition, so I ask that the clauses stand part of the Bill.

Question put and agreed to.

Clause 39 accordingly ordered to stand part of the Bill.

Clauses 40 and 41 ordered to stand part of the Bill.

Schedule 7 agreed to.

Clause 42 ordered to stand part of the Bill.

Clause 43

Allowance

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss clause 44 stand part.

4.30 pm

Lucy Frazer: Clauses 43 and 44 provide for the operation of the annual allowance. The RPDT will be charged on the profits that exceed a residential property developer's £25 million annual allowance. Clause 43 provides for the operation of the £25 million annual allowance that is available to each group of companies before profits become chargeable to RPDT. A power is included that allows HMRC to set the process for a group of companies to allocate its allowance in secondary legislation.

Clause 44 provides for the calculation of the annual allowance for the RPDT where the profits of a member of a joint venture company are not chargeable to UK corporation tax. It provides for the allowance of a JV company to be reduced and for the exempt member to instead have an annual allowance that can be allocated to its joint venture interests. Although the rule may seem complicated at first glance, it will ensure that where a non-taxable investor, such as a pension fund, has interests in several joint ventures, those joint venture companies do not benefit from multiple allowances. In summary, clauses 43 and 44 ensure that RPDT is proportionate, administrable and targeted at the largest developers.

James Murray: As the Minister has described, clause 43 relates to allowances and provides for the operation of the allowance that is deducted from profits chargeable under the RPDT. Under clause 43, the £25 million allowance is adjusted pro rata when an accounting period is less than a year. Within a group of developers, the allowance can also be allocated between member companies at the direction of an allocating member. In the absence of an allocating member, the allowance is to be evenly split between the total number of members.

Clause 44 applies a similar principle to joint venture companies and sets out the terms of allowance within the RPDT. Critically, where a member of a joint venture company is outside the scope of corporation tax because it is an offshore entity, a sovereign immune entity or an institutional investor, the allowance afforded to the joint venture company is reduced in proportion to the percentage competition of members that are outside its scope. We support the principle of removing unfair tax advantages and maintaining fair competition in the market, and therefore we will not oppose the clauses.

Lucy Frazer: Again, I am very grateful for that indication. I commend the clauses to the Committee.

Question put and agreed to.

Clause 43 accordingly ordered to stand part of the Bill.

Clause 44 ordered to stand part of the Bill.

Clause 45

Application of corporation tax provisions and management of RPDT

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to consider that schedule 8 be the Eighth schedule to the Bill.

Lucy Frazer: Clause 45 and schedule 8 provide for RPDT to be treated for administrative purposes as an amount of UK corporation tax. Clause 45 outlines the framework within which RPDT will operate and makes necessary amendments to existing administrative legislation to accommodate RPDT. It also introduces schedule 8, which makes further provisions about the management of RPDT, including setting out the circumstances in which a company will not be required to report its RPDT profits, which will reduce any administrative burden for groups with profits that are unlikely to exceed the annual allowance.

In summary, the clause and schedule set out important mechanics for the collection, management and payment of RPDT.

James Murray: As the Minister has described, clause 45 and schedule 8 concern the application of corporation tax provisions and management. The clause applies general corporation tax principles to the RPDT and provides that RPDT be treated for administrative purposes as an amount of corporation tax. The clause and schedule outline the framework within which RPDT will operate and make necessary amendments to administrative legislation to accommodate RPDT.

As pointed out by the Chartered Institute of Taxation, the alignment with corporation tax and other existing mechanisms should reduce some administrative burdens for both developers and HMRC, which we welcome.

However, we note that the turnaround on this novel tax, as mentioned earlier in this Committee sitting, is rapid. Given the truncated consultation period, I seek reassurances from the Minister that HMRC's systems will be ready for the collection, management and payment of RPDT. I would be grateful if the Minister could also confirm whether any additional budget allocation has been offered to HMRC to support the roll-out of RPDT and, if so, what the value of the allocation is.

Lucy Frazer: I assure the hon. Gentleman, as I assured the hon. Member for Glasgow Central some moments ago, that HMRC will be ready to bring in the tax that we are legislating for. As he will know, we have just gone through a spending review. HMRC will have sufficient funds to ensure that it can comply with its duties and obligations.

Question put and agreed to.

Clause 45 accordingly ordered to stand part of the Bill.

Schedule 8 agreed to.

Clause 46

Requirement to provide information about payments

Question proposed, That the clause stand part of the Bill.

Lucy Frazer: Clause 46 provides for RPDT receipts to be monitored. It introduces a requirement for residential property developers making an RPDT payment to state the amount of the payment to HMRC in writing in order to ensure that RPDT receipts can be monitored. It also provides for a penalty if there is a failure to comply with that requirement. In summary, the clause sets out an important requirement to enable HMRC to monitor RPDT revenue.

James Murray: As we have heard, clause 46 introduces a requirement for companies making a payment of RPDT to provide information about a payment to HMRC so that receipts for the tax can be monitored. The clause sets out the definition of the responsible company—the company making payment on behalf of the RP developer under relevant group payment arrangements or, in any other case, the RP developer itself.

The clause further requires that the responsible company must notify an officer of HMRC in writing, on or before the date when the payment is made, of the amount of the payment due under RPDT. In addition, the clause refers to penalties for failing to inform HMRC about payments owed. Penalties are aligned with previous legislation on corporation tax notices. We will not oppose the clause.

Question put and agreed to.

Clause 46 accordingly ordered to stand part of the Bill.

Clauses 47 to 49 ordered to stand part of the Bill.

Schedule 9 agreed to.

Clauses 50 to 52 ordered to stand part of the Bill.

Clause 67

Securitisation companies and qualifying transformer vehicles

Question proposed, That the clause stand part of the Bill.

Lucy Frazer: Clause 67 introduces a power enabling changes to be made by secondary legislation to stamp duty and stamp duty reserve tax in relation to securitisation and insurance-linked security arrangements. The Government are keen to ensure that the UK's stamp duty and SDRT rules contribute to maintaining the UK's position as a leading financial services sector.

On 30 November, the Government published a response document and a draft statutory instrument following consultation on reform of the tax rules for securitisation companies. The consultation explored issues including the application of the stamp duty loan capital exemption to securitisation and ILS arrangements. The consultation sought views on whether uncertainty as to how the existing stamp duty loan capital exemption applies increases the costs and complexity of UK securitisation and ILS arrangements, and whether that is a factor in arrangements being set up outside the UK.

Clause 67 will allow Her Majesty's Treasury to make regulations to provide that no stamp duty or stamp duty reserve tax charge will arise in relation to the transfer of securities issued by a securitisation company or a qualifying transformer vehicle. A qualifying transformer vehicle is the note-issuing entity in an ILS arrangement. The power will also allow HMT to make regulations to provide that stamp duty or SDRT is not chargeable on transfers of securities to or by a securitisation company. The power allows the Government to make changes to allow UK securitisation and ILS arrangements to operate more effectively, and reduce cost and complexity. There is currently no power to make changes through secondary legislation to the stamp duty and SDRT rules in relation to securitisation and ILS arrangements.

In summary, clause 67 will support the Government to respond flexibly to the evolving commercial practices of the securitisation and ILS markets, and ensure that the UK's securitisation and ILS regimes remain competitive. I therefore commend the clause to the Committee.

Abena Oppong-Asare (Erith and Thamesmead) (Lab): I am delighted to serve under your chairship, Dame Angela. Happy new year, everyone.

As we heard from the Minister, clause 67 relates to stamp duty on securities and related instruments. We do not oppose efforts to increase the efficiency and flexibility of this sector, but we wish to see appropriate safeguards to ensure that these changes do not increase the risk of stamp duty evasion and, as the Minister mentioned, to make sure that they meet the UK's position as a leading financial sector.

Securitisation can be a useful source of finance for UK businesses and can aid capital liquidity and risk management. I note that the Treasury has consulted on the impact of stamp duty on securitisation and insurance-linked securities. Clause 67 gives the Treasury powers to make changes through secondary legislation to stamp duty as it relates to securitisation. Can the Minister explain why the Government feel that it is necessary to make those changes through secondary legislation, rather than using the Finance Bill or other primary legislation?

[Abena Oppong-Asare]

Can the Minister also give us some detail on the exact changes that the Government intend to make through this secondary legislation? For example, in what circumstances will the trading of securities be exempt from stamp duty? How will she ensure that this does not increase the scope for tax avoidance? Can she also provide reassurance that Parliament will still be able to scrutinise these changes? The clause really needs to be scrutinised.

Lucy Frazer: I thank the hon. Lady very much for those points. I welcome the fact that she, too, thinks it important that this country remains competitive and flexible, and supports growth in this very important sector.

The hon. Lady asked why we need these changes to be made by secondary legislation. The answer is that technical changes of the type consulted on are more often and more appropriately made through secondary legislation than by primary legislation. Making the changes through secondary legislation gives Government flexibility to ensure that technical changes respond to the evolving nature of the securitisation and ILS markets.

However, it is of course important that we have scrutiny and review. We had a consultation on this issue, from which these provisions follow; of course, anything that comes through secondary legislation will be scrutinised. We will keep this under review, as we do all taxes.

4.45 pm

Abena Oppong-Asare: I thank the Minister for taking the time to explain that. It would be helpful if she could also explain what measures were put in place to allow Parliament to scrutinise these changes. I am sure that she would agree that it is important that Parliament should be able to scrutinise these changes properly; if she could list what steps have been put in place, that would be extremely helpful.

On my other question, it is really important that there is no increase in tax avoidance. Can the Minister set out what the Government have put in place to ensure that it does not increase?

Lucy Frazer: Like me, the hon. Lady will be aware that when things go through the secondary legislation procedure they are subject to scrutiny by this House, through those Committees. She will also know that this Government are absolutely committed to ensuring that we tackle tax avoidance; there are a large number of measures in this Bill that tackle tax avoidance and evasion, through cracking down on promoters and other mechanisms. It is something that we are alive to and acting upon, and for those reasons I ask that clause 67 stand part of the Bill.

Question put and agreed to.

Clause 67 accordingly ordered to stand part of the Bill.

Clause 72

Identifying where the risk is situated

Question proposed, That the clause stand part of the Bill.

Lucy Frazer: Clause 72 relocates into IPT legislation the criteria to determine the location of an insured risk for the purpose of insurance premium tax. IPT is charged on most general insurance, where it provides cover for risks located within the UK.

Insurance for risks located outside the UK is exempt from UK IPT. That exemption prevents double taxation across different tax jurisdictions and puts UK-based insurers on a level playing field with overseas insurers. Legislation sets out how to determine the location of a risk in order to establish whether the IPT exemption applies. Regulations previously used to determine the location of an insured risk were replaced in 2009, and the new regulations did not include an equivalent provision. Instead, reliance was placed on directly effective European Union legislation. To ensure clarity for the insurance industry, this measure relocates the criteria into primary legislation. This is a technical change and does not reflect a change in IPT policy.

The changes made by clause 72 will remove references to inoperative regulations in the Finance Act 1994, introducing criteria to the same effect directly into the IPT legislation. The measure ensures that insurance for risks located outside the UK remains exempt from IPT, providing clarity and continuity for the insurance industry and supporting the maintenance of an effective and fair tax system.

Abena Oppong-Asare: I thank the Minister for her explanation of clause 72; it does seem like a straightforward clause that simply moves the criteria for determining where the risk is located into primary legislation. The Chartered Institute of Taxation has stated that the legislation does meet its stated objectives. For that reason, we do not oppose the clause.

I note that there has been wider consultation on the insurance premium tax, including on how to address the avoidance of the tax and how to reduce the administrative burden on HMRC and the industry. That is particularly important as HMRC has been under a lot of pressure—particularly during the pandemic. In the Government's response to the consultation on the issue of IPT avoidance, they said that, on reviewing the responses,

> "neither of the proposed options provide a proportionate solution to the issue this chapter sought to address. As such, neither option will be taken forward at this time."

That seems like the Government have given up at the first hurdle. Why, if the proposed measures are not appropriate, are the Government not considering other measures to prevent avoidance in this sector?

Alison Thewliss: I do not have any major objections to what is being proposed, but I would be doing the Association of British Insurers a disservice if I let the clause go through without mentioning its concern, which I share, that insurance premium tax is quite a regressive tax. We are about to discuss tobacco duty; the ABI points out, through some research by the Social Market Foundation, that insurance premium tax now raises more revenue than beer and cider duty, wine duty, spirits duty, or betting and gaming duties.

Since 1994, the standard rate of IPT has increased more rapidly than tobacco duty. Those are all things that we want people not to do; we would prefer it if people did not drink as much, smoke as much or gamble as much, so we tax those things. It seems ludicrous to tax people on insurance, which we would like people to have and which benefits them and society, so I ask the Minister to consider further whether insurance premium tax is something sensible that we want to keep doing.

Lucy Frazer: I am grateful to the hon. Member for Glasgow Central for her broader points about the subject matter. I do not think she raised a particular point in relation to the clause under consideration, but this is an area that, like others, we will keep under review. I undertake to get back to the hon. Member for Erith and Thamesmead in writing on the specific point that she raised in relation to the consultation.

Question put and agreed to.

Clause 72 accordingly ordered to stand part of the Bill.

Clause 73

Transitioned trade remedies: decisions by Secretary of State

Question proposed, That the clause stand part of the Bill.

Lucy Frazer: The clause gives the Secretary of State for International Trade the power to call in and take control of reviews of trade remedies measures transitioned from the EU. This ensures that the Government can effectively take steps to prevent harm to UK industry where there is evidence of unfair competition.

Trade remedies are additional tariffs or tariff-rate quotas temporarily imposed to protect domestic industries from dumped or subsidised imports or unforeseen surges in imports. At the end of the transition period, the Government transitioned 43 of the EU's trade remedy measures. The Trade Remedies Authority is now reviewing the transitioned measures to assess whether their continuation is suitable for the UK economy. The TRA is responsible for collecting and analysing evidence relating to trade remedies cases, and it currently makes recommendations to the Secretary of State for International Trade on whether particular measures should be revoked or varied or, in certain cases, retained or replaced. The Secretary of State can only accept or reject a TRA recommendation in its entirety.

The current framework was introduced in 2018. Since then, it has become clear that in some circumstances, greater ministerial involvement in decision making is required. The call-in power is designed to address that. It will allow the Secretary of State to call in a case if she considers it necessary. For example, she will be able to take a closer look at an individual case if needed in the wider public interest. The intention is that the Secretary of State will continue to rely on the expertise of the TRA to collect and analyse evidence, but that it will do so under her direction.

Whether a case is called in or not, the process will continue to be robust, transparent and evidence based, but the power will allow the Secretary of State greater flexibility in decision making than our legislation currently allows. The call-in power will apply only to transition reviews, and where the TRA is reconsidering its previous conclusions from a transition review. In parallel, the Government are considering wider changes to the trade remedies framework to ensure that it can consistently defend UK industry. That is separate from the limited scope of this clause, and the International Trade Secretary will report on the findings of that review in due course.

The changes made by clause 73 will amend the trade remedies regime to allow the Secretary of State for International Trade to call in transition reviews and reconsiderations of transition reviews conducted by the TRA. After calling in a case, the Secretary of State will be responsible for determining the outcome of that review or reconsideration. That will ensure that the Secretary of State can have greater oversight and involvement in a particular transition review or reconsideration of a transition review as appropriate, and therefore the ability to decide on appropriate measures, such as varying the tariffs that apply to particular products under the UK's trade remedies framework.

Where this power is exercised, the Secretary of State need not necessarily base their decision on a prior recommendation or decision of the TRA. The Secretary of State will be required to publish the notice of a decision made under this clause. The Government will make secondary legislation to set out in more detail how the call-in power is to be exercised.

In summary, clause 73 will help to prevent injury to UK industry by empowering the Secretary of State to call in transitional reviews where appropriate, and give her control to determine the outcome of a particular transition review or reconsideration of a transition review. Such a determination may include retaining, varying, revoking or replacing the trade remedies already in place on the goods subject to the review.

Abena Oppong-Asare: This important clause relates to trade remedies. As we have heard, it allows Ministers to override the powers of the Trade Remedies Authority in order to maintain safeguard tariffs on cheap imports that unfairly undermine UK industry.

The clause's introduction was prompted by the row over the TRA's proposals to get rid of tariffs on cheap steel imports. In June last year, the TRA recommended the removal of limits inherited from the EU on about half of the UK's steel imports. Slashing those safeguards and opening the floodgates to cheap steel imports would have been devastating for steel plants across our country and damaging for our wider economy. At the time, the director general of UK Steel said:

> "On their first major test in a post-Brexit trading environment, the UK's new system has failed our domestic steel sector."

The Government U-turned on that decision after pressure from Labour and the industry, and belatedly maintained protections for the steel industry. Obviously, however, there are concerns about future TRA decisions, so we support the clause. Indeed, Labour campaigned for the Government to take more action to support our vital steel industry.

I ask the Minister to expand on subsection (5), which allows the Secretary of State to make regulations regarding how to make decisions on transitioned trade remedies. Will she set out what sort of regulations she envisages that the Secretary of State will make and how those

[Abena Oppong-Asare]

decisions will be made? It is important that there is a transparent process for making these important decisions on trade remedies.

Finally, although we welcome this measure and hope that it ensures that vital British industries are better protected in the future, we remain concerned about the Government's wider failure to support British industry. Industries such as steel are of vital strategic importance for our economic prosperity and national security, but the Government's lack of an industrial strategy means that the steel industry is lurching from crisis to crisis. We need a proper plan to decarbonise the sector, to boost business competitiveness and to use British steel in UK infrastructure projects, in order to safeguard the future of the steel industry, as Labour's plans to buy, make and sell in Britain would do.

