

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

## Public Bill Committee

# ENTERPRISE AND REGULATORY REFORM BILL

*Fourteenth Sitting*

*Thursday 12 July 2012*

*(Morning)*

---

### CONTENTS

Written evidence reported to the House.

CLAUSES 49 and 50 agreed to.

SCHEDULE 16 under consideration when the Committee adjourned  
till this day at One o'clock.

---

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS  
LONDON – THE STATIONERY OFFICE LIMITED

£4.00

Members who wish to have copies of the Official Report of Proceedings in General Committees sent to them are requested to give notice to that effect at the Vote Office.

No proofs can be supplied. Corrigenda slips may be published with Bound Volume editions. Corrigenda that Members suggest 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**

**Monday 16 July 2012**

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY  
FACILITATE THE PROMPT PUBLICATION OF  
THE BOUND VOLUMES OF PROCEEDINGS  
IN GENERAL COMMITTEES

© Parliamentary Copyright House of Commons 2012

*This publication may be reproduced under the terms of the Parliamentary Click-Use Licence,  
available online through The National Archives website at*

*[www.nationalarchives.gov.uk/information-management/our-services/parliamentary-licence-information.htm](http://www.nationalarchives.gov.uk/information-management/our-services/parliamentary-licence-information.htm)*

*Enquiries to The National Archives, Kew, Richmond, Surrey TW9 4DU;*

*e-mail: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk)*

**The Committee consisted of the following Members:**

*Chairs:* † HUGH BAYLEY, MR GRAHAM BRADY, MARTIN CATON, MR CHARLES WALKER

Anderson, Mr David (*Blaydon*) (Lab)  
 † Bingham, Andrew (*High Peak*) (Con)  
 Bridgen, Andrew (*North West Leicestershire*) (Con)  
 † Burt, Lorely (*Solihull*) (LD)  
 † Carmichael, Neil (*Stroud*) (Con)  
 † Cryer, John (*Leyton and Wanstead*) (Lab)  
 † Danczuk, Simon (*Rochdale*) (Lab)  
 † Davies, Geraint (*Swansea West*) (Lab/Co-op)  
 † Evans, Graham (*Weaver Vale*) (Con)  
 † Johnson, Joseph (*Orpington*) (Con)  
 † Lamb, Norman (*Parliamentary Under-Secretary of State for Business, Innovation and Skills*)  
 † Morris, Anne Marie (*Newton Abbot*) (Con)  
 † Mowat, David (*Warrington South*) (Con)  
 † Murray, Ian (*Edinburgh South*) (Lab)

† O'Donnell, Fiona (*East Lothian*) (Lab)  
 † Ollerenshaw, Eric (*Lancaster and Fleetwood*) (Con)  
 † Onwurah, Chi (*Newcastle upon Tyne Central*) (Lab)  
 † Prisk, Mr Mark (*Minister of State, Department for Business, Innovation and Skills*)  
 † Ruane, Chris (*Vale of Clwyd*) (Lab)  
 Simpson, David (*Upper Bann*) (DUP)  
 † Smith, Julian (*Skipton and Ripon*) (Con)  
 † Wright, Mr Iain (*Hartlepool*) (Lab)  
 † Wright, Jeremy (*Lord Commissioner of Her Majesty's Treasury*)

James Rhys, Steven Mark, *Committee Clerks*

† **attended the Committee**

## Public Bill Committee

Thursday 12 July 2012

(Morning)

[HUGH BAYLEY *in the Chair*]

### Enterprise and Regulatory Reform Bill

#### Written evidence to be reported to the House

ERR 34 Edwardes Square Scarsdale and Abingdon Association (ESSA)

ERR 35 Joint Working Party of the Bars and Law Societies of the United Kingdom on Competition Law

ERR 36 Country Land and Business Association

ERR 37 British Association of Picture Libraries and Agencies (BALPA)

ERR 38 British Library

#### Clause 49

##### SUNSET AND REVIEW PROVISIONS

9 am

**Mr Iain Wright** (Hartlepool) (Lab): I beg to move amendment 93, in clause 49, page 41, line 35, at end insert—

‘(2A) Prior to the subordinate legislation coming into force, the review of the effectiveness of the legislation as set out in 14A(2)(a) will receive the views of businesses, business organisations, civic organisations and trade unions, and any such organisations which the person considers appropriate.’

Good morning, Mr Bayley. It is a pleasure to see you back in the Chair for our deliberations on this sunny morning. I am pleased to be back in the driving seat after a number of sittings in which I was not. I want to thank my hon. Friends the Members for Edinburgh South and for Newcastle upon Tyne Central, who probed and scrutinised the Bill’s provisions on employment legislation and competition and mergers with good humour, forensic skill and professionalism. I wish the Minister had taken on board the important points that they raised. In fact, they did far too good a job for my liking, so I will stop praising them now.

It is a particular delight to welcome the hon. Member for Newton Abbot after her feisty, if terrifying, performance at Prime Minister’s questions yesterday. She has served in Committee with great dedication. I can now see how she got that arm in a sling. She was no doubt involved in a violent and bloody brawl in a bar, presumably looking for anecdotal evidence for the Committee from a man down the pub. I dread to think what the other bloke looks like, but presumably we should convey our sympathies to his family. Given the hon. Lady’s performance yesterday, I was tempted to withdraw all amendments to avoid any broken bones and for a quiet life. However, as it is a sunny day and I feel rather feisty myself this morning, I think I will chance my arm.

On the subject of amendments, the British Retail Consortium stated in its written submission to the Committee:

“We welcome the intention of the introduction of sunset clauses and other deregulatory measures in the Bill, such as those on tv licence administration. However, we are not optimistic that these will all deliver their potential, given our experience with the Red Tape Challenge and One in, One out. We need to see genuine sunset reviews when the term is up, with a formal role for stakeholders.”

I think we agree with the need for a formal role for stakeholders. Businesses and other relevant stakeholders should be able to shape the Government’s thinking on business policy in general and sunset provisions in particular. It is of little help to businesses and the wider economy if somebody in Whitehall decides, unilaterally and without consultation, to apply sunset provisions when businesses or other groups might consider them to be successful or not in need of termination. The purpose of the amendment is to add an additional subsection to clause 49 to ensure that, prior to any sunset provisions being implemented, the review of the original legislation would include the views of businesses affected by that legislation and its possible repeal.

Business organisations such as the CBI and the Federation of Small Businesses, as well as trade unions and any other stakeholders considered appropriate, will also have a view. I do not think the amendment is contentious. It is a means of ensuring that business policy is not dictated to businesses and enterprises, but is produced in full consideration of them and in consultation with them. I hope the Minister will take advantage of this beautiful sunny morning and start as he means to go on. I hope he will feel able to accept the amendment.

**Anne Marie Morris** (Newton Abbot) (Con) *rose*—

**Mr Wright:** I am really frightened of the hon. Lady, so before I formally sit down, I will just say please don’t hurt me.

**Anne Marie Morris:** I thank the shadow Minister for giving way. May I ask him what thought he has given to the practicality of implementing his amendment, and indeed the cost of such representation? I understand the thought behind the amendment, but in terms of the additional cost and burden, has he looked at what it will amount to and how practical it is, even though the idea is a good one?

**The Chair:** Well, answer that, Mr Wright!

**Mr Wright:** I will do my very best, Mr Bayley. I should not have taken that intervention. It was far too good a question.

The hon. Lady makes an important point. On sunset clauses generally, we will discuss the fact that everything around the clause and the review of legislation and around regulation in general needs to be proportionate. I am not suggesting a full, wide and potentially expensive consultation exercise, but channels are already in place for Ministers and officials to speak with the affected organisations and businesses. There is a small window of opportunity in which businesses and stakeholders can say that they agree with what the Government are

trying to do, or that they disagree and want the Government to consider something else. As I have said, we need to ensure that business policy is not dictated to businesses, but is produced in full consultation with them.

