PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE BILL

(Except clauses 1, 4, 8, 189 and 209, schedules 1, 23 and 33 and certain new clauses and new schedules)

Fourteenth Sitting

Tuesday 19 June 2012

(Afternoon)

CONTENTS

Clause 180 agreed to.
Schedule 20 agreed to, with amendments.
Clauses 181 to 183 agreed to.
Schedule 21 agreed to.
Clause 184 agreed to.
Schedule 22 agreed to.
Clauses 185 to 188 and 190 agreed to.
Schedule 24 agreed to.
Clauses 191 to 193 agreed to.
Schedule 25 agreed to.
Clause 194 agreed to.
Adjourned till Thursday 21 June at Nine o'clock.

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not later than

Saturday 23 June 2012

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

The Committee consisted of the following Members:

Chairs: Mr David Amess, †Mr Peter Bone, Mr Jim Hood, Jim Sheridan

† Baldwin, Harriett *(West Worcestershire)* (Con)
† Barclay, Stephen *(North East Cambridgeshire)* (Con)
† Blenkinsop, Tom *(Middlesbrough South and East Cleveland)* (Lab)
† Burley, Mr Aidan *(Cannock Chase)* (Con)
† Elphicke, Charlie *(Dover)* (Con)
† Garnier, Mark *(Wyre Forest)* (Con)
† Gauke, Mr David *(Exchequer Secretary to the Treasury)*
† Gilmore, Sheila *(Edinburgh East)* (Lab)
Gyimah, Mr Sam *(East Surrey)* (Con)
† Hamilton, Fabian *(Leeds North East)* (Lab)
† Hands, Greg *(Chelsea and Fulham)* (Con)
† Harrington, Richard *(Watford)* (Con)
† Hilling, Julie *(Bolton West)* (Lab)
† Hoban, Mr Mark *(Financial Secretary to the Treasury)*
† Jamieson, Cathy *(Kilmarnock and Loudoun)* (Lab/Co-op)
† Kirby, Simon *(Brighton, Kemptown)* (Con)
† Lavery, Ian *(Wansbeck)* (Lab)
† McKenzie, Mr Iain *(Inverclyde)* (Lab)
† McKinnell, Catherine *(Newcastle upon Tyne North)* (Lab)
† Malhotra, Seema *(Feltham and Heston)* (Lab/Co-op)
† Mann, John *(Bassetlaw)* (Lab)
† Mearns, Ian *(Gateshead)* (Lab)
† Mills, Nigel *(Amber Valley)* (Con)
† Morrice, Graeme *(Livingston)* (Lab)
† Morris, Grahame M. *(Easington)* (Lab)
† Pugh, John *(Southport)* (LD)
† Rees-Mogg, Jacob *(North East Somerset)* (Con)
† Reeves, Rachel *(Leeds West)* (Lab)
† Smith, Miss Chloe *(Economic Secretary to the Treasury)*
† Swales, Ian *(Redcar)* (LD)
† Syms, Mr Robert *(Poole)* (Con)
† Williams, Stephen *(Bristol West)* (LD)
† Williamson, Gavin *(South Staffordshire)* (Con)
Wilson, Sammy *(East Antrim)* (DUP)

Simon Patrick, James Rhys, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 19 June 2012

(Afternoon)

[Mr Peter Bone *in the Chair*]

Finance Bill

(Except clauses 1, 4, 8, 189 and 209, schedules 1, 23 and 33, and certain new clauses and new schedules)

4.30 pm

The Chair: For the benefit of the Minister, let me say that there has not been a new doctrine whereby the Minister has to reply without notes.

Clause 180

Controlled foreign companies and foreign permanent establishments

Amendment proposed (this day): 2, in clause 180, page 105, line 19, at end add—

'(2) Notwithstanding the provisions of Part 4 of Schedule 20, the Schedule will not come into force until a full impact assessment has been prepared in conjunction with the Department for International Development reviewing the effect on developing countries' tax revenue, and details of aid and technical assistance being provided to developing countries in order to increase the capability and technical expertise in their tax regimes to collect the taxes that are due in their countries, has been laid before and approved by the House of Commons.'.—*(Stephen Williams.)*

Question again proposed, That the amendment be made.