Labour would also invest up to £3 billion over the coming decade in greening the steel industry. We would work with steelmakers to secure a proud future for the industry to match the proud past and present of British steel communities. I urge the Government to do the same.

Lucy Frazer: I did not want to interrupt the hon. Lady, but I think she has gone outside the remit of the measures in the Bill. However, I would like to correct her on a point—*[Interruption.]* She was talking about the steel industry as a whole, when we are dealing with a provision that relates in particular to the power of the Secretary of State to call in trade remedies.

The Chair: Order. I will allow some leeway for reasonable debate, and if anyone goes out of order, I will stop them. The Minister should feel free to make some general comments, so long as they are not too long and do not stray too far.

Lucy Frazer: That is very kind, Dame Angela. I want to correct a general point that the hon. Lady made in relation to steel and the decision that was made by the then Secretary of State for International Trade. The hon. Lady suggested that there was a U-turn and that pressure was put on by the Labour party. In fact, there was no decision by the Government; the decision was made by the Trade Remedies Authority. I just wanted to clarify that point.

5 pm

The hon. Lady also talked about support for industry. In making that decision there was, of course, support for the steel industry, but we know that the Chancellor has supported industry in a broad sense, with £400 billion coming into the economy to protect businesses, large and small, across the country over the last 18 months.

The hon. Lady made a specific point about how the regulations will be used, and I will get back to her on that issue in writing.

Question put and agreed to.

Clause 73 accordingly ordered to stand part of the Bill.

Clause 74

Reference documents: amount of import duty

Question proposed, That the clause stand part of the Bill.

Lucy Frazer: The clause simplifies the way that technical updates are made to the UK's tariff schedule. This measure inserts a new provision into the Taxation (Cross-border Trade) Act 2018 so that changes to the UK's tariff schedule that do not alter the tariff duty rates applied to imported goods can be made by public notice rather than by secondary legislation, as is currently the case.

The clause will ensure that routine technical changes to tariff legislation, such as changing the codes used to classify goods or removing redundant codes, can be implemented more easily and quickly for those who refer to the legislation. Importantly, this measure also reduces the burden on parliamentary time in considering routine technical changes, while maintaining Parliament's current levels of scrutiny of tariff duty rate changes.

In summary, the clause amends the Taxation (Cross-border Trade) Act 2018 so that technical changes can be made by public notice, thus ensuring simpler and quicker implementation of those changes to the UK's tariff schedule.

Abena Oppong-Asare: This relatively minor change allows technical updates to the tariff schedule to be made by public notice rather than secondary legislation. Given that there are safeguards to ensure that substantive changes, such as varying the rate of import duty, continue to be made by regulation and are therefore subject to parliamentary oversight, we do not oppose the clause.

Question put and agreed to.

Clause 74 accordingly ordered to stand part of the Bill.

Clause 75

Restriction of use of rebated diesel and biofuels

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to consider that schedule 10 be the Tenth schedule to the Bill.

The Exchequer Secretary to the Treasury (Helen Whately): It is a pleasure to serve under your chairmanship, Dame Angela.

Clause 75 and schedule 10 make technical amendments to the existing legislation that restricts the entitlement to use rebated red diesel and biofuels from 1 April 2022, to adjust restrictions and ensure that the legislation operates as intended.

To help achieve net zero and improve UK air quality, the Government announced at Budget 2020 that they would reduce the entitlement to use rebated diesel and biofuels, which currently enjoy a duty discount, from this April. These tax changes will ensure that most current users of rebated diesel use fuel taxed at the standard rate for diesel from April 2022, like motorists, which more fairly reflects the harmful impact of the emissions they produce. The changes will also incentivise users of polluting fuels, such as diesel, to improve the energy efficiency of their vehicles and machinery, invest in cleaner alternatives or just use less fuel.

Following consultation in 2020, the sectors that will be allowed to continue to use rebated diesel and biofuels beyond April 2022 were confirmed at spring Budget 2021, with the changes legislated for in the Finance Act 2021. Clause 75 and schedule 10 will make technical amendments to the Hydrocarbon Oil Duties Act 1979 and the Finance Act 2021 to adjust restrictions on the entitlement to use rebated diesel and rebated biofuels, clarify how the changes to the new rules work, and allow the legislation to operate as intended.

In summary, the changes will alter the circumstances in which the use of rebated diesel and rebated biofuels will be permitted from 1 April 2022, including provisions aimed at transition to the new rules. They will also amend definitions relating to certain vehicles, machines and appliances. Some of these changes follow feedback received from stakeholders since the Finance Act 2021 received Royal Assent. Overall, the technical changes in this clause and schedule will ensure that the Government's reforms to the tax treatment of rebated diesel and biofuels from April 2022 work as intended.

Abena Oppong-Asare: I thank the Minister for her explanation of the clause, which introduces technical amendments to the changes introduced to restrict the entitlement to use rebated fuel, more commonly known as red diesel. We discussed the substance of that change in Committee on the last Finance Bill. As I said then, we support the intention behind the Government's measure. There is a clear need to ensure that fuel duty rebates are as limited as possible in order to meet our net zero commitment.

The amendments made by this Bill are technical in nature, and we do not oppose them. However, will the Minister set out which, if any, industries will be affected by the changes and what work is being done to ensure that they are prepared, given that we are now only a few months from the introduction of the changes? Will she also update us on preparations by Her Majesty's Revenue and Customs and other agencies for the changes? Is she confident that the Government will be able to ensure compliance from April this year? The Minister's colleague, the Financial Secretary to the Treasury, mentioned that there has been some restructuring around HMRC, but I echo the earlier comments by the hon. Member for Glasgow Central and my hon. Friend the Member for Ealing North, who explained that HMRC has been busy for a number of years. Will the Minister update us on what work has been done to ensure that we are prepared for this change?

Alison Thewliss: I am glad that the definitions are being amended to include fairs and circuses, of which there are many in my constituency, to allow them to continue to use rebated diesel and biofuels after 1 April 2022. In that industry it is quite difficult to adapt machines to use other sources. The showpeople I represent will be pleased that the Government have listened on this measure, and I thank the Minister for that.

Helen Whately: I welcome the support that the hon. Member for Erith and Thamesmead expressed for the intention behind this measure and her recognition that the changes are of a technical nature and that the Opposition therefore will not oppose the clause. I assure her that there has been substantial consultation on the overall policy. Indeed, as the hon. Member for Glasgow Central said, the Government have listened, and that is reflected in some of the changes. I am confident in HMRC's ability to monitor compliance.

Question put and agreed to.

Clause 75 accordingly ordered to stand part of the Bill.

Schedule 10 agreed to.

Clause 76

Rates of tobacco products duty

Question proposed, That the clause stand part of the Bill.

Helen Whately: The clause implements changes announced in the autumn Budget 2021 on tobacco duty rates. The duty charged on all tobacco products will rise in line with the tobacco duty escalator, with additional increases made for hand rolling tobacco and to the minimum excise tax on cigarettes.

Smoking rates are falling in the UK, but smoking remains the biggest cause of preventable illness and premature deaths in the UK, killing around 100,000 people a year and about half of all long-term users. All those factors mean that we need to continue to encourage more people to kick the habit. We have already set out ambitious plans to reduce the number of smokers from 14% to 12% of the population by 2022, as set out by the Department of Health and Social Care in its tobacco control plan. We have announced that we aim to reduce smoking prevalence in England to 5% or less by 2030. That includes a commitment to continue the policy of maintaining high duty rates for tobacco products to improve public health.

According to Action on Smoking and Health, smoking costs society almost £14 billion per year, including a £2 billion cost to the NHS because of the disease caused by smoking. At autumn Budget, the Chancellor announced that the Government would increase tobacco duty in line with the escalator. The clause specifies that the duty charge on all tobacco products will rise by 2% above retail price index inflation. Duty on hand-rolling tobacco increases by a further 4%, to 6% above RPI inflation. The clause also increases the minimum excise tax—the minimum amount of duty to be paid on a pack of cigarettes—by an additional 1%, to 3% above RPI inflation.

The clause will continue our tried-and-tested policy of using high duty rates on tobacco products to make tobacco less affordable and to continue the reduction in smoking prevalence. That will reduce the burden placed on our public services by smoking. I commend the clause to the Committee.

Abena Oppong-Asare: As the Minister set out, the clause raises the duty on tobacco products, in line with the duty escalator, by RPI plus 2% for cigarettes and RPI plus 6% for hand-rolling tobacco. The minimum excise tax has been increased. We do not oppose those increases, but I will take this opportunity to make a couple of wider points about action to prevent smoking and the Treasury's role in it.

Action on Smoking and Health stated that last year's Budget was

> "a small step forward on tobacco, but on its own won't deliver on the Government's commitment to a Smokefree 2030."

In fact, projections show that the Government will miss that target by seven years, and double that for the poorest in society. As the Minister knows, tobacco duty has a dual role: raising revenue for the Government and reducing smoking rates. The latter role is most effective when combined with a comprehensive funded strategy to reduce smoking. Unfortunately, the funding for such

[Abena Oppong-Asare]

a strategy has been repeatedly cut in recent years as part of broader cuts to public health grants. The Minister mentioned that smoking has fallen, but recently published evidence shows a 25% increase in smoking among young adults since the first lockdown, so it is clear that there is a lot of work to be done.

In a debate on smoking last year, the Under-Secretary of State for Health and Social Care, the hon. Member for Erewash (Maggie Throup), said in response to a question on taxation:

> "That is a matter for Her Majesty's Treasury. However, the Department continues to work with HMT to assess the most effective regulatory means to support the Government's smoke-free 2030 ambition, which includes exploring a potential future levy."—[*Official Report,* 16 November 2021; Vol. 703, c. 181WH.]

Will the Minister tell us what work the Treasury is doing to design a levy on tobacco manufacturers, along the lines of the "polluter pays" principles, to pay for campaigns to stop smoking and other public health measures? Those large and profitable companies often pay relatively little tax in this country, while those who smoke rightly pay a large amount of tax every time they buy a pack of cigarettes. Many public health experts urge the Government to look at the idea of a levy, and I strongly hope that the Minister will say more on that.

Helen Whately: I am glad to hear that the Opposition will not oppose the clause. The hon. Lady has said that it is not enough on its own, and the Government agree. Our tax treatment of tobacco is just one of a set of policies in place to reduce smoking. I assure her that the UK is seen as a global leader on tobacco control. Over the last two decades, we have implemented regulatory measures to stop young people smoking and non-smokers from starting, and to support to help smokers quit.

The hon. Lady also asked about a tobacco levy. I can tell her that the Government consulted on proposals for a tobacco levy in 2015. That consultation concluded that a levy is not the most effective way to raise revenue or protect public health. It would add complexity and additional costs, while the amount of revenue it could raise is uncertain.

5.15 pm

Abena Oppong-Asare: I appreciate the time the Minister has taken to answer this question. The Department of Health and Social Care is saying something completely different. Last year, the Health Minister, the hon. Member for Erewash, said that taxation was a matter for the Treasury and that the Department was working with the Treasury to look at an effective regulatory means to support the Government's smoke-free 2030 ambition, which included exploring a potential future levy. Could I have clarification on that?

It seems that the Department is saying something different from what the Minister has just said—that the consultation was done in 2015 and it was decided that a levy was not appropriate? I am not trying to be difficult here, but I think the Government need to explore this idea. A number of health experts and even the Health Minister are saying that, so some work needs to be done on this in detail. The last review was done in 2015, and we have moved on a number of years.

Helen Whately: I am happy to take that point away and look into the position taken by my colleagues in the Department of Health and Social Care and the Treasury. I will get back to the hon. Lady on the question of the levy. I can assure her that work is currently happening on a tobacco control plan. The Government are considering policy and regulatory changes, which will be part of our ambition to be smoke-free by 2030. Those will be set out in due course in our tobacco control plan. I commend the clause to the Committee.

Question put and agreed to.

Clause 76 accordingly ordered to stand part of the Bill.

Clause 77

Rates for light passenger or light goods vehicles, motorcycles etc

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

New clause 5—*Vehicle taxes: effect on climate change goals*—

> "The Government must publish within 12 months of this Act coming into effect an assessment of the impact of sections 77 to 79 on the goal of tackling climate change and on the UK's plans to reach net zero by 2050."

New clause 15—*Review of VED revenue from light passenger or light goods vehicles, motorcycles etc in context of future demand for electric vehicles*—

> "(1) The Government must publish within twelve months of this Act coming into effect an assessment of the expected level of revenues of Vehicle Excise Duty from light passenger or light goods vehicles, motorcycles etc in future years in the context of the expected uptake of electric vehicles.
>
> (2) The Review must also consider possible alternatives to Vehicle Excise Duty on these vehicles."

Helen Whately: Clause 77 makes changes to uprate vehicle excise duty—or VED—for cars, vans and motorcycles in line with the retail prices index from 1 April 2022. VED is paid on vehicle ownership, and rates chargeable are dependent on various factors, including the vehicle type, date of first registration and carbon emissions. The Government has uprated VED for cars, vans and motorcycles in line with inflation every year since 2010, which means that rates have remained unchanged in real terms during this time. The changes made by clause 77 will uprate VED rates for cars, vans and motorcycles by RPI only for the 12th successive year, meaning that VED liabilities will not increase in real terms. The standard rate of VED for cars registered since 1 April 2017 will increase by only £10. The flat rate for vans will increase by £15 and motorcyclists will see an increase in rates of no more than £5.

New clause 5, tabled by the hon. Member for Glasgow Central, asks the Government to publish within 12 months of this Bill coming into effect an assessment of the impact of sections 77 to 79 on the goal of tackling climate change and on the UK's plan to reach net zero by 2050. Similarly, new clauses 4 and 8 tabled by the hon. Lady ask the Government to publish, within 12 months of this Bill coming into effect, impact assessments on the goal of tackling climate change and on the UK's plan to reach net zero by 2050, first on the Act as whole, and, secondly, on section 99 and schedule 16. These amendments are unnecessary and should not stand part of the Bill.

The Government are proud of our world-leading climate commitments, most recently set out in the net zero strategy. The latest Budget and spending review confirm that since March 2021, the Government will have committed a total of £30 billion of domestic investment for the green industrial revolution. That investment will keep the UK on track to meet its carbon budgets and nationally determined contribution, and to reach net zero by 2050. The net zero strategy sets out how the Government will monitor progress to ensure that we stay on track for our emissions targets. That includes commitments to require the Government

"to reflect environmental issues in national policy making".

At fiscal events, including the spending review 2021, all Departments are required to prepare their spending proposals in line with the Green Book, which sets out the rules that we use in the Treasury to guide individual spending decisions. The Green Book already mandates consideration of climate and environmental impacts in spending, and it was updated in 2020 to emphasise that policies must be developed and assessed against how well they deliver on the Government's long-term policy aims such as net zero.

Furthermore, the Treasury carefully considers the climate change and environmental implications of relevant tax measures. The Government incorporated a climate assessment in all relevant tax information and impact notes for measures at Budget—they are published online—and we will continue to do so in future TIINs. For example, the TIIN for the new plastic packaging tax incorporates an assessment of anticipated carbon savings—nearly 200,000 tonnes of carbon dioxide in 2022-23. In addition, HMRC is exploring options further to strengthen the analytical approach to monitoring, evaluating and quantifying the environmental impacts of tax measures.

Given the substantial work already under way on these issues, the proposed amendment would add unnecessary bureaucratic requirements and layers of complexity. I therefore urge the Committee to reject new clause 5 and, for the same reasons, I will urge the Committee to reject new clauses 4 and 8 when we turn to those.

New clause 15, tabled by the hon. Members for Ealing North, for Erith and Thamesmead and for Blaydon, asks the Government to publish, within 12 months of the Act coming into effect, a review of the impact on VED revenue of future demand for electric vehicles. This new clause is also unnecessary and should not stand part of the Bill. The Government are committed to achieving net zero carbon emissions by 2050, and the transition towards electric vehicles and the phase-out of new petrol and diesel cars and vans will make a vital contribution to that. The Government have committed to ensuring, as we move forward with this transition, that revenue from motoring taxes keeps pace with this change, to make sure that we can continue to fund the excellent public services and infrastructure that people and families across the UK expect.

Analysis that projects the possible impact on VED revenues of future demand for electric vehicles is already in the public domain. First, since 2016, the Government have asked the Office for Budget Responsibility to publish a fiscal risks statement to improve disclosure and management of fiscal risks. The OBR's 2021 fiscal risks report makes an assessment of the fiscal impact of achieving net zero, including the impact on VED and fuel duty receipts, which it explores under different climate change modelling scenarios.

Secondly, the net zero review published by the Treasury in October of last year also examines the possible decline in tax revenues, including VED and fuel duty receipts, as part of the transition to net zero. It notes that, were the current tax system to remain unchanged across the transition period, tax receipts from most fossil fuel-related activity would decline towards zero across the first 20 years of the transition, leaving receipts lower in the 2040s by up to 1.5% of GDP in each year relative to a baseline where they stayed fixed as a share of GDP.

Given that analysis of future VED revenues has already been published by both the Government and the OBR, the review of this issue sought by this new clause is unnecessary. I therefore urge the Committee to reject new clause 15.

Overall, the changes outlined in clause 77 will maintain revenue sustainability by ensuring that motorists continue to make a fair contribution to the public finances. I therefore urge that this clause stand part of the Bill.

Abena Oppong-Asare: Clause 77 raises the rate of vehicle excise duty for various categories of vehicle by RPI. This is a regular update to VED to ensure that it remains the same in real terms, and we do not oppose it. I do wish to make broader points about taxes affecting drivers and, in particular, to speak to our new clause 15.