**Chi Onwurah** (Newcastle upon Tyne Central) (Lab) *rose—*

**Mr Wright:** I shall give way. I am getting used to it now.

**Chi Onwurah:** In intervening, I am following my hon. Friend's example. Although it is important to minimise the costs of engaging with stakeholders and business, does he agree that if the Government do not invest in such engagement and ensure that they hear as many views as possible, they will be more subject to undue influence from lobbyists and those who can afford to put their views across?

**Mr Wright:** I certainly agree with my hon. Friend. In many respects, large organisations have the ear of Government because they can employ public relations or lobby organisations. I am thinking of small and medium-sized enterprises being able to have their say as well.

In response to my hon. Friend, a lack of consultation, or even of just saying, "Do you think that this is a good idea?", means bad legislation and bad policy. We have seen that time and again from successive Governments. If things happen unilaterally, ill-thought through legislation is the result. I mention that because it is a good case study for how not to make business policy. As for the feed-in tariff decision, there may have been a need to change the tariff, but to have done it with sufficient time for businesses to plan, adapt and consult would have meant better outcomes for everybody and for industry all around. I hope the Minister is in a generous mood this morning. He certainly looks happy and content with his lot. On that basis, I hope that this very reasonable amendment will be accepted with very little delay.

**The Minister of State, Department for Business, Innovation and Skills (Mr Mark Prisk):** Welcome back to the Chair, Mr Bayley. We look forward to your firm but fair stewardship. It is a sunny morning, and I hope that we can maintain our deliberations in a positive fashion. As the hon. Gentleman has said, strengthening the review of new regulation is fundamental, which is why we have set out a comprehensive approach to both sunseting and reviewing. We should all accept the fact that the record of successive Governments, of all colours and hues, in ensuring the systematic review of regulations has been rather poor. That has led to a large volume of obsolete, burdensome and, very often, out-of-date regulation, which is why we have been trying to tackle it through the red tape challenge and other measures. Our policy on sunseting will help to avoid the same problems occurring in the future.

I understand that the intention of the amendment is to strengthen the process of conducting reviews by introducing a formal statutory requirement on the Minister responsible so that the review receives the views of businesses, civic leaders and so on. Let me say clearly to the Committee that the Government are already committed

to the principle of engagement, with stakeholders forming a vital part of the review. Indeed, paragraph 39 of our sunseting guidance already states that

"in carrying out reviews, Departments will need to consider how best to gather information and views from businesses, civil society organisations, and others affected by the regulation."

It goes on to note that

"a formal consultation may form a valuable part of this process."

Additionally, to promote transparency and encourage stakeholder input, Departments are encouraged to publish a forward schedule of planned reviews so that businesses can see exactly what is coming up. However, it is important for practical reasons that Departments retain some degree of discretion as to how to carry out the review, what evidence to use, and how to engage with those affected by the review. For example, a sectoral review that might affect a handful of businesses, or where the effectiveness is easily measured, is likely to require a less extensive process than something that might involve hundreds of thousands of business premises. Indeed many businesses say to us, "Please ensure that you do these consultations on"—and the hon. Member for Hartlepool used this phrase himself—"a proportionate basis". Where something is clear, specific and narrow, we should not go in for the same rigid approach that might be more important in a more substantial measure.

**Geraint Davies** (Swansea West) (Lab/Co-op): In reference to that, UK carbon pricing, which was introduced by the Chancellor without consultation with Tata Steel in my area, is outside the normal pricing for the European zone. It will disadvantage Tata in Britain, giving it an incentive to go elsewhere in Europe. That is an example of where consultation could have been used effectively, given that after the event, there was a certain amount of back-peddalling.

**Mr Prisk:** If the hon. Gentleman knows the steel industry, he will know that the Government were actively engaged in that matter when the primary legislation and secondary legislation were being proposed. However, he is right. That is one of the areas in which we want to ensure that consultation is appropriate and is with the right number of stakeholders.

Ministers also need to consider the views of Departments and agencies responsible for enforcing the regulations, particularly when that highlights issues regarding the practical implementation of the regulations and opportunities to streamline compliance and burdens. On a technical point, the Minister responsible for the review is, under existing administrative law, already obliged to consider any submissions made to him or her in relation to the review. In that sense, the amendment would duplicate an existing legal requirement.

The Government are committed to engage stakeholders as part of the process of gathering evidence to feed into a review. The hon. Member for Hartlepool is right that that is an important principle, and we entirely agree. That includes Ministers considering any views or representations received in connection with a review. The evidence shows that that can be delivered without an additional statutory prescription and in a way that allows for an approach to be tailored to the circumstances of each review. I understand the intention, and it is entirely appropriate. However, on those re-assurances,

[Mr Prisk]

particularly regarding proportionality, which he highlighted, I hope that the hon. Gentleman will consider withdrawing the amendment, having got those important points on to the record.

**Mr Iain Wright:** I thank the Minister for his thoughtful response. I have read closely the sunset guidelines produced by his Department. It is a good document that should set the benchmark for what happens to ensure that we can repeal unnecessary and burdensome regulation and legislation. That is a good focal point for that. He is right: a lot of the points that I have tried to raise in the amendment are mentioned in the guidelines.

The Minister's response to me centred, quite rightly, on proportionality. I absolutely agree with that. In my response to the hon. Member for Newton Abbot, I said that I do not think it appropriate to have a full-scale consultation on what is almost universally considered to be an acceptable repeal of a piece of legislation. However, I think it was important that we got on the record that businesses, business organisations, trade unions and other stakeholders should be consulted on the matter. Business policy-making together between the Government and relevant stakeholders will always make for better legislation, regulation and policy.

**Geraint Davies:** That said, does my hon. Friend accept that the Government need to do better? People planning a caravan holiday eating pasties this summer were a bit thrown about whether their budget would stretch to pay the tax.

**Mr Wright:** My hon. Friend makes a fair point. We are now coming to the end of our deliberations in Committee. We will finish next week, as will Parliament, for the summer recess. I would imagine that many hon. Members are thinking about caravan holidays stacked full of pasties; I certainly am.

My hon. Friend makes an important point. Legislation that has not been well thought through and that lacks consultation with stakeholders means bad legislation and a sense of incompetence from the Government. We have seen that from the Chancellor regarding the Budget on a number of matters. I mentioned feed-in tariffs, which is a particularly good example. We have seen it time and time again.

**Julian Smith** (Skipton and Ripon) (Con): Will the hon. Gentleman give way?

**Mr Wright:** It is great to have the hon. Gentleman back.

**Julian Smith:** Does the shadow Minister accept that the proposals on sunset clauses were made by various regulatory organisations and leaders under the previous Government, but they were totally ignored? I am sure that he will welcome the fact that this Government are introducing them and taking action.

9.15 am

**Mr Wright:** That is slightly harsh. The hon. Gentleman must have got out of the wrong side of the bed this morning. I have put on the record two or three times

that we do not have a problem with the basic premise behind clause 49. We want to tighten the language and help as much as possible. We want to make business policy as pro-business as possible, in consultation with business.

**Julian Smith:** Why did Labour not do it in government then?

**Mr Wright:** The hon. Gentleman asks from a sedentary position why we did not do that in government. I will come on to that in connection with another amendment.

The Minister has made some reasonable points, such as the one about proportionality. I am pleased to have put our concerns on the record and with the manner of his response. On that basis, I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

**Mr Iain Wright:** I beg to move amendment 94, in clause 49, page 42, line 10, at end insert—

(7) Subordinate legislation identified as having ceased to have effect in 14A(2)(b) will cease to exist only on one of two prescribed dates.