Electric vehicles are not liable for vehicle excise duty, and of course their owners do not pay fuel duty. New clause 15 calls on the Government to report on expected future levels of vehicle excise duty in the context of the increasing uptake of electrical vehicles. It is designed to encourage the Government to begin to think and talk publicly about that critical question.

The transition from petrol and diesel cars to electric vehicles is critical as part of our broader transition to net zero. The Opposition have constantly raised concerns about the fact that the Government are not doing enough to support the take-up of electric vehicles, whether through supporting consumers and producers or improving the critical charging infrastructure. We continue to believe that the Government must do more in that area, but we also believe that they must begin to set out how they will deal with the fiscal consequences of the transition.

Fuel duty and VED currently raise around £35 billion for the Treasury each year. They are by far the largest revenue-raising environmental taxes. It is a truly significant amount of Government revenue, equivalent to nearly half the Education budget, but as electric vehicles become an increasing share of vehicles on the roads, that revenue will decline rapidly. One estimate shows that tax revenues from car usage could fall by around £10 billion by 2030, £20 billion by 2035, and £30 billion by 2040. The Treasury's own net zero review stated that much of the current revenue from taxing fossil fuels was likely to be eroded during the transition to a net zero economy.

[Abena Oppong-Asare]

We might have expected the review to set out what the Treasury planned to do about that, but it was notably silent on that matter. When the Minister responds, can she tell us what work the Treasury is carrying out on that important issue and when it will set out its plans? Can she tell us what alternatives to VED the Treasury is considering—for example, road pricing or other taxes? Crucially, how will the Treasury balance the need to maintain income from driving with the need to incentivise the switch to electric vehicles? Those are critical questions, which cannot and must not be left to the last minute. We deserve to have an open debate about the best way forward. Motorists and taxpayers deserve clarity about how they will be taxed in the future. I hope that the Minister can begin to give us some insight into the Treasury's thinking on this issue.

The Chair: I call Richard Thomson.

Mr Richard Holden (North West Durham) (Con): Thank you very much indeed, Dame Angela—

The Chair: Order. I will call the hon. Gentleman, but first I call Richard Thomson.

Richard Thomson: Thank you, Dame Angela; it is a relief to find out that my hearing is not as dodgy as I momentarily thought it was.

The Chair: It was probably my mask.

Richard Thomson: I rise to speak in support of new clause 5, which is in the name of my hon. Friend the Member for Glasgow Central. The Minister has run through why we are looking to have an assessment. I say to her as gently as I can that it is all fine and well to be proud of commitments that the Government have made, but it would be much better to rack up more quickly achievements that she could point to and be proud of on climate change, rather than just making statements of aspiration. This is one area where it is quite important to get some more chalk on the board.

As we have heard, the Bill sets a series of incremental changes to vehicle excise duty, and precisely because they are incremental, we might expect, at best, an equally incremental impact, or even an imperceptible one, on changing behaviour and on the resulting climate change impacts. We are all aware of the mandate to end the sale of new petrol and diesel vehicles in a bid to encourage the take-up of alternatively fuelled vehicles, but I am of the same view as the hon. Member for Erith and Thamesmead: we will need some significant further incentivisation if we are to drive the change through that policy on the scale and at the pace that is required.

My party is very fond of drawing comparisons with Norway—another small country, like Scotland, of 5 million people—on the other side of the North sea. Sometimes those comparisons are about what might have been, but we also point to what could and perhaps what should be. Norway has been so successful in incentivising the take-up of electric vehicles that the Government are running out of hydrocarbon-fuelled vehicles to tax, which has resulted in a 19.2 billion kroner gap in their latest budget.

That is not a problem that the UK Government are likely to encounter any time soon, in view of the current take-up of electric vehicles, and that is why new clause 5 is so important. It would provide for an assessment of how effective or—as we suspect—ineffective these particular changes will be over the year, so that the UK Government had the necessary information base to set future policy as quickly as possible. I think the Minister knows that we need to do that at some point, and surely it is better to start sooner rather than later.

Mr Holden *rose—*

The Chair: I am waiting for the Whip. If the Whip wishes to move the adjournment, I will call Richard Holden first when we come back after the break.

The Lord Commissioner of Her Majesty's Treasury (Alan Mak): What would you prefer, Chair?

Mr Holden: I will be really quick.

The Chair: I intend to come back promptly at 6 o'clock. If you could be here very promptly, Richard Holden, I give you prior warning that I intend to call you on the dot.

Ordered, That the debate be now adjourned.—*(Alan Mak.)*

5.31 pm

Adjourned till this day at Six o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE (NO. 2) BILL

(Except clauses 4 and 6 to 8, schedule 1, clauses 12, 27 and 28, 53 to 66, 68 to 71 and 84 to 92, schedules 12 and 13, clause 93 and schedule 14)

Fourth Sitting

Wednesday 5 January 2022

(Evening)

CONTENTS

PBC (Bill 184) 2021 - 2022

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Sunday 9 January 2022

The Committee consisted of the following Members:

Chairs: SIR CHRISTOPHER CHOPE, PHILIP DAVIES, † DAME ANGELA EAGLE, DR RUPA HUQ

† Anderson, Stuart *(Wolverhampton South West)* (Con)
† Butler, Rob *(Aylesbury)* (Con)
Efford, Clive *(Eltham)* (Lab)
† Eshalomi, Florence *(Vauxhall)* (Lab/Co-op)
† Frazer, Lucy *(Financial Secretary to the Treasury)*
† Holden, Mr Richard *(North West Durham)* (Con)
† Howell, Paul *(Sedgefield)* (Con)
† Jones, Andrew *(Harrogate and Knaresborough)* (Con)
† Mackrory, Cherilyn *(Truro and Falmouth)* (Con)
† Mak, Alan *(Lord Commissioner of Her Majesty's Treasury)*
† Mayhew, Jerome *(Broadland)* (Con)
† Murray, James *(Ealing North)* (Lab/Co-op)
† Oppong-Asare, Abena *(Erith and Thamesmead)* (Lab)
† Thewliss, Alison *(Glasgow Central)* (SNP)
† Thomson, Richard *(Gordon)* (SNP)
† Twist, Liz *(Blaydon)* (Lab)
† Whately, Helen *(Exchequer Secretary to the Treasury)*

Chris Stanton, Kevin Maddison, *Committee Clerks*

† attended the Committee

Public Bill Committee

Wednesday 5 January 2022

(Evening)

[Dame Angela Eagle *in the Chair*]

Finance (No. 2) Bill

(Except clause 4, clauses 6 to 8 and schedule 1, clause 12, clauses 27 and 28, clauses 53 to 66, clauses 68 to 71, clauses 84 to 92 and schedules 12 and 13, clause 93 and schedule 14)

Clause 77

Rates for light passenger or light goods vehicles, motorcycles etc

6 pm

Question (this day) again proposed, That the clause stand part of the Bill.

The Chair: I remind the Committee that with this we are discussing the following:

New clause 5—*Vehicle taxes: effect on climate change goals*—

"The Government must publish within 12 months of this Act coming into effect an assessment of the impact of sections 77 to 79 on the goal of tackling climate change and on the UK's plans to reach net zero by 2050."

New clause 15—*Review of VED revenue from light passenger or light goods vehicles, motorcycles etc in context of future demand for electric vehicles*—

"(1) The Government must publish within twelve months of this Act coming into effect an assessment of the expected level of revenues of Vehicle Excise Duty from light passenger or light goods vehicles, motorcycles etc in future years in the context of the expected uptake of electric vehicles.

(2) The Review must also consider possible alternatives to Vehicle Excise Duty on these vehicles."

Mr Richard Holden (North West Durham) (Con): It is a pleasure to serve under your chairmanship, Dame Angela. I apologise to the hon. Member for Gordon, who has the honour of sharing with me a great first name; I could not quite hear the muffled mask comments. I apologise for that, Dame Angela.

I wanted to speak in support of clause 77, because a couple of years ago the Government tried to change some of the regulations in this area to start taxing motorhomes, which are produced in my constituency, as expensive cars rather than light goods vehicles. I am delighted that my hon. Friend the Minister is not proposing such a change today. I will just ask her whether she can assure me that no such changes are planned for the future, because the hundreds of employees at Erwin Hymer in my North West Durham constituency have really benefited from the reversal of that change. I just want to get that reassurance from her.

The Exchequer Secretary to the Treasury (Helen Whately): I will just pick up on some of the points made by hon. Members. I am glad to hear that the Opposition will not be opposing the clause. The hon. Member for Erith and Thamesmead said that she wants us to talk publicly about the future of vehicle excise duty. Clearly, we are well aware of—there is no secret—the expected future revenues from vehicle excise duty and fuel duty. In fact, I outlined in my opening remarks on the clause some of the data in the public domain about that, including the modelling by the Office for Budget Responsibility and in the net zero review. I can assure the hon. Member that my right hon. Friend the Prime Minister, in "The Ten Point Plan for a Green Industrial Revolution", set out the need for motoring taxes to keep pace with the transition to electric vehicles.

The hon. Member for Erith and Thamesmead also said that she wants us to do more on electric vehicles. We are already providing substantial support for the uptake of zero and low-emission vehicles—for instance, there is no vehicle excise duty for zero-emission cars and vans. There are significantly beneficial company car tax rates for low and zero-emission cars, compared with conventionally fuelled vehicles. In the spending review 2021, we confirmed an additional £620 million to support the transition to electric vehicles, on top of the £1.9 billion announced at the spending review 2020, to address some of the barriers to uptake, including by accelerating the roll-out of charging infrastructure and supporting targeted plug-in vehicle grants to reduce prices for consumers.

The hon. Member for Gordon talked about wanting more chalk on the board. I think that, as a country, we should be proud of the achievements that we have already made in reducing harmful emissions, as well as of our substantial ambitions to achieve net zero by 2050.

I appreciate the comments from my hon. Friend the Member for North West Durham and have very much noted the point that he made.

Abena Oppong-Asare (Erith and Thamesmead) (Lab): I thank the Minister for making the point about the Prime Minister's 10-point plan and about the Treasury's commitment to net zero. I welcome that, but I also want to point out that the Treasury's own net zero review said that much of the current revenue from taxing fossil fuels is

"likely to be eroded during the transition to a net zero economy".

That is the area on which the Treasury has been really silent. Does the Minister think it important that the Treasury should have a clear plan about how to address the issue? It needs to be able to maintain income and to incentivise the switch to electric vehicles. We need a balance, so will the Minister set out what the Government plan to do? We have not heard much about that aspect.

Helen Whately: I heard those points before; the hon. Lady just reiterated them. I addressed those points in my comments just now as well as in my opening remarks. I could argue that here in Committee is not necessarily the place to have a substantial debate about the future of motoring taxes, but, as I said, we have been quite open and several documents in the public domain set out the forecasts. We recognise the need for motoring taxes to keep pace with the transition to electric vehicles. I commend the clause to the Committee.

Abena Oppong-Asare: I am not trying to be difficult, but can the Minister outline what plans the Government have? We have not really discussed the details.

Helen Whately: I have nothing further to add.

Question put and agreed to.

Clause 77 accordingly ordered to stand part of the Bill.

Clause 78

Vehicle Excise Duty: Exemption for Certain Cabotage Operations

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

Clause 79 stand part.

New clause 16—*Assessment of effect of sections 78 and 79 on supply chain*—

"The Government must publish within three months of this Act coming into effect an assessment of the impact of the provisions of sections 78 and 79 on—

(a) supply chain disruptions,

(b) numbers of HGV drivers working in the UK, and

(c) shortages of products in UK shops."

Helen Whately: Clauses 78 and 79 relate to the taxation of heavy goods vehicles. Clause 78 relates to cabotage, which is the transport of goods between two places in the same country by a transport operator from another country for the purposes of hire and reward. Cabotage is restricted both in the UK and abroad. In recent months, shortages of lorry drivers have been associated with problems with the distribution of food and other essential goods, and there have been representations to allow increased levels of cabotage.

The number of professional UK-resident drivers is estimated to have fallen by about 39,000 between the year ending June 2019 and the year ending June 2021, to stand at 268,000. The Government are temporarily extending road haulage cabotage to allow, until 30 April 2022, unlimited cabotage movements of HGVs within Great Britain for up to 14 days after arriving in the UK on a laden international journey, without transport operators needing to pay vehicle excise duty. The changes came into force on 28 October 2021. This temporary relaxation of cabotage rules for international HGV journeys within Great Britain is expected to increase resilience in key supply chains in response to the acute shortage of HGV drivers.

Clause 79 relates to the HGV road user levy. The HGV levy is an annual charge paid by UK hauliers alongside their VED, as well as a daily, weekly or monthly charge for HGVs from outside the UK accessing the UK road network. In light of the impact of covid-19, the Government decided to suspend the levy in August 2020 for 12 months to support the haulage sector by reducing its costs, and they did so again for a further 12 months from August 2021 for the same reason.

Clause 78 will make temporary changes to the Motor Vehicles (International Circulation) Order 1975 so that the relevant non-UK operators travelling in Great Britain do not need to start paying vehicle excise duty. The temporary relaxation of cabotage rules would not be effective if the relevant non UK operators of HGVs were expected to register in the UK and pay VED for the first time.

The exemption from VED will be extended to cover additional temporary cabotage rights. It will last until 30 April 2022, and encompass unlimited cabotage movements of HGVs within Great Britain for up to 14 days after arriving on a laden international journey into the UK. The changes made by clause 79 will extend the suspension of the levy for a further 12 months from 1 August 2022. This means that UK-registered keepers of HGVs will again save up to £1,200 per vehicle, as they will not have to pay the HGV road user levy when they renew their vehicle licence. Non-UK-based hauliers will also not need to pay the levy during this period.

New clause 16, tabled by the hon. Members for Ealing North, for Erith and Thamesmead and for Blaydon, asks the Government to

"publish within three months of this Act coming into effect an assessment of the impact of the provisions of sections 78 and 79"

on supply chains. The new clause is unnecessary, and should not stand part of the Bill. The Government consulted on the temporary extension of road haulage cabotage ahead of its introduction to gather evidence on its potential impact. As has been set out, the Government published a response to that consultation. We had clear indications that there will be some use of the additional cabotage rights in critical parts of the supply chain. However, existing cabotage rights are modestly used by international hauliers and therefore the measure is judged likely to only modestly increase cabotage overall.

Information received by the Department for Transport has indicated that, as anticipated, there was some use of the extra cabotage rights during November and December; initial surveys suggest that about 40% of drivers engaged in cabotage used the additional rights. The take-up of those rights may continue to change over time—for example, in the context of the omicron wave of infections—and the Government are committed to continuing to monitor take-up, with more data being collected by the DFT. With regard to the suspension of the HGV levy, the Government published a tax information impact note that sets out the expected impact of the measure, including the fiscal impact. As with all tax changes, the Treasury will continue to monitor the impact of the suspension.

The Government have acted rapidly and brought forward 32 short, medium and long-term interventions to help tackle the current HGV driver shortage and support UK supply chains. In addition to the temporary extension of road haulage cabotage, those interventions include attracting drivers back to the industry through investing £32.5 million in improving facilities across the country; launching a review to look at ways to streamline compulsory ongoing training requirements under the driver certificate of professional competence scheme; and investing £17 million to create new HGV skills boot camps to train up to 5,000 more people to become HGV drivers in England.

We are already aware that since those interventions have been introduced, there has been a 90% increase in available HGV driver tests, with 2,850 tests available each week. The Driver and Vehicle Licensing Agency is

[Helen Whately]

dealing with around 4,200 applications daily, more than double the pre-covid rate. Information from the sector shows that the lorry driver shortage is reducing, although it continues to be a significant issue. The Government will continue to use industry intelligence and official statistics to monitor the scale of the shortage and its effects. We therefore believe that new clause 16 is not necessary, because monitoring of the UK's supply chains and the impact of the Government's interventions is already taking place. I urge the Committee to reject the new clause.

Overall, the changes outlined in clause 78 will temporarily ease pressures on critical supply chains due to capacity issues connected with the acute shortage of HGV drivers. Haulier capacity has been increasing, and continues to do so, but it will take some months before UK driver numbers can be grown sufficiently to rectify that shortage, so this is a temporary change while UK drivers are recruited and trained. Additionally, the haulage sector supports many other industries, so temporarily easing its financial burdens through the changes made by clause 79 will support them and help the economy recover from the impacts of covid-19. I commend these clauses to the Committee.

Abena Oppong-Asare: As the Minister has said, clauses 78 and 79 are both designed to help strengthen supply chains, and in particular to address the shortages of drivers in the haulage sector. Clause 78 temporarily relaxes rules for international HGV journeys within Great Britain, while clause 79 continues the suspension of the HGV road user levy for a further 12 months, until 31 July 2023.

6.15 pm

We support both measures, although we believe they are only a small part of the action needed to tackle the supply chain crisis. That is why we have tabled new clause 16, which calls on the Government to publish a report on the effectiveness of the measures in tackling three related issues: supply chain disruptions, the number of HGV drivers operating in the UK and product shortages in UK shops.

I noted that the Minister said that this new clause was unnecessary, and that the Government are already doing some level of monitoring. However, I point out that we have seen nearly half a year of supply chain issues affecting the UK, due to a combination of the effects of covid, the Government's patchwork Brexit deal, and global shortages of critical materials.

In the UK, the shortage of lorry drivers has hit businesses across the economy, as the Minister noted. That has gone from fuel to food, and the impact of Brexit, cancelled driving tests and the increasing numbers of drivers forced to self-isolate have all played a part in that.

Since last summer, we have called on the Government to take decisive action to tackle the crisis and ensure that supply chain issues do not further risk our economic recovery. I am afraid that the Government have a habit of shifting the blame on to businesses, but many of the long-term causes of this crisis do lie with the Government—whether through insecure work or a lack of skills training. The answer must be to make long-term improvements in the UK's supply chain resilience. We are concerned that, despite months of problems, the Government are still not acting.

New clause 16 simply asks the Government to be honest about the supply chain challenges we face and whether these measures are enough to solve them. Does the Minister think that this part of the legislation will go anywhere near far enough in addressing the supply chain crisis? If not, what further steps will the Government take to alleviate these problems?

Helen Whately: In essence, what I heard from the hon. Member was that she wants us to take more action on some of the challenges with supply chains. However, as I set out earlier, we have been addressing the particular problem of HGV driver shortages—both some of the short-term reasons and short-term barriers. One of those steps has been to increase the availability of new driving tests, and we have seen a substantial increase in the number of tests being taken. We are also looking at some of the longer-term challenges, such as the conditions for HGV drivers; we are therefore providing significant funding to improve roadside facilities for those drivers. That is both short-term and longer-term action being taken. We have already seen benefits from the short-term actions, with some of the pressures on the supply chain being alleviated.

Question put and agreed to.

Clause 78 accordingly ordered to stand part of the Bill.

Clause 79 ordered to stand part of the Bill.

Clause 80

Amounts of gross gaming yield charged to gaming duty

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss new clause 11—*Gambling*—

"The Government must publish within 12 months of this Act coming into effect an assessment of the provisions of clause 80 on—

(a) the volume of gambling, and

(b) public health."

Helen Whately: Clause 80 increases the thresholds for the gross gaming yield bands for gaming duty in line with retail price index inflation. Gaming duty is a banded tax paid by casinos in the UK, with marginal tax rates varying between 15% and 50%. To ensure that operators are not pulled into higher tax bands because of inflation, gaming duty bands are increased in line with RPI. That means that casinos continue to pay the same level of tax in real terms. The change made by clause 80 uprates the bands of gaming duty in line with inflation. That is expected by the industry and assumed in the public finances. The rates of gaming duty themselves will remain unchanged. The change will take effect for accounting periods starting on or after 1 April 2022.

Richard Thomson (Gordon) (SNP): I rise to speak to new clause 11. For far too many people, gambling is not something that falls into the category of harmless fun. There are many harms associated with gambling. There are the financial harms, obviously, when someone's luck is not with them. There are the short-term harms and the harms of long-term debt. There are the addictive and compulsive behaviours associated with gambling. There is the harm to individual wellbeing in terms of mental and physical health, and to the friends and families of those engaged in the harmful behaviours associated with gambling.

To get to the nub of it, duties are obviously charged on casino gaming products, but there are also social responsibilities on those who provide such experiences. Frankly, in deciding the balance in terms of where tax is levied, we need to be able to assess the impact and volume of gambling and its wider impact on public health. That is what new clause 11 would do. We do not intend to push it to a vote, but the Government need to be mindful of this issue, and they should assess and have the evidence basis for the changes that they make, so they can set appropriate policy in the future, for all the reasons I have outlined.

Abena Oppong-Asare: The SNP has tabled new clause 11 on the volume of gambling and public health, and I think there was a similar proposal last year. It is interesting to compare the uprating of these bands, to prevent casinos from paying more tax simply as a result of inflation, with the Government's decision to freeze the income tax personal allowance, which of course increases the tax ordinary people will pay as a result of wage inflation. Perhaps the Minister would like to comment on that.

I also want to say a little about gambling harm and the Treasury's role in tackling it. The Minister will be aware of the recent report by Public Health England on gambling-related harms. PHE estimated that the annual economic burden of harmful gambling is approximately £1.27 billion. It is estimated that £647.2 million of that is a direct cost to Government. In the Government's consultation on the review of the Gambling Act 2005, they asked about

"the most effective system for recouping the regulatory and societal costs of gambling from operators, for instance through taxes, licence fees or statutory levies".

What progress has the Treasury made on that? Is it considering a new tax or levy on the industry to pay for the social costs of gambling? If so, does it intend to bring such a measure forward?

Helen Whately: New clause 11 seeks to place a statutory requirement on the Chancellor to review and publish a report on the impact of the increase in the gaming duty thresholds on the volume of gambling and on public health. The Gambling Commission publishes statistics on gambling participation, spend and gross gaming yield for each part of the sector annually, and Public Health England published a review on gambling-related harm, which the Department of Health and Social Care is considering as part of its prevention strategy work, so an additional report would merely duplicate information that is already available. There is no change to the tax rate in this provision. Accordingly, the Government do not expect that it will have an impact on gambling participation, spend or public health. I hope that that reassures Committee members, and I ask that they therefore reject the new clause.

The hon. Member for Erith and Thamesmead spoke of gambling harm. Having previously been a Digital, Culture, Media and Sport Minister with oversight of gambling, I appreciate her raising the issue. However, I reiterate that the clause changes gambling taxation; it is not related to the overall regulation of gambling activity. That is a matter for the Secretary of State for Digital, Culture, Media and Sport. The Government continue to monitor the effectiveness of existing gambling controls. The Department for Digital, Culture, Media and Sport launched a review of the Gambling Act 2005 with a call for evidence that closed at the end of March last year. The Government will respond to that review in due course.

Question put and agreed to.

Clause 80 accordingly ordered to stand part of the Bill.

Clause 81

Excise Duty: Penalties

Question proposed, That the clause stand part of the Bill.

Helen Whately: Clause 81 makes two changes to ensure that current penalties for excise wrongdoings also apply to excise goods located in the customs-free zone of a freeport and to excise goods imported under the new authorised use customs procedure introduced at the end of the transition period. These changes do not create any additional burdens for businesses. They simply ensure that there is a consistent approach to excise wrongdoing penalties for serious non-compliance.

The Government have introduced two new customs procedures. The first is the free zone procedure, which will allow excise duty to be suspended in customs-free zones located in freeports. Freeports are part of the Government's plans to regenerate and develop deprived areas and our mission to level up across the country. The second is the authorised use procedure, a customs import procedure introduced at the end of the transition period to replace a previous customs procedure that no longer applied when we left the EU. The current UK excise wrongdoing penalties in schedule 41 to the Finance Act 2008 do not extend to either of these procedures. This clause corrects that and ensures that HMRC can tackle abuse and non-compliance in respect of excise goods stored under these procedures.

The changes made by the clause extend the excise wrongdoing penalty regime in schedule 41 to the Finance Act 2008 to free zones and to situations where businesses release goods into the authorised use procedure introduced at the end of the transition period. These changes do not create any additional administrative burdens or costs for businesses. They will apply only to businesses that import excise goods into UK free zones or to businesses authorised to release goods into the authorised use procedure. These changes will enable HMRC to penalise individuals for any wrongdoing or non-compliance relating to excise goods imported under either of these processes.

In summary, these changes ensure that the Government have the necessary tools to tackle non-compliance and avoidance when goods are imported into the UK under either the free zone procedure or the authorised use procedure.

Abena Oppong-Asare: I thank the Minister for her explanation of the clause, which applies the excise wrongdoing penalty regime to freeports. We do not oppose this measure; indeed, Labour Members have repeatedly raised concerns that freeports may increase the risk of tax evasion and smuggling, as well as potentially undermining workers' rights. We are also concerned that HMRC, which is already overstretched, is not well placed to manage these new risks.

The Government have introduced a number of different tax reliefs and other measures that will operate in freeports, and it is important that they are monitored closely. There is evidence from around the world that freeports have increased illicit activity. I have a couple of questions for the Minister about the steps the Government are taking to prevent tax avoidance and other illegal activity in freeports.

6.30 pm

First, will the Minister update us on how many of the eight English freeports are now operational? What checks were done prior to those freeports opening to ensure that they will not inadvertently allow illicit activity within their borders? Secondly, will she set out the process HMRC and Border Force will use to monitor and ensure compliance in freeports? Finally, will she commit to update Parliament regularly on the operation of freeports, which should include any compliance issues that have been identified, the action that was taken and an estimate of the economic impact of freeports, both in the area they operate in and on a wider scale?

Helen Whately: I am glad that the Opposition will not oppose the clause, although I think I heard that, overall, they oppose freeports. Clearly, they take a very different view from us, because we see freeports as an important part of our ambitions to level up and increase opportunities in some of the more deprived areas of the country.

From memory, I believe that three freeports are already open. I recently visited the Teesside freeport to see the great excitement there about the opportunities that it will provide to the community in that area.

The hon. Member asked what checks there will be and what we will do to ensure that there is good compliance in freeports. One thing I will say is that the change made under this clause will mean that HMRC has the tools to tackle non-compliance in relation to excise goods suspended inside the customs-free zone procedure in freeports. Overall we are confident that we will see not only compliance, where appropriate, but also economic growth and all the benefits associated with that, both in and around freeports.

I am happy to write to the hon. Member with any further details about the regime of checks that will be carried out for freeports. I therefore move that the clause stand part of the Bill—

Abena Oppong-Asare: I thank the Minister for the points she has made. I just want to say for the record that we are not against freeports; what we are concerned about is the increased risk of tax evasion and smuggling, and the potential undermining of workers' rights. I am sure that we agree that we all want freeports to work; we just need to make sure that some issues are addressed.

In terms of the freeports that are open, I thank the Minister for saying that she will write to me, which is really helpful. She mentioned that the Bill allows checks and other tools to deal with non-compliance at freeports, and it would be really helpful if she could list in her response exactly what action will be taken, because the Bill does not set that out in detail.

It would also be helpful if the Minister could elaborate in her written response, if she is not able to right now, on what steps HMRC and Border Force are taking to monitor these freeports, particularly those that are in action right now, and to ensure that they are compliant.

Helen Whately: I am glad to hear that Labour does indeed support freeports, and I thank the hon. Member for making that clear. As I said, I will write to her about her more detailed questions. I commend clause 81 to the Committee.

Question put and agreed to.

Clause 81 accordingly ordered to stand part of the Bill.

Clause 82

Rates of landfill tax

Question proposed, That the clause stand part of the Bill.

Helen Whately: Clause 82 increases both the standard and lower rates of landfill tax in line with inflation from 1 April 2022, as announced in the 2021 spring Budget. Landfill tax was introduced in 1996 to encourage the diversion of waste away from landfill towards more environmentally friendly waste management options, such as recycling, reuse and recovery. It has been hugely successful in achieving that aim, contributing to a 90% reduction in waste collected and managed by local authorities sent to landfill in England.

The changes made by clause 82 will see landfill tax rates increase from £96.70 to £98.60 per tonne for standard-rated waste disposed of to landfill, and from £3.10 to £3.15 for lower-rated waste, from 1 April 2022. These changes will make sure that the price incentive to divert waste away from landfill is maintained in real terms.

Overall, clause 82 will increase the standard and lower rates of landfill tax in line with the retail prices index from 1 April 2022. That will maintain the real-terms price incentive to divert waste away from landfill. I therefore commend the clause to the Committee.

Abena Oppong-Asare: I thank the Minister for her explanation of clause 82, which increases the rate of landfill tax in line with inflation. The clause is very straightforward, and we do not oppose it. However, since we are talking about a specifically environmental tax, I will take this opportunity to bring to the Minister's attention the climate change tax policy road map published by the Chartered Institute of Taxation, which calls on the Government to set out how they plan to use the tax system to meet our net zero goal.

There are obviously several different taxes that affect the environment, some of which we have already discussed today, but there is a clear need to start thinking strategically about the role that the tax system will play in reaching our net zero goal. Of course, tax can play a number of roles in achieving net zero. It provides a source of revenue for the investment we desperately need—in renewable energy, for example—but it can also incentivise climate-friendly behaviour, whether for individuals or businesses, and I have met businesses that are quite keen to have a bit more direction on that, particularly from the Government.

It is not just me who is saying this: in a number of meetings I have had, quite a number of stakeholders have said that we need the Government to take a joined-up approach that links climate tax policy with wider policy objectives. Unfortunately, the recent Treasury net zero review said very little about this really important issue, so could the Minister set out whether the Treasury will publish a net zero strategy? Failing that, will she give us an indication of how the Treasury intends to use the tax code as part of our effort to achieve net zero?

Liz Twist (Blaydon) (Lab): I speak in this debate as an MP whose constituency has been blighted by landfill, so of course landfill taxes are very welcome, and as my hon. Friend the Member for Erith and Thamesmead has just said, an increase in that tax is welcome as part of an environmental policy that—as she also said—needs to go much further in future. However, I want specifically to ask the Minister about enforcement of the requirement to collect and pay landfill tax after the experience in my constituency of a failed HMRC investigation lasting some six years, the unfortunately named Operation Nosedive. What will the Treasury do to ensure that enforcement action is robust and followed through to make this tax as effective as it can be?

Helen Whately: The hon. Member for Blaydon made a really important point about the enforcement of landfill tax. I am also aware of concerns about the associated waste crime. There has been a reduction in the landfill tax gap in recent years. The landfill tax gap for England and Northern Ireland was estimated at £200 million—22.7%—in 2019-20, which is a decrease compared with the tax gap in 2018-19, when it was £275 million, or 29%. So there has been an improvement in the enforcement of landfill tax, but I recognise the point that she makes and we will continue to work on that.

There is a new taskforce dedicated to tackling serious and organised waste crime. The joint unit for waste crime will bring together law enforcement agencies, environmental regulators, HMRC and the National Crime Agency to deal with waste crime.

Liz Twist: Can the Minister tell me how the tax gap is calculated? I am pleased to hear that it has gone down, but am interested to hear how the gap is calculated and monitored.

Helen Whately: I hope the hon. Member is happy for me to write to her on the methodology for calculating that particular tax gap. I am happy to set out further action that will be taken to address waste-related crime as well.

I thank the hon. Member for Erith and Thamesmead for pointing me to the report that she mentioned. She made broad points about the tax system and its role in meeting net zero. The net zero review was a substantial document that was very open about the thinking and the challenges involved in our transition to net zero. I do not think that here and now is the place to set out a net zero tax strategy, which I think she was asking me to do, so I hope she will understand if I do not stand here and do that, but we have put a lot on paper about the Treasury's thinking on these matters.

Abena Oppong-Asare: I thank the Minister for being extremely generous in giving way. I appreciate it. On the net zero review, a lot of businesses and stakeholders have come to me to highlight their concerns where they feel that actions do not go far enough, so I urge the Government to review that and take that on board.

Helen Whately: I have heard the hon. Member's points. I move that the clause stand part of the Bill.

Question put and agreed to.

Clause 82 accordingly ordered to stand part of the Bill.

Clause 83

Plastic Packaging Tax

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

That schedule 11 be the Eleventh schedule to the Bill.

New clause 17—*Annual review (plastic packaging tax)*—

"(1) The Chancellor of the Exchequer must review the impact of section 83 and Schedule 11 of this Act and lay a report of that review before the House of Commons within six months of the passing of this Act and once a year thereafter.

(2) A review under this section must estimate the expected impact of section 83 and Schedule 11 on—

(a) levels of recycled material (plastic and non-plastic) in packaging,

(b) levels of reusability and recyclability of packaging material (plastic and non-plastic),

(c) the waste hierarchy,

(d) levels of carbon emissions, and

(e) progress towards a circular economy."

Helen Whately: Clause 83 and schedule 11 make technical amendments to the legislation that introduces the world-leading plastic packaging tax, which comes into force on 1 April. Together, they make sure that the legislation operates as intended, that the UK complies with international agreements and that HMRC has the appropriate framework to administer the tax.

6.45 pm

Plastic packaging tax legislation was introduced in the Finance Act 2021 and will apply to plastic packaging that does not contain at least 30% recycled plastic. It will be charged on unfilled plastic packaging manufactured in the UK and on unfilled and filled plastic packaging imported into the UK. It will provide a clear economic incentive for businesses to use recycled material when manufacturing plastic packaging. This will help tackle the problem of plastic pollution, creating greater demand for this material and in turn stimulating increased levels of recycling and collection of plastic waste, diverting it from landfill or incineration.

As often happens when introducing new legislation, particularly in the volume required for a new tax, a small number of technical amendments are required to make sure that the tax works as intended and can achieve its environmental aims. In addition, amendments are needed to ensure that the tax complies with international law. Clause 83 and schedule 11 make technical amendments to the Finance Act 2021. In summary, the changes will allow HMRC to make provision to modify the timing of an import and the meaning of import and customs formalities using secondary legislation. This means that the point at which the tax is chargeable can be amended to align with future changes to other policies, notably on customs and freeports. The changes also confirm that businesses below the de minimis threshold that do not have to register for the tax do not have to pay the tax. This will make sure the policy intent is achieved and reduce the burden on businesses that manufacture or import plastic packaging below the de minimis threshold.

To ensure UK compliance with international agreements, the changes will provide tax reliefs for persons enjoying certain immunities and privileges, such as visiting forces and diplomats, with provision to set administrative requirements in secondary legislation. Additionally, in respect of group registrations, the changes will transfer the obligations and entitlements, such as completing returns, to the representative member of the registered group. The changes will also require HMRC to notify the representative member of a group of the date that applications for and modification of group treatment will take effect. Finally, changes will amend certain terms used to describe unincorporated bodies to ensure consistency throughout the legislation. As the changes are technical amendments, some of which make the legislation reflect previously announced policy, there is expected to be no additional impact on businesses.

I have comments to make on new clause 17, but I am happy to hear arguments for it from Opposition Members before responding to those points.