(8) The dates as set out in 14A(7) will be 6 April and 1 October (known as the Common Commencement Date).

(9) The Secretary of State must publish a Statement of new Regulations at least three months before new regulations come into force.

(10) The Statement of New Regulations must include—

(a) new regulations which will come into force at the next Common Commencement Date;

(b) regulations that cease to have effect in subsection 14A(2)(b).

Like the previous amendments, amendment 94 is pro-business. Despite my warm words, I was disappointed that the Minister could not show his support for business with the previous amendment. Perhaps he can this time round.

In my role as shadow Minister for competitiveness and enterprise, I speak with businesses every day. The one common thing they say they require from Government more than anything else—whether it is the ability to fire people at will, or any other piece of legislation—is certainty. Provide businesses with a stable and certain policy environment, in which Government decisions are made—in consultation with businesses and other stakeholders—adhered to and announced with sufficient time for businesses to plan and adapt, and businesses will have the ingenuity, entrepreneurial skill and flair to do their bit to boost the economy, create growth and provide employment opportunities.

Conversely, if there is an uncertain environment, in which businesses are unsure of the general business policy direction of the Government, the Government lack a “compelling vision” for the economy—as the Secretary of State for Business, Innovation and Skills stated, far more eloquently than I could—and there are ad hoc, knee-jerk and ill thought-through policies announced without due consultation with businesses or sufficient time for them to adapt, investment and confidence will undoubtedly plummet.

**Ian Murray** (Edinburgh South) (Lab): I am grateful to my hon. Friend for giving way, because a prime example of the situation he outlines in his compelling

speech is what happened with feed-in tariffs, and what that did, not just to the industry, but the 40,000 or so workers in the industry in Scotland.

**Mr Wright:** My hon. Friend is absolutely correct. I have frequently mentioned that the feed-in tariff decision is a good example of how not to conduct and implement business policy. I have a lot of affection for my hon. Friend, who is obviously a future Minister, as opposed to my role as a former Minister. Had he been here on time, he would have heard me talking about feed-in tariffs. I hope he has to stay late tonight to make up for that.

Furthermore, if the Government tinker or micro-manage, rather than set a broad road map for businesses to follow, uncertainty and instability increase again. Frequent changes to regulation are bad for business, as companies and entrepreneurs will not be aware of the regulations and at what time they should comply with them. The Institute of Chartered Accountants in England and Wales, of which I am a member, has stated that reviews on sunset clauses and other regulation could lead to minor changes that would lead to a net increase in the regulatory burden for businesses.

**Julian Smith:** Will the hon. Gentleman give way?

**Mr Wright:** I knew the hon. Gentleman could not resist.

**Julian Smith:** Will the shadow Minister say what action he took in government to reduce the six regulations per working day that the Labour Government—the anti-business party—imposed on British business?

**Mr Wright:** The hon. Gentleman needs to calm down. If he is patient, I will come to that in the clause stand part debate. I am trying to be helpful to the Government in setting out the great record of what we provided. Let him be more patient for a couple of minutes—or a couple of hours, depending on how I feel.

**Ian Murray:** I am grateful to my hon. Friend the former Minister for giving way so generously. Does he agree that we have missed the hon. Member for Skipton and Ripon?

**Mr Wright:** It was not the same without the hon. Gentleman. I do not know whether he was ordered off the estate by the Prime Minister and the Whips for certain things that happened this week, but I am sure he is a loyal and obedient member of one of the governing parties.

To go back to the amendment—I am sure that will please you, Mr Bayley—businesses tell me time and again, “Government should just tell us what they want to do, in enough time to help us do it, and then do it, and we can cope with everything else.” In a nutshell, that is the purpose of the amendment. It attempts to ensure that changes to regulations, particularly the sunset provisions in the clause, come into force or end their period in force on only one of two dates in a year. We have chosen 6 April and 1 October, because those dates are already familiar to businesses from the regulatory environment.

Common commencement dates were established by the Chancellor of the Exchequer in his pre-Budget report in December 2004 to ensure that administrative burdens on business were reduced as much as possible. I say to the hon. Member for Skipton and Ripon, “There you go”—in 2004, if not earlier, we recognised the need as much as possible to make things simple and to remove the unnecessary burden of regulation for businesses. The amendment proposes that the sunset clauses will cease to have effect on only one of two dates, and that the Secretary of State must publish a statement of new regulation at least three months before new regulations come into force or sunset regulations cease to have effect. That is to give businesses clear notice of what will be required and on what specific dates.

I expect the Minister will say that the Government are already committed to such a thing, as they publish a statement of new regulation three months prior to regulations coming into force, so there is no need for the amendment, but we disagree. We support the principle behind sunset clauses, as I have now said for the fourth or fifth time. Indeed, we support the notion of having a statement of new regulation, which is important in allowing businesses to plan thoroughly and comprehensively and in trying to reduce the administrative burden as much as possible.

The amendment is needed because the Government are not complying with their own principles. The April 2011 statement of new regulation did not give three months’ notice for any changes to regulations and even included changes that had occurred three months previously. As I understand it, the September 2011 statement of new regulation was backward-looking, hardly giving businesses time to prepare and providing no prior warning of regulation changes. There was hardly any progress with the April 2012 statement of new regulation, which again included no changes to regulations three months prior to their coming into effect, but included some changes that had occurred four months earlier. That means that business does not have adequate time to plan, adapt and make use of what is coming along.

Although we can give the Government the benefit of the doubt and presume that they have good intentions—and I believe that this Government and this Minister have good intentions—statutory muscle is needed to back up their intentions. That is the purpose behind the amendment and, given my explanation, I hope that the Minister will accept it.

**Mr Prisk:** I am grateful to the hon. Gentleman. I do not know if the rest of the Committee noticed, but I noticed just a hint of possible bitterness in that he alluded to himself as “a former Minister” and talked about his hon. Friend as “a future Minister”, but then slipped in the phrase:

“Had he been here on time”.

I think their coalition is beginning to fracture, which is a very concerning issue. I will not tempt your patience further, Mr Bayley, but I will not refer to the hon. Gentleman as “the former Minister”, which is a very unkind suggestion. As I said earlier, it is not the autumn of his career—it is possibly late winter—but we will get on to that later. If I may say so, I am very pleased by his supportive comments. Indeed, he was correct to say that the last Government introduced common commencement dates, and it was good to hear his support for, for example, the statements of new regulation.

[Mr Prisk]

Turning first to the part of the amendment relating to common commencement dates, I stress that the Government are absolutely committed to the principle of CCDs for new domestic regulation affecting business. CCDs are essential in supporting businesses in managing their own compliance activities as efficiently as possible. With respect to sunset dates, the Government's policy is that the date on which a regulation ceases to have effect should be seven years after the date on which it comes into force—clear and simple. Where the regulation comes into effect on a CCD—although not all measures do—the sunset date will also fall on a CCD. In that sense, there is no additional benefit from prescribing this requirement, which is suggested in the amendment.

The proposed amendment as currently drafted may have an unintended important flaw. As it would apply to all subordinate legislation, it would also apply to temporary legislation that was outside the scope of the common commencement date policy. That would apply, for example, to temporary social security legislation or temporary traffic regulation, such as that related to the Olympics. In those cases, the Committee will understand that there may be legitimate reasons for the legislation ceasing to have effect other than on 6 April or 1 October, but that would not be allowed by the amendment as drafted. Although clearly not its intention, if the amendment were passed, we must consider that that would be the unfortunate effect.