Abena Oppong-Asare: The Minister was not in post last year and so missed the extensive discussions we had on the plastic packaging tax, which I am sure she is not sad about. However, as I said then, the Opposition support the introduction of a plastic packaging tax and believe it can play an important role in reducing the production of new plastics, encouraging the use of recycled plastic and diverting plastic from landfill or incineration. We are now only months away from this tax coming into effect, so it is good that we are able to consider it again today.

The clause makes technical amendments to ensure the tax works as intended, and we do not oppose it. However, as the Minister pointed out, we have tabled new clause 17, which calls on the Government to publish an annual review into the operation of these clauses in the context of the wider tax. In particular, we call on the Government to report on how the tax affects levels of recycled material—plastic and non-plastic—in packaging, levels of reusability and recyclability of packaging material, the waste hierarchy, levels of carbon emissions and, finally, progress towards a circular economy. Each of those criteria is vital for assessing the success of the new tax in meeting its aims. As I set out when debating the Finance Act 2021, we share the concerns of many environmental groups and the recycling industry that the tax lacks ambition, and I have met various stakeholders about this issue.

The tax rate is set at £200 per metric tonne of chargeable plastic packaging components. We have already raised our concern that a low, flat-rate tax will not provide enough of an incentive to encourage plastic manufacturers and importers to move towards greater use of recycled plastic at the speed that we need them to do so, which is something that a number of stakeholders have also raised with me. Has the Treasury made any further assessment of the tax since the Finance Act 2021, and does it still think that the £200 rate provides enough of an incentive for businesses to shift away from non-recyclable plastic rather than just pay the charge?

Similarly, we are concerned that the percentage of non-recycled plastic allowed before the tax kicks in is too low. Last year, we proposed an escalator mechanism that would signal the Government's commitment in this area and help businesses plan for an increase in their use of recycled material over time, rather than being locked into unsustainable supply chains. I hope the information I have provided is useful, because I know the Minister was not on the Bill Committee for the Finance Act 2021. Could she tell us whether the Government have made any further consideration of this approach?

Alison Thewliss (Glasgow Central) (SNP): Like the hon. Member for Erith and Thamesmead, I remember the discussions that we had on the plastic packaging tax last April. It is with some concern that I heard the Minister say that the Government want to amend the legislation that they passed just last year so that it works with international law. It seems a wee bit of an oversight to have put through legislation that does not comply with international law, but I am glad that the Minister has brought it back in order to amend it before it comes into force.

I was also concerned by what was said about exemptions around freeports, and I wonder whether the Minister could expand on that a bit. What exactly does it mean? It is mentioned in the explanatory notes as well, but I am not quite clear what it means. If someone is importing or exporting plastics through freeports, does the tax not apply? I am quite concerned by that, because it would be a considerable loophole. It would also fly in the face of what the Scottish Government have asked the UK Government to work with them on with regards to green ports, whereby instead of being tax havens, they will actually be something that helps to support our climate change goals in Scotland. As far as I am aware, the UK Government are still holding out on any kind of agreement with the Scottish Government that allows a green port to proceed in Scotland. If the Minister has any information on that, it would be welcome.

There is a missed opportunity for the Government to table amendments to the Bill. As I said when we discussed this issue last year, the Government have not taken the opportunity to distinguish between different types of plastics. Some types of plastics, particularly PET, can be 100% recyclable in bottles that can be bought in shops. HTP, which is used in milk bottles—it is slightly opaque plastic—is less recyclable. The Government could have made distinctions in the regulations that they made around plastic. Instead of setting the level at 30%, they could allow people to recycle 100% for PET and made that the target for something that is recyclable and achievable, which would make a huge difference by incentivising companies to do more, rather than allowing them to accept the minimum that they can get away with. I urge the Government to think about any further amendments that they could make to the scheme to make it more effective and greener, and to encourage more companies to take up the opportunities that lie within it.

Liz Twist: I want to comment on two areas. First, I want to speak in support of new clause 17. My hon. Friend the Member for Erith and Thamesmead has explained her concerns that the tax, as currently proposed, is unambitious. That, I think, is a good reason to look at reviewing the measures that are in place and seeing whether they are doing what they were expected to do but also whether they need to be strengthened in the future, so I very much support the new clause.

The other issue that I want to raise is about clause 83 itself. It is the considerable number of references in schedule 11 to further measures being taken in the future through secondary legislation. There is a striking number of them. Paragraph 3, for example, allows the commissioners to make regulations—admittedly by the affirmative procedure, which is better than the negative procedure. We see this again in paragraphs 4 and 6. Can the Minister explain to us why we need so many areas to be covered by secondary legislation? Should they not in fact be covered by the primary legislation?

Helen Whately: First, I welcome the support from the hon. Member for Erith and Thamesmead for the plastic packaging tax. I am glad to hear that she does not intend to oppose clause 83 and schedule 11.

To pick up specifically on new clause 17, tabled by the hon. Members for Ealing North, for Erith and Thamesmead and for Blaydon, it suggests that the Government should conduct future reviews of the tax and the impact that it has, including six months after the passing of the Bill for the tax rate and chargeable packaging components, and for all aspects of the tax a year after introduction or annually after an initial report. The Government have already set out a large amount of detail about the expected impact of the tax, and the National Audit Office report on environmental taxes recently concluded that Her Majesty's Treasury and HMRC had

"undertaken extensive work to understand the possible impacts of the tax".

Further detail on modelling to assess the impacts of the plastic packaging tax was set out by the Office for Budget Responsibility in its economic and fiscal outlook published in March 2020. This included most significantly the increase in recycled plastic in packaging and more marginal impacts, such as switching to alternative plastics or materials.

As with all tax policy, the Government will continue to keep the plastic packaging tax under review. Given the substantive information already published and the fact that very limited data will be available within six months after the passage of the Bill, it would be premature to review the impacts of the tax as suggested. As to evaluating the impact of the tax annually after its introduction, being able accurately to isolate the impact of particular policy measures alongside other external factors is inherently difficult, and the Government will carefully consider these issues. As set out in the tax information and impact note published in July 2021, consideration will be given to evaluating aspects including the rate, threshold and exemptions from the policy after at least one year of monitoring data has been collected and analysed.

The Government agree that it is important to understand the efficacy and impact of the plastic packaging tax, but given that these issues have been previously considered and will be kept under review, we do not think that new clause 17 is necessary.

I come now to a couple of the specific points made by the hon. Member for Glasgow Central. I can assure her that there is not an exemption from the plastic packaging tax for freeports. The clause is to ensure that the tax continues to apply with any changes to freeports legislation. And that would be the reason for not including everything in primary legislation—to answer the hon. Member for Blaydon's point—but requiring some flexibility through secondary legislation.

Alison Thewliss: The specific point I was referring to is paragraph 5 on page 164 of the explanatory notes, which says:

"This change ensures that the tax can be amended if changes to other legislation, for example regarding customs or Freeports, require a consequential amendment to Plastic Packaging Tax legislation to ensure it continues to work effectively."

I am just asking why freeports are included there. I do not understand the reference if there is no intention to make a change.

Helen Whately: What the hon. Lady read out is in line with what I said—there is not an exemption for freeports to supply the necessary flexibility—but I am happy to write to her with the reason why freeports get such a specific mention.

The hon. Lady also raised a point about a freeport for Scotland. We remain committed to establishing at least one freeport in Scotland, Wales and Northern Ireland as soon as possible.

The clause and schedule make sure that the plastic packaging tax will operate as intended from its commencement on 1 April 2022.

Liz Twist: I wonder whether the Minister has forgotten to address the issue of secondary legislation.

Helen Whately: I jumped across to that point when I was addressing the freeports point. In general, it is to allow flexibility, where primary legislation is not the right place to put measures. I am happy to write to the hon. Lady if there is anything further to add on her particular point.

Question put and agreed to.

Clause 83 accordingly ordered to stand part of the Bill.

Schedule 11 agreed to.

Ordered, That further consideration be now adjourned.—*(Alan Mak.)*

7.1 pm

Adjourned till Tuesday 11 January at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

FB11 Low Incomes Tax Reform Group (LITRG)
FB12 RMT
FB13 Chartered Institute of Taxation (CIOT)

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE (NO. 2) BILL

(Except clause 4, clauses 6 to 8 and schedule 1, clause 12, clauses 27 and 28, clauses 53 to 66, clauses 68 to 71, clauses 84 to 92 and schedules 12 and 13, clause 93 and schedule 14)

Fifth Sitting

Tuesday 11 January 2022

CONTENTS

PBC (Bill 184) 2021 - 2022

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not later than

Saturday 15 January 2022

The Committee consisted of the following Members:

Chairs: † Sir Christopher Chope, Philip Davies, Dame Angela Eagle, Dr Rupa Huq

† Anderson, Stuart *(Wolverhampton South West)* (Con)
† Butler, Rob *(Aylesbury)* (Con)
Efford, Clive *(Eltham)* (Lab)
† Eshalomi, Florence *(Vauxhall)* (Lab/Co-op)
† Frazer, Lucy *(Financial Secretary to the Treasury)*
† Holden, Mr Richard *(North West Durham)* (Con)
Howell, Paul *(Sedgefield)* (Con)
† Jones, Andrew *(Harrogate and Knaresborough)* (Con)
† Mackrory, Cherilyn *(Truro and Falmouth)* (Con)
† Mak, Alan *(Lord Commissioner of Her Majesty's Treasury)*
† Mayhew, Jerome *(Broadland)* (Con)
† Murray, James *(Ealing North)* (Lab/Co-op)
† Oppong-Asare, Abena *(Erith and Thamesmead)* (Lab)
† Thewliss, Alison *(Glasgow Central)* (SNP)
† Thomson, Richard *(Gordon)* (SNP)
† Twist, Liz *(Blaydon)* (Lab)
† Whately, Helen *(Exchequer Secretary to the Treasury)*

Chris Stanton, Kevin Maddison, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 11 January 2022

[Sir Christopher Chope *in the Chair*]

Finance (No. 2) Bill

(Except Clause 4, Clauses 6 to 8 and Schedule 1, Clause 12, Clauses 27 and 28, Clauses 53 to 66, Clauses 68 to 71, Clauses 84 to 92 and Schedules 12 and 13, Clause 93 and Schedule 14)

Clause 94

Large businesses: notification of uncertain tax treatment

Question proposed, That the clause stand part of the Bill.

9.25 am

The Chair: With this it will be convenient to discuss the following:

Government amendments 7 to 10.

That schedule 15 be the Fifteenth schedule to the Bill.

New clause 7—*Uncertain tax treatment*—

"The Government must publish within 12 months of this Act coming into effect an assessment comparing the rates of uncertain tax in the UK to those of all other OECD countries."

The Financial Secretary to the Treasury (Lucy Frazer): Clause 94 introduces schedule 15, which covers a new requirement for large businesses to notify Her Majesty's Revenue and Customs when they adopt an uncertain tax treatment. The clause seeks to reduce the legal interpretation tax gap, which stands at £5.8 billion—an issue that I am sure hon. Members agree is worth tackling. Through collaborative engagement with stakeholders and several formal consultations, the policy has been refined to minimise administrative burdens, while still achieving the policy objectives.

The requirement will apply only to the largest of UK businesses, companies or partnerships—those with a turnover of over £200 million per year, or a balance sheet total exceeding £2 billion. They will need to notify only those uncertainties that involve a tax difference of more than £5 million. The requirement will apply only to corporation tax, VAT, income tax and pay-as-you-earn returns, and will apply to returns due on or after 1 April 2022.

The Government are committed to ensuring that businesses pay the tax they owe. They have made significant inroads in reducing the tax gap, which fell from 7.5% of total theoretical liabilities in 2005-06 to 5.3% in 2019-20. However, there is further to go in protecting revenues in order to enable the Government to invest in our public services. Schedule 15 is designed to reduce the legal interpretation portion of the tax gap, the majority of which is attributable to large businesses.

Legal interpretation tax losses arise when businesses take a different view from HMRC of how the law should be applied, resulting in a different tax outcome. This issue has proven stubborn and difficult to tackle. Disputes often arise late in the day and are not identified in time for formal compliance enquiries to be undertaken, resulting in irrecoverable losses to the Exchequer. The new notification requirement will tackle the legal interpretation tax gap in a well-targeted and proportionate way, raising £150 million over the next five years, while driving positive behavioural change.[1] The new notification regime breaks new ground by enabling earlier identification of potentially high-risk legal interpretation disputes that often are not apparent from tax returns. That will help to level the playing field for those large businesses that are already transparent with HMRC about their uncertain tax treatments.

The changes made by clause 94 will affect approximately 2,300 large businesses, which will need to consider whether they have taken an uncertain tax position in their returns. If they have, they will now be required to notify HMRC. They will not need to notify HMRC if they have already brought the uncertain position to its attention by other means, such as through discussions with their customer compliance manager, by contacting HMRC's customer engagement and support scheme, through the non-statutory clearance process, or through other legislative disclosure requirements.

The Government have listened carefully and have developed the policy design to arrive at a regime that is objective and simple to understand. There are now only two conditions that trigger the notification requirement, which consultees agreed are objective and clear. The first is if the business has made a provision in their accounts to recognise the uncertainty. The second is if the tax treatment is contrary to HMRC's known interpretation of the law or how the law applies to a certain set of facts. Business will be able to find HMRC's known position in statements, in published guidance and in briefs, as well as through their dealings with HMRC. HMRC's guidance on the regime will set out information on those sources, so that taxpayers are not required to extensively search HMRC's current and historical positions in order to comply.

9.30 am

In recognition of stakeholders' concerns, the Government have decided, at this stage, not to include the third trigger—the substantial possibility test, which has been consulted on—in order to ensure that the regime is as clear and well targeted as possible on implementation. Businesses will incur costs in complying with this new requirement, both through familiarising themselves with the new rules, and through the ongoing requirement to comply with them. The Government have estimated that these costs, across the entire large business population, will be up to £3 million per year.

I assure the Committee that the Government consulted on this proposal extensively, and have thought carefully about how to keep these burdens to a minimum to ensure that the regime is proportionate while remaining effective. We have narrowed the list of circumstances in which businesses need to notify HMRC, reduced the number of taxes in scope, and raised the de minimis threshold to limit the burden on businesses.

HMRC will promptly acknowledge any notification by a business, and will assess the risks posed by the uncertainty and respond accordingly. This will not always end in litigation. Issues notified could result in guidance clarifications or legislative change. HMRC will deploy its resources in a cost-effective way to secure the best return for the Exchequer, and value for money for businesses, HMRC and the courts.

1.*[Official Report, 25 January 2022, Vol. 707, c. 8MC.]*

The Government's commitment to supporting businesses and meeting their compliance obligations does not stop there. We will be monitoring the impacts on the large business population, and HMRC is determining the most suitable metrics through which to evaluate the regime. I reassure hon. Members that the Government are listening to businesses and providing additional support where required.

The Government have tabled technical amendments to schedule 15 to ensure the measures work as intended when a business makes a provision in respect of VAT or PAYE to reflect tax uncertainty. The amendments address two issues in order to ensure that we place an obligation on businesses to notify HMRC only when they have the information to do so. The first, covered by amendments 7 and 9, concerns the timings of the notification obligation. The amendments ensure that businesses have no obligation to notify until they have made a provision. The second, covered by amendments 8 and 10, concerns partnership accounts. The Government's amendments ensure that a partnership need notify HMRC only about provisions in its own accounts—not those in the accounts of its members.

I have emphasised the steps we have taken to ensure this regime is simple to comply with. The amendments ensure that there are no practical barriers to notification for PAYE and VAT, and I urge Members to accept them.

Let me try to pre-empt the points that will be made about the Scottish National party's new clause 7. It would require the Government to publish an assessment comparing the rates of uncertain tax in the UK to those of all other OECD countries 12 months after the Act comes into effect. I assume that what the hon. Member for Glasgow Central is aiming for is an assessment of how effective the regime is at tackling the legal interpretation portion of the tax gap, in contrast to regimes in other OECD countries.

HMRC is one of only two revenue authorities that publish a comprehensive estimate of the tax gap annually. The few international authorities publish tax gap estimates use a range of estimates methodologies that provide different levels of tax gap information, making timely direct comparisons impossible. The majority of OECD countries do not have comparable regimes. In designing this measure, HMRC has learned lessons from two other notification regimes: those of Australia and the United States. However, these regimes operate differently in practice. For example, the Australian equivalent applies only to income tax and cannot be meaningfully compared. I therefore urge Members to reject the new clause.

This new requirement to notify will encourage earlier and open communication with HMRC about areas of tax uncertainty. It is designed to protect the public finances by reducing the legal interpretation portion of the tax gap. I commend clause 94 and schedule 15 to the Committee.

James Murray (Ealing North) (Lab/Co-op): As we heard from the Minister, the purpose of clause 94 is to introduce schedule 15, which, in turn, introduces a new requirement for large businesses to notify HMRC when they have taken a tax position that is uncertain. The new requirement has effect for returns within scope that are due to be filed on or after 1 April 2022. We understand that large businesses are defined as those with a turnover above £200 million, or a balance sheet total of over £2 billion. Uncertain tax amounts with a tax advantage below the threshold of £5 million will not need to be notified to HMRC. We also understand that uncertain tax treatments are defined as those that meet one of two criteria: either a provision has been made in the accounts for the uncertainty, or the position taken by the business is contrary to HMRC's known interpretation of the law.

The stated intention of the clause and schedule is to reduce the gap between taxes paid and taxes thought by HMRC to be owed that is attributable to differences in legal interpretation. The measure aims to ensure that HMRC is aware of all cases where a large business has adopted a treatment with which HMRC may disagree, and to accelerate the point at which discussions occur on these uncertain tax treatments. It also claims to identify areas of law that are currently unclear and to allow HMRC to focus on clarifying these areas of uncertainty, ultimately resulting in fewer disputes caused by uncertainty in the tax law.

We know from HMRC figures that in the financial year 2019-20, the tax gap attributable to differences in legal interpretation was £5.8 billion. Of this, £3.2 billion was attributed to large businesses. We do not oppose the broad intention of the measure. It is important that revenues are not lost to legislative ambiguity, and that tax liabilities are clear to large businesses. Measures that seek to reduce the administrative cost of dealing with uncertain tax treatment for both HMRC and businesses are worth pursuing. However, we note concerns raised by the Chartered Institute of Taxation. It was unconvinced that the measure would achieve its aim. It points to the additional compliance burden that all businesses will face, regardless of whether they have been transparent and open with HMRC about their tax dealings.

HMRC's own figures suggest a cost of £1,300 for each business impacted, and the House of Lords Finance Bill Sub-Committee described that cost as disproportionate. I would be grateful if the Minister could tell us approximately how many large businesses the measure aims to change the behaviour of. I am sure that HMRC or Treasury officials will have estimated the scale of the problem before proposing a remedy, so I would be grateful if the Minister could share any figures she has.

On the operation of the measure, we understand that HMRC does not expect the legal interpretation part of the tax gap to be impacted immediately by the introduction of the measure alone, and it expects to have to take further action. It is therefore not immediately obviously why this extra measure is needed, and why HMRC's existing powers are not enough. As the Chartered Institute of Taxation said,

"it is not clear to us how this measure will itself additionally impact on the legal interpretation tax gap, given that HMRC already have extensive powers to open an enquiry into, and investigate, a tax return, from which any disputes in respect of legal interpretation can be addressed."

I would be grateful if the Minister addressed that point directly. Could she explain what practical advantage the new measures lend HMRC? Could she also comment on the penalties levied for non-compliance with the measure? Given that it targets a minority of non-compliant large businesses with a tax advantage above £5 million, the penalties for non-compliance seem rather small: £5,000 for a first offence, £25,000 for a second, and £50,000 for repeated failures to notify HMRC of uncertain

[James Murray]

tax treatments. Those amounts seem rather low for businesses with a £5 million-plus tax advantage. I would be grateful if the Minister explained how these figures were arrived at, and confirmed whether she believes these measures serve as a robust disincentive for large businesses to use differing legal interpretations to alter their tax liability.

Richard Thomson (Gordon) (SNP): It is a pleasure to serve under your chairmanship, Sir Christopher. I apologise for arriving slightly behind schedule this morning. It was good to see the ministerial team picking up exactly where we left off, getting their rebuttal in first, and telling us what was wrong with our new clauses before we had the chance to utter a syllable. I look forward to that continuing this morning—and this afternoon, if we get that far.

HMRC estimates that a potential £5.8 billion of the UK's estimated £35 billion tax gap for the tax year 2019-20 is attributable to a difference in legal interpretation between HMRC and the businesses concerned. It is that situation that motivated us to draft new clause 7, which is in the name of my hon. Friend the Member for Glasgow Central. We support all and any reasonable and proportionate measures to try to narrow the gap. I would add, in passing, that it is disappointing that the third trigger has been dropped, which is that HMRC should be made aware by companies if there is a substantial possibility that either a court or tribunal might find that the taxpayer's position was incorrect in certain material respects.

While there will always be a level of uncertainty around tax, it is useful to try to get a measure of the tax gap on its own terms—one that is as objective as possible. It is also very useful to compare, as far as possible, the estimated size and scale of our tax gap with the gap in other comparably advanced economies, so that we can see what we might learn from others.

I accept that direct comparisons might not be possible, but I do not accept the Minister's argument that meaningful comparisons are impossible, because we can get an understanding of practices and of analysis; that is at the heart of the matter. This is about trying to get to grips with the scale, and developing an understanding of what will be a continually moving target, as entities seek to minimise their overall liability as legitimately as they can within the confines of the broader tax code. That backdrop of information would allow policy makers to reflect adequately on how the domestic tax code might be amended to ensure greater clarity and better compliance. It is on that basis that we tabled new clause 7.

Lucy Frazer: I am grateful for the contributions from Opposition Members. I was very pleased that the hon. Member for Ealing North recognised the importance of closing the tax gap and welcomed the provisions from that perspective. As I set out, the provisions will affect only the largest companies, which have the means of dealing with and communicating their issues to HMRC. He asked me about the practical advantages of the provisions, given that we have existing measures. Quite simply, some, though not all, companies are looking at all times to minimise the tax they pay, and are coming up with new ideas. They have the ideas first, and HMRC does not want to be slow in reacting. The best way to get on the front foot is for the companies to tell us what measures they are thinking about, so that we can engage at the first moment. That is what the provisions seek to do—to ensure that we can engage at the first moment, so that we can make sure that companies comply with their tax obligations.

The hon. Gentleman also asked about penalties. The Government originally proposed a flat £5,000 penalty for failure to notify under this regime. In response to stakeholder feedback, we revised the penalties, which now escalate for repeated failures to a maximum of £50,000. The Government considered carefully the penalties to ensure that they were proportionate and fair for a notification regime. Penalties are charged for failure to notify and are not charged by any determination of the amount of tax at stake—providing for a larger penalty in those circumstances would be disproportionate. If it was eventually found that a tax return contained a deliberate error, then a larger tax-geared penalty could still apply. As with all policies, the Government will of course keep this under review.

I was very pleased and interested to hear from the hon. Member for Gordon about his disappointment about the dropping of the third trigger. As I have said, we keep all measures under review and will keep looking at this area. If we do bring any further measures forward on uncertain tax treatment, I look forward to his support.

9.45 am

As the hon. Gentleman quite rightly identified, I have already addressed his point about comparisons with other OECD countries, but I highlight that we are one of a few countries that have published statistics. Of course, we often engage with other countries in order to look at and learn from what they do, and in order to compare ourselves, but we do not believe that a direct comparison with an assessment would be meaningful or helpful. For those reasons, I urge the Committee to support the clause standing part and schedule 15.

Question put and agreed to.

Clause 94 accordingly ordered to stand part of the Bill.

Schedule 15

LARGE BUSINESSES: NOTIFICATION OF UNCERTAIN TAX TREATMENT

Amendments made: 7, in schedule 15, page 173, line 1, leave out "any relevant" and insert

"a company tax return or partnership"

See the explanatory statement for Amendment 9.

8, in schedule 15, page 173, line 19, leave out "a member of the"

See the explanatory statement for Amendment 10.

9, in schedule 15, page 173, line 20, at end insert—

"Notification under paragraph 8(2)(b) of an amount included in a PAYE return or VAT return delivered to HMRC for a financial year	On or before the date (determined in accordance with this table) by which the notification would be required if— (a) the notification were required by paragraph 8(2)(a), and (b) the return were delivered to HMRC for the financial year following the financial year in which the accounting provision is recognised in the accounts of the company or partnership."

This amendment and Amendment 7 ensure that, where provision for uncertain PAYE or VAT liabilities is recognised in the accounts of a company or partnership, the accounts may be finalised before HMRC is required to be notified of the uncertainty under Schedule 15.

10, in schedule 15, page 173, line 33, leave out

", or a member of the partnership,"

and insert "or partnership"—*(Lucy Frazer.)*

This amendment and Amendment 8 ensure that Schedule 15 operates as intended where provision for uncertain liabilities is recognised in the accounts of a partnership.

Schedule 15, as amended, agreed to.

Clause 95

Discovery Assessments for unassessed income tax or capital gains tax

Question put, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss clause 96 stand part.

Lucy Frazer: Clauses 95 and 96 concern tax administration provisions. They provide certainty that HMRC may use discovery assessments to take action in certain cases in which taxpayers have not declared or returned tax that is due. For consistency, fairness and certainty, they also make minor changes to the rules requiring notification of liability.

I will briefly explain the context for introducing the clauses. The upper tribunal recently found that HMRC did not have powers to recover an individual's high-income child benefit charge, which I will refer to as "the child benefit charge", by issuing a discovery assessment where the taxpayer had neither notified HMRC of their liability nor submitted a tax return. The purpose of notifying tax liability is for HMRC to know to ask a taxpayer to complete a tax return. A discovery assessment is the mechanism HMRC uses to collect tax that it finds out should have been assessed but has not been—essentially, HMRC sends the taxpayer a bill for the tax that they ought to have self-assessed. HMRC uses discovery assessments frequently and routinely for taxpayers who ought to but have not notified tax liability and completed a tax return, whether because they are evading tax or they have made a genuine mistake.

HMRC can use discovery assessments in two scenarios: where it discovers that income tax in a tax return has been understated, and where a tax return has not been submitted at all. We are concerned here only with the latter scenario. The tribunal did not dispute the validity of the child benefit charge; in fact, it confirmed that the charge was still due. However, the tribunal found that HMRC could not use discovery assessments in that case. HMRC firmly disputes that ruling and has appealed to the Court of Appeal. The ruling prevents HMRC from using the usual discovery assessment mechanism to collect the correct tax payable where taxpayers liable to the child benefit charge and similar charges have not notified their liability, and so have not been sent a tax return.

There are three related clauses: 95, 96 and 97. The first and most significant is clause 95, which ensures that discovery assessments can be used to recover the child benefit charge, as well as similar charges relating to pensions and gift aid, where taxpayers have failed to notify HMRC and self-assess those charges. I stress that the legislation does not create any new liabilities or obligations for taxpayers; it simply puts taxpayers who do not declare and pay the child benefit charge on an equal footing with the majority who do.

Without clause 95, a taxpayer who did not declare and return their liability might not have to pay the child benefit charge at all, while others in otherwise identical circumstances who had rightly notified HMRC of their position would have to pay. Clearly, even if that is an honest mistake, which it is in many cases, it is not right.

The legislation introduced under clause 95 will apply retrospectively to child benefit, gift aid and pension charges. For those three types of charge, the legislation will be treated as having always been in force and will ensure that previously issued discovery assessments remain valid. The Government do not introduce retrospective legislation lightly; we do so only in exceptional circumstances, and we will do so, on occasion, when a court ruling upsets the widely accepted way in which the law is understood to work.

In this instance, retrospection is necessary for two reasons: first, to protect public services by ensuring that tax that is properly due and that has been charged and paid through discovery assessments over a number of years remains undisturbed; and secondly to provide fairness to the general body of taxpayers who have declared their liability, submitted their returns and paid their tax. The retrospective element applies only to the use of discovery assessments where taxpayers subject to such charges have neither notified HMRC of their liability nor submitted a tax return; it does not affect anyone's tax liability. It is important to emphasise that although this is retrospective legislation, it is not retrospective taxation.

Some taxpayers will not be subject to the retrospective effects of clause 95. It would be unfair for it to apply to those taxpayers who were part of the original litigation and those who submitted appeals to HMRC on the same basis before the tribunal judgment was handed down. To include them would overturn the upper tribunal's judgment and curtail the appeal rights of taxpayers who will already have spent time and money bringing an appeal on the same grounds, so the Government are excluding those taxpayers from the retrospective element of the legislation, ensuring that they can continue to pursue their appeals.

The prospective effect of clause 95 is somewhat wider. It is sensible to future-proof the legislation so that it applies to any income tax or capital gains tax that ought to have been, but has not been, assessed.

Clause 96 is introduced with prospective effect only. It will provide certainty that taxpayers who become liable to certain tax charges, including the pension and gift aid charges that I mentioned in reference to clause 95, must notify HMRC of their tax liability. Taxpayers are required to notify HMRC that they are chargeable to income tax or capital gains tax for any given year when that tax has not otherwise been accounted for.

Recent litigation has called into question whether certain tax charges are adequately covered by the obligation to notify chargeability; clause 96 provides certainty that they are so covered. That will achieve consistency of treatment across the types of tax charge, ensuring that taxpayers are always obliged to notify HMRC in circumstances where HMRC might not otherwise become aware of their tax liability.

[Lucy Frazer]

It is right that taxpayers are required to report and self-assess their tax liabilities and that HMRC can take the necessary action to recover tax when they do not. Clauses 95 and 96 will enable HMRC to carry on doing so, shoring up the tax administration provisions in response to litigation that could otherwise create confusion, unfairness and inconsistency, as well as putting public revenues at risk. I commend the clauses to the Committee.

Abena Oppong-Asare (Erith and Thamesmead) (Lab): It is a pleasure to serve under your chairship again, Sir Christopher. I thank the Minister for her explanation of clauses 95 and 96, particularly in respect of discovery assessments. As she says, clause 95 will amend the Taxes Management Act 1970 to provide certainty that HMRC can use discovery assessments to make good a loss of tax where it discovers that certain charges have not been accounted for; when the Bill gains Royal Assent, the clause will apply both retrospectively and prospectively.

The amendment to the 1970 Act has to be understood in the context of the legal challenge in HMRC *v.* Wilkes, in which the upper tribunal ruled that HMRC could not use discovery assessments to assess tax charges arising from sources that do not meet the definition of income within the relevant provision. Clause 95 will amend the law to enable HMRC to use discovery assessments in such circumstances. The background note in the explanatory notes states that the aim is to

"put the matter beyond doubt and confirm HMRC's long-standing policy".

Although there has clearly been historic doubt and an unsuccessful legal defence mounted by HMRC, and while this is being applied retrospectively, there is an exception for those who have appealed on the grounds that HMRC was inadequate at the time prior to the Wilkes case. However, as the Minister probably knows, the Low Incomes Tax Reform Group has raised the point that the retrospective application in the clause could be uneven and unfair.

While those who have appealed have been exempted, those who did not make the necessary appeal will face retrospective charges. Those who accepted the charge at face value and paid it will clearly not get their money back, despite the upper tribunal's finding that HMRC's use of discovery assessments in this way was outside the scope of its powers and, therefore, not legal. The Wilkes judgment will soon no longer be a legitimate basis for legal contest; I would be grateful if the Minister could make an assessment of the fairness of this uneven, retrospective application.

Under clause 96, there will be further amendments to the Taxes Management Act 1970. It will amend section 7 and extend the circumstances in which a person must make a notification under section 7 to the charges listed in section 30 of the Income Tax Act 2007. As the Minister mentioned, that requires the taxpayer to notify HMRC of any liability to income tax or capital gains tax charges per accounting year. The amendments to the fundamental piece of primary legislation have been extended to include liability, as set out in clause 95. For this reason, we will not be opposing the clause.

Alison Thewliss (Glasgow Central) (SNP): It is a pleasure to see you in the Chair, Sir Christopher. While we support its broad principles, this type of clause brings me out in a cold sweat. I completed my self-assessment tax return last night, and I am now worrying that I have not done it right and at some point in the future HMRC will come running after me because I have ticked the wrong box on the form somewhere.

The clause goes to the sense of a lot of the things to do with the higher income child benefit charge, particularly this retrospective aspect. Since it was introduced in 2013, there have been challenges around the charge, in terms of people knowing about it and the way in which the system works. The child benefit and HMRC systems do not necessarily talk to one another, and people have been brought into self-assessment without realising it.

I can use myself as an example. When I first phoned HMRC to ask about the issue, it asked, "What is your husband's income?" I said, "I have no idea—it is his income. It is nothing to do with me." Many people will not know their partner's income. There may be reasons why the partner does not want to tell them their income, and that will leave them in a very difficult position. People may be in a relationship of coercive or financial control, and they may not be aware of their partner's income but may end up falling into liability under the rules that the Minister has set out.

What kind of mitigation, if any, may be put in place should people in future be held liable for something they were not aware of for entirely legitimate reasons? Will there be any such mitigation, or will HMRC try to claw back all the money regardless of the person's situation? Many people may end up in a situation where they are having income clawed back that they were not aware of. How do the Government intend to continue to raise awareness of the higher income child benefit charge and whether people are going to be affected by it?

As the Low Income Tax Reform Group point out in its excellent evidence to the Committee,

"The number of families affected by the charge has increased substantially since it was first introduced because the £50,000 threshold has not been uprated for nine years".

The effect is that every year it affects more people, who are then drawn into the charge without being aware of it.

10 am

The other area that I want to mention, just out of curiosity, is that the clause will affect gift aid as well. There may be entirely legitimate reasons for the Government's wishing to look at people making claims under gift aid and whether they have done so properly, but I wonder how the Government are assessing any errors within gift aid. How are they chasing those up? Some time may have passed since the gift aid was claimed under people's taxes, and some of the charities may have disappeared since that has happened. How will the retrospective element be applied to gift aid, and could the Minister give us some idea of the scale of the problem?

Clearly, if the Government are legislating for the issue, they think there is a problem, and it would be interesting for us as a Committee to know its estimated scale and how much money the Government think they are losing out on by people either misclaiming or defrauding through the gift aid system. The Government are bringing through a very serious means of retrospective action; it would be interesting for us all to know why they wish to do so and how they intend to go about it.

Lucy Frazer: Again, I thank hon. Members on the Opposition Benches for their contributions. The essence of the points made by the hon. Member for Erith and Thamesmead was one of fairness, and there are three points to make in response. The first is that, as I said, this is retrospective legislation but not retrospective taxation. The tax was due, has been due and is due, but it has not been paid. What was in question was the process by which it was recovered.

The second point is that, in terms of fairness, it is right that everyone pays the right amount of tax and does not manage to escape paying that tax because they do not declare it to HMRC. The essence of the issue is actually about fairness—that everyone is in the same position and that where tax is due, it is paid by everyone equally.

Thirdly, to build on the point I made earlier about the tax being due but the process being in error, the court found in HMRC *v.* Wilkes that the tax was due from the applicants but the discovery assessment process was not appropriate for recovering it. This legislative measure is fair because it ensures that people who have to pay tax do so and that everyone pays it equally.