Turning to the provisions related to the statement of new regulation, I first welcome the Opposition's support. The statement plays an important role in providing both transparency for business and accountability for Departments, particularly in relation to the one in, one out rule. The Government are also committed to continuing to improve the statement. The hon. Member for Hartlepool is right to say that the first statement did not give sufficient notice, which is why we will publish statements a full three months ahead of common commencement dates. The statement can also be improved by ensuring that those measures that we are scrapping as part of the red tape challenge are incorporated. I have also asked the Better Regulation Executive to examine how we can provide an overview of forthcoming measures that transpose European legislation, because that is something that businesses want to see in advance.

In future, I certainly expect that regulations that are no longer applicable as a result of sunset will also be included in the statement. It is essential that we maintain the forward momentum and continue to improve and develop the statement. Indeed, several business organisations have put suggestions to us, and we have been able to incorporate them. The Government have been able to do that without the need to formally enshrine the statement in legislation. In fact, I would have concerns that recasting the statement as a formal statutory requirement would act as an unwelcome constraint and make the statement less responsive as events change and develop.

**Julian Smith:** Can I ask the Minister to go down a side road and briefly talk about regulatory budgets and how they would impact on this sort of amendment?

Regulatory budgets are suggested by a number of business organisations. I welcome what the Government have done on statements, but are such budgets a possibility?

**Mr Prisk:** The one in, one out arrangements—without stretching too far beyond the amendment—are based not necessarily on the number of measures, but on the net cost to business, so it is entirely about Departments looking at their regulatory budget and asking, “Are we bringing forward a measure that will incur an additional cost? If so, we need to work to our budget to ensure that we actually reduce the commensurate amount.” It is about capping that number. The principle of getting the costs is right. Whether we move on to a more sophisticated Department by Department budget, measure by measure, is more complex. We want to cap the cost and get Departments to understand the cumulative burden, which is more likely to have an immediate effect. However, my hon. Friend's suggestion is an interesting thought for the future.

I am grateful to the hon. Member for Hartlepool. I hope that my explanation of the Government's policy, with particular regard to common commencement dates and improving the statement of new regulation, is helpful. I hope that the hon. Gentleman is reassured that the intended benefits of the amendment will be achieved, but without the need to include the measure in primary legislation. Equally, I hope that he will realise that, as it is currently drafted, there is a serious, albeit unintended, flaw.

**Chris Ruane** (Vale of Clwyd) (Lab): Atishoo!

**Mr Prisk:** There is a serious something else going on here.

Given those two points, I invite the hon. Gentleman to withdraw the amendment.

9.30 am

**Mr Iain Wright:** In response to the Minister's opening remarks, I confirm that there is no split in the Opposition. I am merely bitter that we have incredible Front-Bench talent, such as my hon. Friends the Members for Edinburgh South—he seems to agree with that remark—and for Newcastle upon Tyne Central, while I am in the autumn of my days, thinking about the career that I could have had. Perhaps the Minister should think about sunset clauses with regard to my own career; I think the Leader of the Opposition is certainly considering that.

The Minister has made an important point, and I accept that the drafting of the amendment would create a flaw in respect of temporary regulation. That is a fair point. As with the previous amendment, I hope that we have been able to put on the record the importance of ensuring that the regulatory environment is as clear-cut as possible for businesses, so that they can plan and adapt. They must be confident that they will need to comply with the regulation until a certain date, after which it will no longer apply. That was the reasoning behind the amendment, but I accept what the Minister has said. Given the points that we have put on the record, and given the Minister's response, I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

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

**The Chair:** Does the hon. Member for Skipton and Ripon want to speak?

**Julian Smith:** I do not wish to speak.

**Mr Iain Wright:** I was watching the hon. Member for Skipton and Ripon and I wondered whether he was trying to catch your eye, Mr Bayley. He was using the most ingenious method of doing so, which was to avert his gaze completely, so I was a bit concerned.

As I have said about five or six times, we broadly agree with the concept of sunset clauses when it comes to regulation, because they are often sensible and appropriate. As with a lot of things, however—to pull an old cliché out of the bag—the devil is in the detail. It would be useful if the Minister could outline which regulations should be only temporary in nature. He has mentioned, for example, traffic for the Olympics, and recent measures were introduced concerning Sunday trading during the Olympics. It would be helpful, however, if he were to outline what sort of regulations should come to an end after seven years.

I am sure that the Committee agrees with the notion expressed on the website of the Department for Business, Innovation and Skills that in the field of regulation:

“It is essential that the Government’s evaluation procedures fit together, in order to: allocate resources effectively and efficiently; avoid duplication of time and effort; exploit any synergies; ensure that evaluation of policy is effective; and, assess properly the existing policy landscape and learn from previous experience in the design of new policy.”

I am pleased to see some Government Members nodding—at least, those hon. Members who are still awake—because those comments were published by the previous Labour Government. According to the evidence, businesses are either unimpressed by or unaware of the Government’s regulatory reform efforts. The majority of business is simply unaware of the much-vaunted—at least by Ministers—one in, one out scheme. In the latest enterprise survey by the Institute of Chartered Accountants in England and Wales, which was published in January, 68% of businesses said that they were unfamiliar with the one in, one out initiative. We must do more than merely raise awareness, however. Among the companies in the survey that were familiar with the initiative, almost 80%—a quarter of all the businesses that were interviewed—felt that it would not help their businesses. Only 6% of all respondents were both familiar with the initiative and of the opinion that it would help to tackle the regulatory challenges that they faced.

Businesses currently feel that the Government are presiding over a deteriorating climate for business. In 2010 the ratio of business-friendly to non business-friendly, in terms of attitude to the UK regulatory and tax environment, was 50:48. That is, businesses felt in the last year of the Labour Government that on balance the regulatory and tax environment was supportive of business. In the last survey that ratio had deteriorated alarmingly to 44:53.

**Ian Murray:** What were those figures again?

**Mr Wright:** Forty-four to fifty-three.

Significantly, small and medium-sized enterprises, which we all agree are the lifeblood of the economy and the area that the Government need to nurture and tend for economic growth and employment creation, tend to be

less positive about the regulatory and tax environment than larger firms. That may be because they do not, as we have already discussed in Committee, have the human resources departments to deal with many of the things in question.

For medium-sized firms we need a UK equivalent of the German Mittelstand, promoting great engineering and other businesses such as the German economy has. In 2010, the last year of the Labour Government, 55% of medium-sized firms said that the environment was generally business-friendly. In 2011 the proportion of businesses that said the tax and regulatory reform environment was generally business-friendly was 38%.

In different markets and territories, according to the ICAEW survey, the UK was seen as less positive. That was true in comparison with businesses in the Americas, Asia-Pacific, the Gulf and Africa. Even Europe was seen as more business-friendly with respect to the national regulatory and tax environment.

I raise all that to show that while clause 49 is something to consider and in many respects—I think this is the seventh time now—the Opposition agree with it, the notion that it will be a magic panacea for the economy is ludicrous. It is judged, if it is judged at all by businesses, as populist. The red tape challenge and one in, one out sound good; but if we drill down there is nothing meaningful there to help the economy, or to help businesses with their day-to-day running, and promote growth.

**Julian Smith:** The hon. Gentleman is talking complete rubbish. Regulation is one of the major challenges for a business. The clause is part of a suite of measures that the Government are taking: the red tape challenge, the moratorium on new regulation on businesses, the statement, and the removal of individual regulations. It is not the sexiest area of Government policy, but that does not mean it is not important. The Minister is doing more about regulation than any Minister in recent history.

**Mr Wright:** The hon. Gentleman can say all that, but it is not I who say that the environment is deteriorating: it is businesses at the coal face who day to day must deal with Government Departments, and are not even aware of such things as the red tape challenge or one in, one out. When they are aware, they think, “It is nothing that helps me, or that is relevant to my business or my chances of business success.” We need to listen to businesses about this.

As I said, the idea of being able to reduce the regulatory burden on businesses as much as possible, to allow them to flourish and thrive, while protecting such things as health and safety and employment rights, is vital. The Opposition certainly support that. We do not want regulation for its own sake. *[Interruption.]* I cannot believe that people on the coalition Benches sound astonished when an Opposition Member says that. It is true. We want an environment where businesses thrive. My concern is that people who run businesses are not even aware of the regulatory reform that is taking place, and when they are they do not feel that it is relevant to their business.

**Geraint Davies:** Does my hon. Friend agree that, to be fair to the Government, one reason businesses are more irritated about regulation than they were under

[Geraint Davies]

Labour is that growth has collapsed? The phone is not ringing because of the double-dip recession and they have nothing to do. They fill in a few forms, which they would have to do anyway, which would normally be a small part of their working time, and now there is not enough work to do. It is just a symptom of the Government's grotesque economic failure.

**The Parliamentary Under-Secretary of State for Business, Innovation and Skills (Norman Lamb):** Thanks for being fair.

**Mr Wright:** I was worried when my hon. Friend talked about being fair to the Government, but I think he pulled it round spectacularly in the end.

I agree with my hon. Friend, and think that what he said was balanced, and it is important. Businesses are concerned about regulation. They want to get rid of unnecessary burdens, but they also want a more favourable economic policy from the Government.

Members may have seen the front cover of the *Financial Times* this morning, the first paragraph of which reports:

"The head of Britain's biggest employers' group has strongly criticised the government for the 'really disappointing' implementation of its growth plan, asking: 'Where are the diggers on the ground?'"

John Cridland, the director-general of the CBI, said members of the government appeared to be 'dazzled in the headlights', resulting in a lack of progress on growth seven months after George Osborne set out his plan to stimulate Britain's sluggish economy."

So the growth plan is not working; it is simply not working. Businesses want regulation removed. Regulatory reform is important, but more than tinkering with employment legislation to make firing people easier, as the Committee has already discussed, businesses want a credible plan for growth with the Government ensuring stimulus to create employment opportunities and a competitive vision for the future economy. We simply do not have that.

**Lorely Burt (Solihull) (LD) rose—**

**Mr Wright:** I hope the hon. Lady, who regularly defends the Government, appreciates that we have no growth and the Government do not seem to be doing anything about it.

**Lorely Burt:** I am grateful to the hon. Gentleman for giving way.

I am sure the hon. Member for Swansea West is right when he says that so much business confidence and perception of how well things are going is predicated on growth. The Government are doing all they can to encourage growth. The clause, however, is not about growth; it is about improving the business environment and enabling the introduction of sunset provisions that were not introduced by the previous Government.

I am confused. Why is the hon. Member for Hartlepool saying that business is not aware of the regulations that Governments introduce, or, in this case, ensure the disposal of at an appropriate point so that the regulations do not outlive their time, when his Government introduced five regulations every day?

**Mr Prisk:** Six.

**Lorely Burt:** I beg my hon. Friend's pardon. Is the hon. Member for Hartlepool therefore saying that, because nobody noticed that the previous Government introduced six regulations each day, we should not worry and business will be happy to continue?

**Mr Wright:** I think that was an intervention, but it is the longest speech of the morning.

The hon. Lady, with the greatest respect, says that I am addressing the need for growth, which is not covered by the clause or the Bill. She is right. We are discussing, line by line, an Enterprise Bill that is meant to foster a competitive environment for UK firms, ensuring that they can both compete within the British economy and export their goods and services to the rest of the world. We want wealth creation and employment opportunities, and the Bill provides neither. The Bill tinkers around the edges. There are bits with which we agree, such as sunset provisions. My point is that it is not me criticising the lack of response on regulatory reform—more important people than me are saying that—but businesses. Again, on regulatory reform, which is what we are considering in the Bill, businesses have not heard of the red tape challenge or the one in, one out initiative, and when they have heard of them, they do not feel they are relevant to their business; businesses feel that they are populist claptrap that has no impact.

Let me return to my remarks.

9.45 am

**The Chair:** A good example of self-regulation.

**Mr Wright:** I am tempted to have a sunset provision at about 10.20.

Businesses are distinctly underwhelmed by the Government's proposals and lack confidence that anything meaningful or positive will come from them. On that basis, and given what businesses are saying on the red tape challenge and the one-in, one-out policy, which do not seem to be hugely successful, as well as the wider point about regulatory reform, will the Minister outline precisely, without recourse to guff, the steps that he plans to take? Is it only a question of communicating more effectively, as businesses somehow do not understand, or is there the need to come up with meaningful proposals that are relevant to businesses in this country?

I am also interested in the Minister's views on transparency in the field of regulatory reform, when it comes to decision making. I suggest that a lack of transparency or empirical evidence—where have we heard that before?—in the way that regulatory burdens and associated savings are measured undermines the Government's stance. Let me give an example: the Government have claimed, and announced with relative fanfare, that reduction in regulation saved businesses a total of £7 billion in 2011. We would all support that, but the figure was subsequently revised down, rather like the downwards revision to the economic growth forecasts, to £3.3 billion by the Regulatory Policy Committee.

**Mr Prisk:** Could the hon. Gentleman clarify where he has drawn the figure of £7 billion from? The statement of new regulation, which we referred to, is very clear,

identifying that it is £3.3 billion net at this stage. Is the £7 billion entirely within one in, one out, or is he looking at other measures, too?

**Mr Wright:** I am not familiar with that specific detail, if the Minister wants me to clarify those comments. My point was that the original announcement was that £7 billion had been saved, which was revised to £3.3 billion.

**Mr Prisk:** I am happy to confirm that as far as I am concerned it has always been clear throughout the statement of new regulation that £3.3 billion was the position, certainly until April. We expect to update that shortly, but the figure of £7 billion is not something that I have included in the statement of new regulation. I hope that that corrects the record, and I am sure the hon. Gentleman will accept that point.

**Mr Wright:** I am very grateful for the Minister's clarification, but the wider point about transparency and ensuring that we can see the advice given on regulatory reform still stands. My basic question is: in order to provide clarity to businesses and improve transparency, will the Government publish the Regulatory Policy Committee reports?

In his written ministerial statement of 22 March 2011, the Minister said, on sunset clauses and guidance:

"The Government's intention is that all measures that are in scope will be subject to a statutory review obligation, with those domestic measures implemented through secondary legislation also subject to a sunset provision. For secondary legislation, implementation in each case will be subject to the vires under which the relevant regulations are made."—[*Official Report*, 22 March 2011; Vol. 525, c. 49WS.]

I would like a point clarified, for my own personal ignorance more than anything else. There is generally a presumption against retrospective effects of legislation. Is it therefore the case that there is no retrospection or retrospective element to the clause? I do not think that there is a means of providing an opportunity to, as an extreme example, abolish the minimum wage through a sunset clause, but will the Minister confirm that? The phrase I would like clarity on from the written ministerial statement is

"all measures that are in scope".

On the basis of the clause's content and my questions, will the Minister confirm that this will be new regulation, once the Bill is enacted? Although I am pretty sure that that is the case, clarification would be helpful.

**Ian Murray:** My hon. Friend is making a key point. The red tape challenge was hugely criticised in its early days for asking, as the first question at the top of its website, whether we should be dismantling the Equality Act 2010 and whether we should repeal the Disability Discrimination Act 2005. The Minister must clarify that important point, because the Home Secretary had to come to the House and confirm that that was not the red tape challenge's intention.