I now respond to the points made by the hon. Member for Glasgow Central, who I am sure has completed her tax return successfully and correctly. I encourage everybody to do so, because the tax deadline is 31 January. Although HMRC has extended the deadline for a month and will not be charging penalties, people will still be paying interest on their tax if they have not filed their returns by the 31 January deadline. I am sure hon. Members present have all dutifully done so, but that is a little reminder.

The hon. Member for Glasgow Central mentioned the unfortunate circumstances of individuals. Having spoken to HMRC, I know that it looks carefully at individual circumstances where there is difficulty with paying. There is an essential procedure where people can have time to pay, and there is a vulnerable unit where we look very carefully at people's vulnerabilities and treat them appropriately.

As I mentioned in my opening remarks, the provision will apply to gift aid, but I am very happy to answer any questions that the hon. Member for Glasgow Central has about that by following up in writing. For those reasons, I ask that the clauses stand part of the Bill.

Question put and agreed to.

Clause 95 accordingly ordered to stand part of the Bill.

Clause 96 ordered to stand part of the Bill.

Clause 97

Calculation of income tax liability for certain charges relating to pensions

Question proposed, That the clause stand part of the Bill.

Lucy Frazer: Clause 97 is the third of three clauses relating to HMRC's tax administration provisions. The clause makes minor technical revisions to the provisions for the calculation of income tax in respect of certain pension charges.

Section 23 of the Income Tax Act 2007 sets out the steps to be followed when calculating income tax liability. At step 7, additional amounts of tax that have not been taken into account in the earlier steps are added to the calculation, and those are listed in section 30. The list in section 30 includes a number of freestanding tax charges relating to registered pension schemes.

The Committee will remember that clause 96 operated on those freestanding charges to provide certainty that taxpayers liable for them must notify their liability to HMRC. The Government have identified the fact that some of those freestanding charges—some of the unauthorised payment charges and surcharges, and the overseas transfer charge—have been omitted from the list in section 30, so we are taking this opportunity to correct that by adding them.

Clause 97 adds to the list in section 30 the overseas transfer charge and the missing unauthorised payments charge and surcharges. The charges ensure that the correct amount of tax due in respect of those charges is produced at the correct step of the tax calculation. The effect is to ensure that HMRC will be able consistently to calculate and assess tax liabilities in respect of those pension charges. In combination with clause 96, clause 97 requires taxpayers to notify HMRC of their liability for the charges, and HMRC will be able to charge penalties for failure to notify and will use discovery assessments to recover tax that has not been notified. Clause 97 is introduced with prospective effect only from the 2021-22 tax year.

Clause 97 makes minor technical revisions and, together with the changes in clauses 95 and 96, gives consistency and certainty of tax treatment in HMRC's tax administration provisions relating to those freestanding tax charges. I commend the clause to the Committee.

Abena Oppong-Asare: I thank the Minister for her explanation. As she mentioned, clause 97 follows on from clauses 95 and 96, and is a chiefly technical clause to amend the list of other income tax charges in subsection 30(1) of the Income Tax Act 2007. The Labour party will not oppose the clause.

Lucy Frazer: I thank the hon. Lady.

Question put and agreed to.

Clause 97 accordingly ordered to stand part of the Bill.

Clause 98

Power to make temporary modifications of taxation of employment income

Question proposed, That the clause stand part of the Bill.

Lucy Frazer: Clause 98 introduces regulation-making powers to allow the Government to make temporary changes to provide income tax relief on certain benefits in kind or expenses in a disaster or emergency of national significance.

Covid has highlighted the limited scope to respond quickly to make changes to the current benefits-in-kind and expenses tax system to support people during the pandemic. The Government are determined to learn from that experience and ensure that we are prepared for future crises. It is expected that during any future disaster or emergency of national significance, it may be necessary to make similar changes on a temporary

[Lucy Frazer]

basis. The current legislation allows only for changes to be made through secondary legislation in limited circumstances. The clause introduces regulation-making powers that will allow the Government to respond quickly and effectively to various future emergency situations—including, but not limited to, pandemics—if deemed necessary.

The clause introduces regulation powers to allow employers to support their employees through the provision of a certain benefit in kind or expense in a disaster or emergency of national significance without creating an additional income tax charge. The powers can be exercised only in a way that provides support to taxpayers, as changes can be wholly relieving only and cannot create a tax charge. The Treasury can determine when it is appropriate to use the powers, but may make changes only to the income tax expenses and benefit-in-kind rules. Any changes made through the powers will have effect only for a limited time, up to a maximum of two complete tax years. The clause allows the Government to respond quickly and effectively to provide support to taxpayers in disasters or emergencies of national significance, and I commend it to the Committee.

James Murray: As we have heard, clause 98 relates to the power to make temporary modifications of taxation of employment income. The clause will grant the Treasury the power to make regulations to modify temporarily parts 3, 4 and 5 of the Income Tax (Earnings and Pensions) Act 2003 under ministerial direction, in the event of a disaster or emergency of national significance. The regulations must set out which disaster or emergency they are made in respect of, and the powers can be exercised only in a way that is wholly relieving to the taxpayer and cannot be used to create a tax charge.

This measure has been introduced in the context of the covid-19 pandemic, and indeed covid has highlighted the limited scope to make changes to the current benefits in kind and expenses rules to respond quickly to the pandemic. We understand that the aim of clause 98 is to enable changes to primary legislation to be made rapidly in response to significant national events. In that respect, we do not oppose this clause, provided that it is applied in strictly exceptional circumstances of national importance.

The clause uses the terms "emergency" and "disaster", but a specific description of these criteria is missing. I would be grateful if the Minister set out what the Treasury would consider to be an emergency or disaster. Without a doubt, the onset of the covid-19 pandemic was a good example, but without a robust and transparent framework to guide the Treasury—given that the use of the power seems to be at its sole discretion—it is important that we are clear about the circumstances in which income tax liability can effectively be waived. Moreover, clause 98 notes that such measures would be temporary and would not apply longer than necessary. Again, guidance and a framework are conspicuously lacking, as the Government has provided no definition of "temporary".

Early in the covid pandemic, emergency measures were needed, but as the pandemic has gone on the need for emergency measures has lessened. I would be grateful if the Minister assured us that a clear and transparent framework for establishing what constitutes "emergency", "disaster" and "temporary" will be published, and when. If not, why not?

I am sure that we agree that this is a matter of effective policy rather than politics. As I have said, the context in which the clause has been introduced is uncontroversial, but I would be grateful if the Minister addressed this ambiguity and assessed whether the measure could be applied in a manner that deviates from its stated intention.

Alison Thewliss: I agree very much with what the Labour Front-Bench spokesman has said. Clause 98 is very wide-ranging, and vague in a lot of ways. It is important to understand its scope, because one person's definition of a disaster or emergency might be quite different from another's. It is important that we define that slightly more than is the case in the clause, which states that the regulations

"may only specify a disaster or emergency which the Treasury considers to be of national significance."

That could be a lot of things, depending on how the Treasury considers it.

I wonder whether the Minister, in looking at the clause, has taken into account the findings of the Public Accounts Committee and the National Audit Office on the Government's lack of financial preparedness, specifically coming into the pandemic. There was a lot of talk about medical preparedness, stockpiling and things like that, but both the National Audit Office and the Public Accounts Committee found that there was no preparedness in the Treasury for a pandemic or national emergency of this type.

It would be useful to know what further work, in addition to clause 98, Treasury officials are putting in place to ensure that, should something like this occur in future, the box of learning from this pandemic can be taken off the shelf and easily applied, without having to make a load of new provisions and regulations, so that things are ready to go, and we do not have to scratch around, trying to figure out what happened last time. Another pandemic may occur in five years or 50 years—we do not know. Certainly, our hope in the SNP is that we will not be here in 50 years, if not five, but it would be useful to know what provisions are being considered in the Treasury to ensure that the learning from this pandemic sits very tightly with this clause and can be applied very easily.

Lucy Frazer: I thank hon. Members for their contributions. Both the hon. Member for Ealing North and the hon. Member for Glasgow Central asked us to be more prescriptive in the legislation—to define the circumstances in which there would be a disaster or emergency—but we are bringing in this legislation precisely because we did not have the flexibility that we needed when we went into this pandemic. Therefore we do not want to tightly define the circumstances. We are bringing in this legislation to ensure that we have the tools at our disposal to exercise the necessary powers should an event like the one we have been through and hopefully are at the end of occur.

10.15 am

The hon. Member for Ealing North asked about the time period. As I pointed out, there is a span of two tax years for the essence of the proposals to be effective. As he will have seen throughout the pandemic, the Government have responded appropriately: they have brought in measures, withdrawn them and brought in measures again—I am thinking of furlough and the support and grants given through local authorities. There has been flexibility in the provision of support within the confines of the legislation empowering it.

The hon. Member for Glasgow Central talked about lack of financial preparedness from the Treasury. The Chancellor's response to the pandemic has been recognised by a number of international financial institutions as including some of the most effective measures put in place in Europe and across the globe. The measures that the Chancellor has put in place have avoided significant unemployment—when we went into the pandemic we expected 12% unemployment, but it is much less than that. Two million fewer people are unemployed than we originally expected.

Alison Thewliss: My point was not about the reaction to the pandemic but preparedness. All the systems had to be put in place suddenly and with little planning. There has been significant fraud in many of the schemes as a result of the lack of tight planning. They were reactive emergency measures. Does the Minister agree that it would have been much better for all those things to have been set out clearly, so they could be taken off the shelf should they be needed? Instead, they were reactive measures that had not been planned ahead of time.

Lucy Frazer: The hon. Lady is right to say that a number of measures were reactive, but they were brought it at extremely quick pace and were effective pretty much immediately. She makes a valid point about learning; I know the Treasury is learning and has learned throughout the pandemic. The schemes we put in place at the outset have been refined, including the self-employment income support scheme, the furlough schemes and the coronavirus job retention scheme.

The hon. Lady mentioned the level of fraud; as the pandemic went on and the measures were refined, fraud reduced. She makes a valuable point about learning, and I am sure all Departments are learning. We do not want to be in this position again, which is precisely why we are bringing forward this legislation, to ensure that we are ready for any other emergency that should come our way.

James Murray: For the avoidance of doubt, I would like to clarify the point I raised with the Minister earlier. I was not seeking to ask the Government to be entirely prescriptive about what an emergency or disaster is; I merely asked them to publish a clear and transparent framework for establishing what constitutes "emergency", "disaster" and "temporary". If the Minister is saying that the Government will refuse to publish a clear and transparent framework for establishing the meaning of those words, will she confirm that it will remain at the sole discretion of the Treasury, based on unpublished guidance or frameworks, as to what constitutes "emergency", "disaster" and "temporary"?

Lucy Frazer: The hon. Member is being a little unfair in his categorisation of what would happen and what we are seeking. That has not been defined in legislation because it is very hard to predict, and we do not want to limit severely the opportunities to exercise that power. The hon. Member has seen how the Treasury would react by the way it has reacted. That should give him some comfort.

Question put and agreed to.

Clause 98 accordingly ordered to stand part of the Bill.

Clause 99

VEHICLE CO_2 EMISSIONS CERTIFICATES

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

That schedule 16 be the Sixteenth schedule to the Bill.

New clause 8—*Emissions certificates*—

"The Government must publish within 12 months of this Act coming into effect an assessment of the impact of sections 99 and Schedule 16 of this Act on the goal of tackling climate change and the UK's plans to reach net zero by 2050."—*(Alison Thewliss.)*

I think we might try to see whether we can let SNP Members speak to new clause 8 before the retaliation from the Government Benches, because I think that will make it easier to follow the debate.

The Exchequer Secretary to the Treasury (Helen Whately): I thank you, Sir Christopher—and the hon. Member for Gordon, who duly flagged the order of proceedings. Clause 99 and schedule 16 make technical amendments to capital allowances, company car tax and vehicle excise duty legislation so that the tax system continues to function as intended when vehicles are certified through the new domestic comprehensive vehicle type approval scheme due to be introduced this year.

A vehicle manufacturer is able to apply for a type approval to allow specific types of vehicles to be used on the road and can then certify that each vehicle manufactured within that type conforms with the specifications of the approval obtained. Since the end of the transition period on 31 December 2020 following the UK's withdrawal from the European Union, European type approvals have no longer been automatically recognised for vehicles for use on roads in Great Britain.

Since 1 January 2021, a provisional domestic type approval scheme has been in operation. Manufacturers with an EU type approval have been required to apply for a provisional domestic type approval, which is valid for a maximum of two years. During 2022, the provisional domestic type approval scheme will be gradually replaced with a new comprehensive domestic type approval scheme, which will introduce new certificates of conformity. This will be implemented through separate legislation in 2022 by the Department for Transport.

Clause 99 and schedule 16 make technical amendments to relevant legislation to update the types of official vehicle approval certification recognised for determining the level of a vehicle's carbon dioxide emissions for the purposes of capital allowances, company car tax and vehicle excise duty, including new certificates of conformity that will be introduced through the domestic type approval scheme, allowing manufactures to continue to report their CO_2 emissions. This will ensure that vehicle owners

[Helen Whately]

and keepers continue to pay the tax for their vehicles as intended from 2022 following the introduction of the new scheme.

For the purpose of capital allowances, the clause and schedule will also confirm in legislation that the applicable CO_2 emission figure from the official documentation will be that certified under the worldwide harmonised light vehicle test procedure. The technical changes in the clause and schedule will ensure that the tax system continues to function as intended when vehicles are certified through the new domestic comprehensive vehicle type approval scheme due to be introduced in 2022.

Abena Oppong-Asare: I thank the Minister for her explanation of clause 99, which introduces schedule 16, which concerns emissions certificates for vehicles. When purchasing a car, capital allowances are in part determined by the level of CO_2 emissions. A 100% first-year allowance is available for new cars that have zero CO_2 emissions, including electric cars. Otherwise, writing down allowances are available at the main rate of 18% per annum for electric cars and those with low CO_2 emissions—up to 50 grams per kilometre driven—or 6% per annum for those with emissions exceeding 50 grams per kilometre. The measures in the clause allow for greater CO_2 emissions figures to be used for purposes of capital allowances, taxable benefits arising from provisions of cars and vehicle excise duty. For that reason, we will not oppose the clause.

Richard Thomson: Thank you, Sir Christopher, for your opening comments on this group. My party does not get too many advances or victories in this place, so it is important to savour them when we can. I will certainly savour this one. I have a sense of clairvoyance about what the Minister will say in response.

We fully support the intention behind schedule 16. It is important to have the certification regime in place. However, as I argued when discussing the SNP's new clause 5 in the previous group, it is important not only that consumers have confidence in the figures that are published, but to understand the impact that their publication has on behaviour. When we discussed new clause 5, we talked about the very incremental changes to vehicle excise duty, and my party proposed that we should look at the impact of those on consumer behaviour. Similarly, we feel we must understand how emissions certification changes consumer and manufacturer behaviour.

As a fundamental point, when we are as engaged in trying to achieve net zero as all Governments in these islands say that they are, it is important that Government have clear oversight of how spending and taxation influence behaviour in driving movement towards net zero. This measure should be no exception, and that is what our new clause seeks to achieve. In the fairly safe assumption that it will not be accepted by the Government, I would like to know how they intend to monitor how the changes drive behaviour.

Helen Whately: It is a pleasure to hear the hon. Member for Gordon argue for new clause 8. It would require the Government to publish, within 12 months of the Bill coming into effect, an assessment of the impact of clause 99 and schedule 16 on the goal of tackling climate change and the UK's plans to reach net zero.

For the reasons we set out in detail during the Committee's debate on new clause 5, this similar new clause is simply not necessary. Moreover, clause 99 and schedule 16 make only minor technical amendments to vehicle tax legislation to ensure that it continues to function as intended. The measure is not expected to have any significant climate change impacts. I therefore urge the Committee to reject new clause 8.

I thank the hon. Member for Erith and Thamesmead for expressing the Opposition's support for clause 99 and the schedule. I commend the measures to the Committee.

Question put and agreed to.

Clause 99 accordingly ordered to stand part of the Bill.

Schedule 16 agreed to.

Clause 100

Increase in membership of the Office of Tax Simplification

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

New clause 9—*Composition of the Office of Tax Simplification—*

"The Government must publish within 12 months of this Act coming into effect an assessment of the composition of the Office of Tax Simplification membership with a view to ensuring it is diverse and representative."

New clause 10—*Capacity of the OTS—*

"The Government must publish within 12 months of this Act coming into effect a review of the membership and capacity of the OTS, including consideration of the capacity the membership would have to deal with an expansion of its remit to include fairness in the tax system."

Lucy Frazer: Clause 100 increases the maximum independent representation on the board of the Office of Tax Simplification by two members, giving a total membership of 10. The OTS is the independent adviser to the Government on simplifying the UK tax system. The clause provides the ability to add two additional members to the board of the OTS following the publication of Her Majesty's Treasury's five-year review of the effectiveness of the OTS, which was required by the Finance Act 2016. Allowing for the appointment of two additional members will ensure that the board comprises the fullest appropriate breadth of skillsets to support the work of the OTS.

Sir Christopher, I very much look forward to the submissions from the SNP on new clauses 9 and 10.

Richard Thomson: New clause 9 ought to speak for itself. On 23 November, in a written response to the hon. Member for Liverpool, Walton (Dan Carden), the Financial Secretary to the Treasury said:

"The Government has an ambition that by 2022 half of all new appointees should be women and 14 per cent of appointments should be made to those from ethnic minorities."

Clearly, we are interested in ensuring diversity going forwards, but we should also be interested in diversity in the here and now, and in ensuring that all our public institutions are as representative as they can be of the country that we seek to govern and administer.