**Mr Wright:** My hon. Friend makes an important point. I will give the Government the benefit of the doubt and try to be fair. There has always been a presumption against retrospection in legislation, and I am confident that the clause does not affect existing

regulations on the statute book, but clarity would be helpful. Given the general support that we have, the specific questions that have been asked on the relevance of regulatory reform, and the issues that I have raised, it would be helpful to hear what the Minister has to say.

**Mr Prisk:** I must say, I do enjoy the hon. Gentleman's sense of irony. He says that the Labour party does not regulate for regulation's sake. Well, you could have fooled me. The fact that in 13 years there have been six new regulations every working day tells us all we need to know about the Labour party's record.

**Ian Murray:** The Minister and the Government keep citing six regulations a day without giving us an example of what those may have been. When businesses or the Government are challenged on what regulations they would like to see removed, they do not tell us. I should like to give the Minister some examples: the Gangmasters Licensing Authority, the national minimum wage, maternity pay, the Equality Act, the Disability Discrimination Act, the health and safety legislation that stops people being killed at work—171 construction workers were killed last year alone—those are six regulations, and what a hell of a day that would be.

**Mr Prisk:** I will give one simple example. The previous Government put in regulations designed to ensure that workplaces where employers and employees work are made safer. A perfectly nice idea and perfectly sensible, except they forgot to put the right measures in, so it applies to businesses where there is only one person. Under a set of regulations designed for multinationals and introduced by the previous Government, a self-employed sole trader now has to write to himself to tell himself what it is that he is making sure is safer. Clearly everyone can see that that kind of workplace regulation is nonsense and needs to change. We are going to change it.

**Mr Iain Wright:** The Minister cited one example. Can he give the other five for that particular day?

**Mr Prisk:** Well, I do not know which particular day that measure was on. I suspect that I would stretch your patience, Mr Bayley, but I am happy to give one more example. I suspect that we could be here all day.

**David Mowat (Warrington South) (Con):** I also note that the regulation referred to in that intervention was a very good regulation. But would the Minister agree with me that if the Opposition are regulating at the rate of 2,000 a year, they will not all be nonsense?

**Mr Prisk:** One would hope they might achieve that. That is a very good point. Let me return to the clause, or you will rule me out of order, Mr Bayley.

The Government's policy on sunset regulations was set out in guidance in March 2011. Where regulation is no longer needed, or where it imposes a disproportionate burden, sunset can help remove that burden. In other cases, it will keep regulation up to date and support improvements where necessary. We are just over a year into the implementation of the new policy. In the period to April 2012, some 88 pieces of new

[Mr Prisk]

legislation contained a sunset or review clause. A good example would be the change of the alcohol licensing provisions under the Police Reform and Social Responsibility Act 2011.

At present, the ability to include a sunset or review clause for secondary legislation is dependent upon the legal powers or vires under which that legislation is made. In many cases, resolving questions around the legal powers absorbs significant legal resource and slows down the process. In a minority of cases, where the vires are found not to be sufficient, it can frustrate the implementation of the policy altogether. The clause will support the implementation of the Government's policy on sunset regulations by allowing sunset and review provisions to be included in any future secondary legislation where appropriate. Its effect will be to remove the issue of legal powers as a barrier to implementing that policy.

The clause inserts a new section in the Interpretation Act 1978, which sets the legal framework for issues of statutory construction. The new section has the effect that, where there is a power or a duty in primary legislation to make subordinate legislation, a review or sunset provision may be included in that subordinate legislation. That includes cases where other subordinate legislation is being amended. It does not include subordinate legislation made by Scottish Ministers, using powers in UK primary legislation that have been devolved. The changes introduced by the Bill are purely enabling. They do not require the inclusion of a review or sunset provision, or prescribe the form that any review should take. We feel decisions on those issues should be a matter of policy, taking into account the circumstances in each case.

**Julian Smith:** The Institute of Directors and other business organisations have encouraged us to make this clause more forceful and to go towards mandating the review or sunset provision. Will my hon. Friend comment on those views? I encourage him, if he feels so inclined, to be even more radical than he has been already since becoming a Minister.

**Mr Prisk:** I am always tempted by the strong free-market principles of my hon. Friend. The problem with mandating the review or sunset is that there are examples where it would not be appropriate. A good one would be the insolvency rules. If people knew that those rules were about to be reviewed or removed altogether every five or seven years, there would be a cloud of uncertainty in the 18-month period before that about whether the current insolvency rules would operate in the future. There are some instances where making the review or sunset clause mandatory in secondary legislation is inappropriate. The expectation is that it will be an exceptional case where a sunset provision or a review is not included, but making it mandatory will take it one step further, which could have an unintended consequence.

On the question of retrospectivity, the hon. Member for Hartlepool is absolutely right. There is no retrospective element in this, which is entirely appropriate.

Let me turn to the benefits of the clause. First, it will mean that legal powers are no longer a barrier to routinely implementing the sunset of regulations where there are new burdens on business. That means

that regulations will no longer assume the permanence we sometimes see, regardless of whether they are having an entirely detrimental effect.

Secondly, it means that the review of regulations will be more transparent—the hon. Gentleman made that point—and timely. I particularly highlight the fact that we are looking to strengthen the role of the Regulatory Policy Committee and that, unlike before the election, it independently audits all the costs. We have also ensured that the Department that sponsors a regulation is no longer able to set the cost. The cost has to be independently audited. That point on transparency is important.

Thirdly, the benefit for business is that identifying and implementing improvements to existing regulation will be much more straightforward. It will be a given that we improve regulations and ensure that they are up to date. In that sense, the clause will also help improve the scrutiny of regulations by Departments and by Parliament, because these measures will be coming back to us to consider.

The hon. Gentleman mentioned the CBI. John Cridland said in reference to the Bill that the big prize for business will be to major on a new power for sunset clauses on regulation. That is what the clause does. The proposals set out in clause 49 will support a robust and enduring system for review and will improve our legislation. That is good for business and the parliamentary process, and on that basis I hope that the Committee approves the clause.

*Question put and agreed to.*

*Clause 49 accordingly ordered to stand part of the Bill.*

*Clause 50 ordered to stand part of the Bill.*

## Schedule 16

### HERITAGE PLANNING REGULATION

*Question proposed, That the schedule be the Sixteenth schedule to the Bill.*

**Mr Wright:** As I think the Minister will have gathered from the fact that we did not have a clause stand part debate on clause 50, we are not opposed to the specific measures in the schedule. Indeed, when we were in government, we prepared something similar in the Heritage Protection Bill. I had a small role to play in that when I was not a former Minister, as I am now, but an actual real-life Minister—happy, happy days—as the Parliamentary Under-Secretary of State in the Department for Communities and Local Government with responsibility for planning. We think that the merging of conservation area consent and planning permission is sensible and should not have an adverse effect on heritage protection. We certainly agree with the notion that heritage protection can enhance and be a lever for economic growth, so we support what the Government are trying to do with these provisions.

I have, however, a number of questions that I want the Minister to answer. Will English Heritage have the financial capability to fulfil the increase in responsibility that the clause imposes on it? We had a similar debate about ACAS earlier in the Committee's deliberations. I understand that English Heritage's budget was cut by 32% in the comprehensive spending review, which is more than the 24% cut that was imposed on the Department for Culture, Media and Sport.

10 am

At the time of the spending review Loyd Grossman, who is chair of the Heritage Alliance, stated that the announcement about English Heritage's budget showed that

"government as a whole still doesn't quite 'get' heritage... We fear that the immediate and longer term impact of a 32% cut for English Heritage and reduced funding from Local Authorities combined with the wider economic climate will lead to irreversible deterioration and loss of our heritage".

Simon Thurley, chief executive of English Heritage, tweeted on 22 May:

"Our new listing regime will make space for us to do more strategic listing in the future."

He tweeted again on the same day:

"Meanwhile we will be much more selective in spot listing, only going for things at risk, outstanding or identified as priority."

Reading between the lines, it sounds as though the organisation will be unable to cope, given the reduced funding, and will have almost to firefight when it comes to heritage protection. Will the Minister comment on that, and will he reassure the Committee that English Heritage will be able to deal with the additional work set out in clause 50?

In a similar way, local authorities are seeing a cut their budgets. The amount varies by area, but in the north-east, council budgets are being cut by about 25% to 30%; in the south-east it might be substantially less. Local authorities of all political persuasions will need to make difficult decisions in the next couple of years as a direct result of the spending allocations provided by the Government. We are coming perilously close to a situation in which councils will have not simply to close a library here or shut a community centre there, but to question whether they can continue to provide entire services. In that context, given the demographic time bomb of an ageing population and the consequent difficulties in funding social care, which the House discussed yesterday, does the Minister accept that local authorities might have to consider quite large cuts to planning departments? How will they be able to cope, on a much-reduced budget, with the additional work that is required? What help will the Department for Business, Innovation and Skills give local authorities to assist them with the additional responsibilities imposed by clause 50?

Paragraph 5 of schedule 16 introduces a new offence of failing to obtain planning permission for demolition of an unlisted building in a conservation area. I fully support the provision, and I thank the Government for taking action on the matter. I have three related concerns and questions to which I would like the Minister to respond, however. First, I hope he agrees that for heritage protection reasons the penalty needs to be as harsh as possible, to deter potentially unscrupulous developers from knocking down a building before permission is given and claiming ignorance. Subsection (5) of the proposed new section that is set out in paragraph 5 details the punishment:

"A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine"

of up to £20,000

"or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or both."

I want to probe the Minister on that. Has he considered whether those punishments are as harsh as they should be? I am quite hard-line when it comes to the protection of our heritage. A fine of £20,000 might seem appropriate, as might possible imprisonment, but is £20,000 enough when unscrupulous developers who knocked down a building might stand to make many millions of pounds? Secondly, I have just mentioned unscrupulous developers, but what about those who have demolished something in genuine ignorance? How does the Minister plan to communicate the changes to ensure that people acting in genuine good faith are not caught out by them?

Thirdly, how will the Minister ensure consistency of approach in compliance both within a conservation area and in different areas? I speak as a Member of Parliament for a constituency that contains several conservation areas, where inconsistent application of rules and procedures causes real bitterness and tension in the community. There is an area in my constituency known as the Headland. It is a beautiful area with mediaeval and Victorian elements, including beautiful houses. All that is around the fantastic church of St Hilda, which loses out only to Durham cathedral and York minster in its significance to Christianity in the north.

**Chris Ruane:** What about Rhyl?

**Mr Wright:** I think that Rhyl is slightly further away from the north-east.

Over the past 10 years or so, there has been real bitterness from constituents following such things as the removal of historic sash windows and wooden doors, which have been replaced by modern-day uPVC counterparts. That has caused much ill feeling and has occurred largely because of inconsistent advice from local authorities. I worry that the issue is the same as my earlier point, which is that of adequate resources for local authorities and their planning departments. Do local planning authorities have sufficient resources to be able to provide a consistent approach and consistent advice?

**Chi Onwurah:** While Newcastle may not have York minster or Durham cathedral—

**Mr Wright:** Or St Hilda's.

**Chi Onwurah:**—Or St Hilda's—within its boundaries, it does have many incredibly valuable and impressive heritage sites, including some from Roman times and two cathedrals. It also, as my hon. Friend has mentioned—

**Julian Smith:** On a point of order, Mr Bayley. If we go through all the heritage sites in the north of England, we would be at risk of never finishing the Committee. Is it in order for us to continue to list such sites?

**The Chair:** Since the schedule particularly refers to the regulation of heritage, it is appropriate for hon. Members to bring forward examples, and I know that there is a cathedral in the hon. Gentleman's constituency that we may have to hear about later.

**Chi Onwurah:** Thank you, Mr Bayley. I want to reassure the hon. Member for Skipton and Ripon that I had not even begun to enumerate all the heritage sites in Newcastle, not to mention those in the constituencies of my colleagues, such as my hon. Friend the Member for Rochdale.

[*Chi Onwurah*]

To get to the point, Newcastle city council faces funding cuts of over 40% over the spending review period. Does my hon. Friend the Member for Hartlepool worry that the Government's interpretation of localism means that councils such as Newcastle will be left to try to preserve these historic areas without the support that they need?

**Mr Wright:** I do fear that. I thought that the hon. Member for Skipton and Ripon would welcome the opportunity to mention the beautiful cathedral in his constituency, but he may not want to. That is up to him. [*Interruption.*] I expect a press release from him this afternoon in support of Ripon cathedral.

My hon. Friend the Member for Newcastle upon Tyne Central makes a valuable point. Given the enormous budgetary pressures that local authorities are facing over the next couple of years and given factors such as the demographic time bomb that I explained earlier and the importance of social care, it is difficult to think—particularly in my constituency, which is relatively deprived and has an ageing population—that local authorities such as Hartlepool borough council could spend on anything other than social care. In that context, given the importance of heritage protection, but with much reduced resources, is the Minister confident that local planning authorities' budgets will be sufficiently protected to allow schedule 16 to be complied with?

I welcome the provisions in paragraphs 6 and 7, which will allow future new list entries to declare that structures and/or buildings attached to or within the curtilage of the principal listed building are not protected. That seems to be common sense, as a 1960s extension to a country house, for example, is often not something that should be protected for listed purposes. The provisions will therefore provide greater clarity and I welcome what the Government have done.

However, I share the two concerns raised by the Heritage Alliance in its submission to the Committee. First, the Heritage Alliance gave the example of a listed building with a garden wall that could be demolished without permission. It could be replaced, also without permission, with a wall that could be out of keeping with the setting of the listed building. Secondly, how will the provisions take into account the need for foresight? We cannot legislate with foresight, although perhaps we should.

The 1960s extension that I mentioned earlier could be considered worthy of protection in future with that benefit of foresight. We have seen 1960s buildings that even just a couple of years ago were considered to be blots on the landscape and are now considered to have architectural and significant historical merit and are being protected. How can we ensure that potentially important historic features are not lost? How will the Minister address that risk?

As I said, we welcome the direction of travel, but we have specific concerns about the implementation of this measure. I hope the Minister will respond positively to the points that I have raised.

**Mr Prisk:** I welcome the opportunity to speak to such an important part of the Bill. I should point out

that I am a chartered surveyor, so I have had some engagement in this area. [*Interruption.*] Sadly, when I become a former Minister and move into the Budleigh Salterton home for retired Ministers with the hon. Gentleman—that is a sitcom we might not tune in to—no doubt we will reach the stage of looking at this and saying it is an important change.

The provisions seek to respond to what we saw in the Penfold review and the different forms of non-planning consents that exist alongside the perhaps better-known planning development regime. Our aim is to support growth and competitiveness by ensuring that the regimes operate in the most flexible and streamlined way, but without damaging our built heritage. There are four parts to the changes. The hon. Gentleman touched on some, but for the benefit of the Committee I will explain the distinctions. The first part removes the requirement for conservation area consent, separate from planning permission. The second improves the way in which list entries for listed buildings operate. The third enables certificates of immunity from listing to be applied for at any time. The fourth is about introducing a system of voluntary heritage partnership agreements to better proactively manage listed buildings.