In looking at that diversity, both present and future, it is important that we have it in the board, in the team and in employment within the OTS more generally. We must not only have an understanding of where we are in the present, but ensure that the pipeline of talent for future appointments to senior positions is flowing as it needs to, so that we benefit from the widest and deepest possible pool of talent as the body carries out its functions.

Moving on to new clause 10, we spoke earlier about the estimated tax gap of £35 billion. An important aspect of tax fairness is being sure that we apply the tax code equally and consistently, and we need to understand the impact of it's being applied equally and consistently and how fair the outcomes are. There are still many inconsistencies and perverse incentives across the entirety of our tax code, not least in how it interacts with the benefits system.

If we are serious about ensuring fairness, the Office of Tax Simplification would be an excellent starting point. Our view is that the OTS should have the remit and capacity to look at fairness, and new clause 10 would provide evidence on the OTS's current capacity to achieve that.

10.30 am

James Murray: As we heard from the Minister, clause 100 relates to an increase of two members in the maximum independent representation on the board of the Office of Tax Simplification, bringing the overall membership to 10. The OTS was brought in by the coalition Government in 2010 and put on a statutory footing by the Finance Act 2016. It is an independent body that sits alongside the Treasury to advise the Chancellor on the simplification of the tax system and suggest ways to increase system efficiency. We recognise the value in adding further expertise to the board, although we also recognise the important principle in the SNP's new clause 9, which would require the Government to report on the diversity of the OTS board.

We note the wider concerns of the Chartered Institute of Taxation, which questions whether the broader changes suggested by the OTS will be implemented. Between 2010 and 2015, only 166 of the OTS's 403 recommendations to Government were wholly accepted. It is therefore surprising that there is so much enthusiasm for increasing the size of the OTS board, given that the Government do not always seem to listen.

We note a suggestion from the Chartered Institute of Taxation that the Government formally respond to every OTS recommendation within a prescribed timeframe. I would be grateful if the Minister set out whether she is willing to commit to doing so.

Lucy Frazer: I thank the hon. Members for Gordon and for Ealing North for their contributions. I was very interested to hear about the new clauses from the hon. Member for Gordon. New clause 9, which was tabled by the hon. Member for Glasgow Central, would require the Government to publish

"an assessment of the composition of the Office of Tax Simplification"

to ensure that it is diverse. I assure hon. Members that the OTS is an independent office of HMT, so all appointments are made in line with the principles of the Office of the Commissioner for Public Appointments. Public appointments to the OTS should therefore reflect the diversity of the society in which we live and increase in diversity. The Government have an ambition that, by 2022, half of all new appointees should be women and 14% of appointments should be made to those from ethnic minorities.

I know that the Government are very committed to this issue, as my first appointment to Government was as a Parliamentary Private Secretary in the Cabinet Office. I dealt with and saw the work of the Cabinet Office on this issue, and it is doing a broad amount of work across Government to ensure diversity.

New clause 10, which was also tabled by the hon. Member for Glasgow Central, would require the Government to publish

"a review of the membership and capacity of the OTS".

The Government remain committed to supporting the OTS to provide advice on the simplification of the tax system, and published their first five-year review of the OTS's effectiveness this autumn. The review makes a number of recommendations on the resourcing and governance of the OTS and recognises the value of a mix of skillsets and expertise on the OTS board. It recommends that HMT build on that further and, following the nomination by the chair, appoint additional independent members to bring in expertise in areas not currently represented. Given the recent examination of the OTS's resourcing and governance, the Government do not believe that a review of the membership and capacity of the OTS is necessary.

To respond to the point the hon. Member for Ealing North made about the value of the work of the OTS, as he will know, the OTS will be looking into how it produces its reports and carries out its reviews. The fact that the Government do not always fully accept the recommendations of the OTS is not a sign that the OTS is not performing an important function: it is performing an important function in making recommendations that the Government can look at. The OTS also has a power to make suggestions on proposals that the Government themselves are thinking about, and it works with officials to make suggestions as to how we can change and improve the legislation and proposals that we are putting forward.

For those reasons, I encourage Members to reject the new clauses.

James Murray: The Minister may have missed my question in my earlier comments, which was whether she would commit to responding formally to every OTS recommendation within a prescribed timeframe.

Lucy Frazer: I understand why the hon. Member has made that suggestion, but the OTS is independent and can look at what it wishes to look at. That might not necessarily be what the Government are focusing on at any particular moment, so for those reasons and others, I will not be accepting that proposal today.

Question put and agreed to.

Clause 100 accordingly ordered to stand part of the Bill.

Clause 101

Interpretation

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss clause 102 stand part.

Lucy Frazer: This might be the shortest speech in this sitting. Clauses 101 and 102 simply set out the Bill's legal interpretation and short title in the usual manner for such legislation. I therefore commend them to the Committee.

James Murray: Clauses 101 and 102 are entirely reasonable, and we do not oppose them. I take this opportunity, however, on behalf of myself and my hon. Friend the Member for Erith and Thamesmead to thank other members of the Committee, including of course our Whip, my hon. Friend the Member for Blaydon. I also thank you, Sir Christopher, and all the House of Commons staff who have supported us through this Committee, in particular Chris Stanton, whom I thank for all his help and advice.

The Chair: We have not quite got there yet. We have some new clauses to consider after these clauses, but thank you very much for those comments.

Alison Thewliss: I was also going to thank people, but I am aware that we have new clauses. If you would rather that I waited until we have finished those, Sir Christopher, I will do so. *[Interruption.]* I am prompted by the hon. Member for Wolverhampton South West to thank Members for their indulgence of the many new clauses and amendments that we have tabled in Committee.

I will also take the opportunity to thank you, Sir Christopher, and the other Chairs for their smooth running of the Committee, and the Clerks for all their expertise and advice—especially Mr Stanton, as was mentioned by the hon. Member for Ealing North. Without the Clerks and their advice, we would have found it very difficult to put all these amendments together, and I thank them very much for that. I will also take the opportunity to thank Scott Taylor and Gus Robertson from our research team. They have now left—I do not think it was the Finance Bill that did it—and I wish them all the very best in their new jobs. I also thank Jonny Kiehlmann from our research team for his assistance, and the Ministers and Opposition Front Benchers for their comments.

A lot of the proposals we have tabled reflect the limitations that we, as the Opposition, face in moving amendments to the Finance Bill. We wish that there were a better process for this—rather than just calling for reports and things of that kind, we would like to be able to make substantial changes to the legislation before us—but that is not the way that things work in this House. It would also have been useful to take evidence from those who sent us written evidence, but I thank all of those who took the time to submit substantial written evidence to this Committee, because it gives us a great deal of assistance in making comments on the Bill. We will now go on to move our new clauses, which I am sure Members are all looking forward to.

The Chair: Minister?

Lucy Frazer: If you wish me to thank everybody before the new clauses are considered, Sir Christopher, I am very happy to do so.

The Chair: No, no.

Question put and agreed to.

Clause 101 accordingly ordered to stand part of the Bill.

Clause 102 ordered to stand part of the Bill.

New Clause 1

Review of reliefs on investments

"The Government must publish within 12 months of this Act coming into force an assessment of the impact on the tax gap of the reliefs on investments contained in this Act, and of whether those reliefs have increased opportunities for tax evasion and avoidance."—*(Richard Thomson.)*

Brought up, and read the First time.

Richard Thomson: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 6—*Review of impact of reliefs in Act on the tax gap*—

"The Government must publish within 12 months of the Act coming into effect an assessment of the impact of the tax reliefs in this Act on the tax gap, and of whether they have increased opportunities for tax evasion and avoidance."

Richard Thomson: I echo everything that everyone has said so far about the smooth running of the Committee. I congratulate and give grateful thanks to the Clerks and everyone who has supported each of us in what we have tried to achieve here.

I will try to be as brief as possible. New clause 1 is self-explanatory. If we had a simple tax code, we probably would not need an Office of Tax Simplification or have a tax gap as large as £35 billion. The new clause simply asks the Government to assess this, because they cannot possibly hope to address problems that they do not know about or understand.

At the risk of sounding like a broken record, my comments about new clause 1 are relevant to new clause 6 as well. With that, I draw my remarks about the new clauses to a close.

Lucy Frazer: I would like to address the points made by the hon. Member for Glasgow Central about the process, which she made earlier in the Committee's proceedings too. There is a clear process for how we make legislation and taxation. There is a large amount of consultation. The process is that we announce a consultation, there is a consultation, we reflect on the consultation, and then we bring in legislation. So long as I am in this position, I am happy to hear points made by the Opposition in the course of that consultation process, to ensure that we have the right and appropriate legislation on our statute book.

New clauses 1 and 6 would require the Government to publish an assessment of the impact of the tax reliefs in the Bill, including the reliefs on investments, on the tax gap, and to look at whether they have increased opportunities for tax evasion and avoidance. There are a number of new measures already in the Bill to ensure that we reduce the tax gap as far as possible. There are also measures in the Bill that deal with tax avoidance more broadly.

We have had significant success in bringing down the tax gap since 2010, as a result of the measures we have taken. I reassure the hon. Member for Gordon that we produce estimates of error and fraud, where we deem those appropriate. For example, estimates on corporation tax research and development reliefs were included in the annual reports and accounts, and we will continue to do that.

For those reasons, I believe that a separate reliefs impact assessment is not appropriate, and I ask the Committee to reject the new clauses.

Richard Thomson: I think I have said all that needs to be said on this subject; I am happy to let my remarks stand. I beg to ask leave to withdraw the clause.

Clause, by leave, withdrawn.

New Clause 2

Effect on GDP of international matters in Act, and of whole Act

"(1) The Government must publish an assessment of the impact on GDP of—

(a) the provisions in sections 24 to 28 of this Act, and

(b) this Act as a whole.

(2) The assessment must also compare these impacts to the impacts had the UK—

(a) remained in the European Union, and

(b) left the European Union without a Future Trade and Investment Partnership."—*(Richard Thomson.)*

This new clause would require a Government assessment of the effect on GDP of the international provisions of the Act, and of the Act as a whole, in different scenarios.

Brought up, and read the First time.

Richard Thomson: I beg to move, That the clause be read a Second time.

In Committee of the whole House, I referred to a new clause as the Jim Bowen from "Bullseye" clause. I am sure that we all remember that programme with great affection and especially recall what he said at the end if someone had not got 101 with six darts—"Let's have a look at what you could have won." This is the "let's have a look at what we could have won had we remained in closer alignment with the European Union" clause.

It is fair to say that there have been significant trade losses to date since Brexit. It is important not only that the Government should have a solid evidential basis of what those losses are and make conclusions about how they came about, but that others should have that information too. That is the basis of this new clause.

Lucy Frazer: The new clause would require the Government to publish a review of the impact of the international tax policy changes in the Bill, and of the overall tax changes in the Bill, on GDP. It also asks us to compare the impacts on GDP under two scenarios—one where the UK remained in the EU, and one where the UK left the EU without a future trade and investment partnership.

The hon. Member for Gordon will know that the Office for Budget Responsibility provides economic and fiscal forecasts and is required to provide an assessment of the impact of Government policy. The OBR published the impact on GDP at the autumn Budget 2021, ahead of its inclusion in the October 2021 economic and fiscal outlook, and the OBR will continue to monitor the impact of these measures in future forecasts. Since the independent OBR provides precisely such a forecast, it would be wholly unnecessary and unhelpful to public debate to induce the Government to produce a rival one.

10.45 am

In accordance with the law governing the OBR's independence and impartiality, it may produce forecasts only on the basis of published Government policy. It does not publish forecasts based on alternative policies, and I do not think that would be a useful exercise. Given that the OBR has already published an analysis of the impacts of the provisions in the Bill, I urge the Committee to reject new clause 2.

Richard Thomson: I beg to ask leave to withdraw the clause.

Clause, by leave, withdrawn.

New Clause 4

Impact of Act on tackling climate change

"The Government must publish within 12 months of this Act coming into effect an impact assessment of the changes in the Act as a whole on the goal of tackling climate change and the UK's plans to reach net zero by 2050."—*(Richard Thomson.)*

Brought up, and read the First time.

Richard Thomson: I beg to move, That the clause be read a Second time.

I have made the argument numerous times in various guises that for every action, every policy choice and every pound spent, we should understand the contribution, positive or negative, that that makes to achieving net zero and tackling climate change. That is why we tabled new clause 4.

Lucy Frazer: New clause 4, tabled by the hon. Member for Glasgow Central, asks the Government to

"publish within 12 months of this Act coming into effect an impact assessment of the changes in the Act as a whole on the goal of tackling climate change and the UK's plans to reach net zero".

I want to emphasise that we have just had COP26, which the Government led. Of course the Government are committed to ensuring that we reach the legislative target of being net zero by 2050, which we were the first country to set, and I reiterate that the Government have put in a significant fund of £30 billion to achieve that objective.

The hon. Member for Gordon asks us to consider that at each stage of the legislative process. I can give him some comfort that we are of course embedding those processes in Government. The "Net Zero in Government" chapter of the net zero strategy sets out how the Government will monitor progress to ensure that we stay on track to meet our target emissions.

At fiscal events, including the recent spending review, all Departments are required to prepare their spending proposals in line with the Green Book, which already

[Lucy Frazer]

mandates the consideration of climate and environmental impacts on spending. The investment decisions in spending review 2021 were informed by data and evidence on the expected contribution of proposals to meet net zero. In addition, the relevant tax information and impact notes that are prepared for all Budget measures carefully consider climate change and environmental impacts of relevant tax measures as they go through the process.

For those reasons, new clause 4 is unnecessary. We already consider the impact on the environment as we bring forward legislation, so I urge the Committee to reject the new clause.

Richard Thomson: I listened carefully to what the Minister said. I look forward to seeing how those governance measures operate in practice—how they are introduced and how effective they turn out to be. On that basis, I beg to ask leave to withdraw the clause.

Clause, by leave, withdrawn.

New Clause 12

Impact of Act on tax burden of hospitality sector

"The Government must publish within 12 months of this Act coming into effect an assessment of the impact of the Act as a whole on the tax burden on the hospitality sector."—*(Richard Thomson.)*

Brought up, and read the First time.

Richard Thomson: I beg to move, That the clause be read a Second time.

New clause 12 seeks to place an obligation on the Government to

"publish within 12 months of the Act coming in effect an assessment of the impact of the Act as a whole on the tax burden on the hospitality sector."

Our main concern is about VAT. It seems bizarre to be removing the 5% VAT relief so early in the new year, particularly given the situation we are in, especially when most of us agree that the best way for the hospitality sector to get back on its feet is to allow it to trade its way out of the situation that it is in, cognisant of our obligations to wider public health objectives.

The hospitality sector needs our help. As I say, we think the best way of doing that is to allow it to trade as circumstances allow and for the Government to change their mind on VAT—although I accept that they are unlikely to do so at this stage. We would therefore very much welcome a review of the impact of the Act as a whole on the hospitality sector after 12 months, which would provide an evidence base for future tax and policy changes that may be beneficial.

Right across these islands, we have a hospitality and tourism sector to be proud of. It is imperative that we ensure that there are no unintended tax consequences from the measures in the Bill, and we should do all we can to support the sector to support itself and get on with doing what it does best. I would like a review, just to make sure that we are utterly mindful of that at all stages and that we do not build in perverse incentives or add any unnecessary drags, anchors or impediments to the sector's recovery.

Lucy Frazer: As the hon. Gentleman says, the new clause asks the Government to

"publish within 12 months of the Act coming in effect an assessment of the impact of the Act as a whole on the tax burden on the hospitality sector."

He is right to highlight the importance of that sector to the British economy and the British people. He will be aware of the significant support that the Chancellor has given to the hospitality sector over the course of the pandemic, reducing the burden of business rates by over £7 billion over the next five years, including by providing almost £1.7 billion in further business rates relief in 2022-23, which will benefit the hospitality sector. I hope that shows not only that we have supported the hospitality sector during the pandemic, but that we are supporting it in different ways as we come out of the pandemic.

Of course, we already carefully consider and monitor the impact of all tax changes, including on different sectors, such as hospitality, as part of our decision-making process. The Government also publish TIINs—the tax information and impact notes I mentioned—to accompany tax legislation. Those include the impact of tax changes on businesses. The new clause would introduce unnecessary additional bureaucratic requirements and complexity, and I therefore urge the Committee to reject it.

Richard Thomson: I beg to ask leave the withdraw the clause.

Clause, by leave, withdrawn.

Question proposed, That the Chair do report the Bill, as amended, to the House.

Lucy Frazer: I thank you, Sir Christopher, and your co-Chair, *Hansard,* the Doorkeepers, our Whips, our Parliamentary Private Secretaries and our officials at Her Majesty's Treasury and Her Majesty's Revenue and Customs, who have supported us through the Committee. I thank all Committee members for their diligence, their contributions and their support, or constructive criticism, throughout the Committee, and for making this a productive session. I very much look forward to Report. I also thank my co-Minister, the Exchequer Secretary to the Treasury, for the work that she has done.

The Chair: It has been a pleasure to co-chair the Committee and I much appreciate the work that my co-Chairs have done, including the one who stepped in at the very beginning. On behalf of the Committee, I thank all the people who have made it work so smoothly: the Clerks, the *Hansard* Reporters, the Badge Messengers, the police and everybody else involved. I offer them my sincere thanks. We have finished sooner than we expected, and it is obviously the wish of the Minister that people should use the time made available to ensure that they get their tax returns in on time.

Question put and agreed to.

Bill, as amended, accordingly to be reported.

10.55 am

Committee rose.

Written evidence reported to the House

FB14 Chartered Institute of Taxation