I will turn to each part and respond to the points that the hon. Gentleman has raised. Paragraph 10 of schedule 16 amends section 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to remove the system of conservation area consent as it applies to buildings in conservation areas in England. Such consent is currently required to demolish an unlisted building in a conservation area. The provisions remove that requirement. Planning permission will instead be required, which will be effected by secondary legislation to amend the General Permitted Development Order 1995.

There are some 9,800 conservation areas in England and around 3,000 consent applications each year. There is no need for a separate, bespoke consent regime for the applications. They can be dealt with perfectly effectively through the planning system. After all, most conservation area consent applications will already be submitted to the local planning authority alongside a redevelopment proposal, or will be followed by a planning application. By scrapping conservation area consent, and requiring planning permission instead, we can reduce the number of different non-planning consent regimes that developers and owners have to navigate, while maintaining the essential protection of our historic environment.

Paragraphs 3 to 5 of schedule 16 amend the Town and Country Planning Act 1990 so that the planning regime offers the same level of protection as the current system of conservation area consent. In particular, paragraph 5 inserts new section 196D into the Act to create an offence of

“failing to obtain planning permission for demolition of unlisted etc buildings in conservation areas in England.”

Where planning permission is granted for such demolition, it will also be an offence to fail to comply with any condition or limitation subject to which the permission was granted.

Buildings currently not subject to conservation area consent, because they are protected under other procedures, will not be subject to the new requirement to obtain planning permission. Classically, that will include scheduled monuments and ecclesiastical and fine buildings such as York minster, which have their own regime.

10.15 am

Our aim is to maintain current levels of protection while removing the unnecessary administrative duplication. In a sense, it is good to recognise the issue of resource. It is perfectly understandable to wish to raise that, but this measure, and the other three that I will touch on, are all about streamlining the system and helping local authorities use their resources in a more focused fashion. Reducing the burden of having to deal with parallel processes will be beneficial in that sense.

Paragraph 1 provides English Heritage with equivalent powers to those it currently has under the conservation area consent, including the power to bring a prosecution for an offence and to apply to the court for an injunction.

The hon. Gentleman asked about the fines, which, we believe, are appropriate as they stand, but we will always want to review them if we find that they are proving to be insufficient. At this stage, though, the current fine regime is one towards which we are sympathetic.

Paragraph 7 amends section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which deals with the listing of buildings of special architectural or historic interest. Currently, section 1 provides that a listed building includes

“any object or structure fixed to the building...or within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948”.

That makes it difficult to exclude parts of a building that are not of special interest, which is the point that the hon. Gentleman raised. Owners or developers and local planning authorities are left to interpret the extent of a listed building's special interest at the point where works are planned to be carried out. That can, and does, lead to unnecessary applications for listed building consent, or to applications not being made when they should have been. That is a good point about the question of uncertainty. This is an inefficient way to operate, and has led to confusion and occasionally disputes. English Heritage's legal team reports that the extent of listing is the most common query that it deals with.

The provisions in paragraph 7 allow the list, for buildings in England, to provide that fixed and curtilage objects or structures are not to be treated as part of the listed building. That would allow the list to state definitively that a particular part or feature of a building is not of special architectural or historic interest. That will make it possible to say definitively that a poorly built 1960s extension on the back of a Georgian facade is not of special interest. Therefore, the works to the extension would not require listed building consent. That will specifically clarify matters. Clearly, if the works were to affect the Georgian facade, that would be a different matter. Putting in that specific definition makes matters clearer to people.

The provisions will initially apply only in relation to new listings, although English Heritage is also undertaking a prioritised programme to update the list entries of

those categories of listed building that are subject to regular consent applications. We think that the changes will result in a 10% reduction in the number of listed building consent applications every year, with the resulting savings starting to grow as more and more existing list entries are enhanced. We are taking that carefully because we recognise that with some 500,000 entries on the list, it would lead to a significant number of errors and be hugely prohibitive in financial terms to say to English Heritage, “You must now put everything on”. There is a prioritised programme and that will help.

Let me touch on the issue of certificates of immunity, because that will help with the resource question. Paragraph 8 amends section 6 of the 1990 Act, which currently provides a system of certificates of immunity from listing. The way in which this works is that a certificate of immunity is a legal guarantee, in England, issued by the Secretary of State, which guarantees that a building will not be listed for five years from the date of issue. They are a useful tool where development is intended that would impact on a building that may be eligible for listing. They give certainty to owners and developers by removing the risk of a building being listed at a late stage during the preparation of planning proposals, thereby causing delay or even abandonment of projects. I am sure hon. Members can think of urban regeneration schemes under the current regime that suddenly find mid-stream they have to stop, which can be immensely damaging.

Currently, a person can apply for a certificate of immunity only where an application has been made for planning permission, or planning permission has been granted. Paragraph 8 of the schedule amends section 6 to remove that restriction so that a certificate of immunity can be applied for at any time. The same standards and decision-making process will apply. It is trying to ensure that there is a degree of flexibility, so that schemes that communities often seek are not caught out at the last minute.

Lastly, I turn to heritage partnership agreements, which will help the resource of both local government and English Heritage. Paragraph 9 of schedule 16 inserts new section 9A into the 1990 Act, which makes provision for heritage partnership agreements. They are voluntary agreements between owners and local planning authorities designed to help them manage listed buildings more effectively and reduce the need for individual consents for minor or repetitive works: routine maintenance would be a good example.

Under the new section, a heritage partnership agreement can be made by a relevant local planning authority with an owner of a listed building, or part of a listed building, in England. Any of the persons mentioned in new section 9A(2) may be an additional party to the agreement, including the relevant local planning authority, the Secretary of State, English Heritage and so on.

A heritage partnership agreement may contain provisions granting listed building consent for specified works, and setting out the terms on which that consent is given. It cannot be used to grant consent for demolition. Non-statutory heritage partnership agreements have been piloted by English Heritage for several years. They have demonstrated the benefits to the parties of clarity, mutual understanding and consistency of approach, as well as important savings from wasted effort and activity. But without statutory backing the full benefits of the

agreements cannot be realised. The pilots have shown that enabling listed building consent to be granted through such agreements is crucial in delivering savings and encouraging take-up.

At the moment, even if the parties agree to an HPA, it is not necessarily the case that certain works are eligible to be applied for in terms of listed building consent. We need to clarify that and put it into law. Under our provisions, works agreed as part of a heritage partnership agreement will not need separate listed building consent, removing the requirement for repeated consent applications. We believe that will help people better manage the use of that building.

I should stress that this is about having agreements. They are optional; there will be no compulsion to require owners or local planning authorities to sign up. That is partly because heritage partnership agreements will not be appropriate in every circumstance. However, they will present owners and local planning authorities with an additional management option. Following on from the point that the hon. Member for Hartlepool made, we believe that that can deliver significant efficiency savings in the medium and long term.

To conclude, the provisions in schedule 16 will reduce the regulatory burdens but will not seek to diminish the protection of important heritage sites and buildings.

They will make the heritage protection system work more efficiently, provide greater certainty to owners and developers, and reduce the number of unnecessary planning applications. I therefore commend the clause and schedule to the Committee.

**Mr Iain Wright:** I am grateful to the Minister for his thorough response. He obviously understands this policy area, as he is a chartered surveyor. He kept that quiet from the Committee; he has not mentioned that a lot. I did not mention heritage partnership agreements in my opening remarks, but we agree with what the Government are doing. I mentioned the Heritage Protection Bill of 2009 and its similar provisions. I fully agree with what the Minister said about HPAs providing clarity, mutual understanding and consistency of approach.

I mentioned a specific concern about funding allocation and support from the Department to English Heritage and, with respect to the Minister, he skirted round the issue.

10.25 am

*The Chair adjourned the Committee without Question put (Standing Order No. 88).*

*Adjourned till this day at One o'clock.*