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

Clause stand part.

Government amendments 46 to 51, 146, 52 to 56, 147, 57 to 59, 187, 60 to 110, 188 and 189, and 111 to 113.

Amendment 3, in schedule 20, page 520, line 31, at end insert—

'42A Notwithstanding the provisions of this Part, this Schedule will not come into force until a full impact assessment has been prepared in conjunction with the Department for International Development reviewing the effect on developing countries' tax revenue, and details of aid and technical assistance being provided to developing countries in order to increase the capability and technical expertise in their tax regimes to collect the taxes that are due in their countries, has been laid before and approved by the House of Commons.'.

Government amendment 114.

Amendment 190, in schedule 20, page 522, line 2, at end insert—

'(3) HM Treasury and HM Revenue and Customs shall publish an assessment of the implementation and impact of the changes made in this schedule each year from commencement for the first three years of operation, including—

(a) the impact of the changes on developing countries and whether any further aid or technical assistance needs to be provided to those countries to safeguard their tax revenues;

(b) the cost of the changes to the Exchequer and whether they are consistent with HM Treasury forecasts;

(c) whether the rules operate as expected and provide certainty to companies.'.

Government amendments 115 to 117.

That schedule 20 be the Twentieth schedule to the Bill.

Sheila Gilmore (Edinburgh East) (Lab): In the interests of progress, I shall wind up by simply saying that I hope that, since we adjourned, the Government have become minded to accept the amendment.

Nigel Mills (Amber Valley) (Con): I want to make some brief remarks in praise of the way the Government have handled this reform. It is a testament to how it should be done. There has been long consultation on a complex area of law that has been in desperate need of reform. The matter has gone backwards and forwards, and there have been several drafts to try to get it right and as simple to work as possible. That is a credit to how tax policy should be formed.

It is, in essence, a necessary part of every developed modern corporate tax regime to try to stop businesses diverting profits into low-tax territories by moving assets or income offshore. We must have a measure that does that, but it leaves us with a rather blunt instrument when every UK company that tries to set up an overseas subsidiary is dragged into complex compliance rules and has to try to work out whether what it has done entirely commercially is treated as tax avoidance.

What we have here is a gateway test; businesses can look at a much simpler, shorter set of rules to see whether they have to apply the longer, more complex ones. That is a decent structure for how those operations should work. All those businesses that should not be caught and clearly are caught will have no tax exposure here. They can work that out pretty quickly and get on with what we want them to do—growing and investing. I do not say that we have simple, clear, easy-to-understand legislation; we have clearly ended up with something long and complex, but that is inevitable given the nature of the subject.

We have had a lot of discussion on various topics today. Where the rules have ended up is pretty good—about as good as we can get. I would hope that the vast majority of innocent businesses that are not trying any naughty tax planning will not have any real problem complying with them, though there will, no doubt, be the odd exception to that. That is where we want to be. It is right that the rules focus on the mischief—that is, businesses trying to avoid paying UK tax on UK-sourced income. We quite rightly do not wish to tax overseas-sourced trading income in the UK; we have all accepted that. The rules do not do that.

We have even accepted that we do not tax dividends from companies based overseas that pay another tax in the UK. They can pay those back to the UK to be reinvested tax-free. It would be bizarre to try to get there through an anti-avoidance measure. On balance, I think the measure is as good as it can be. I commend the Minister on it, and hope that he can speedily get these welcome reforms safely on the statute book.

Stephen Williams (Bristol West) (LD): I apologise to you, Mr Bone, and to Committee colleagues for not being as prepared as I should have been this morning. When we adjourned last week, we were on clause 54. It did not occur to me that in one fell swoop we would go from clause 54 to clause 179 this morning; that is why I did not have my notes with me. We had been moving at glacial pace; I think we had a taste of warp speed this morning.

I tabled amendment 2 after meeting ActionAid and Christian Aid simply to test how joined up policy making is, particularly in the context of a coalition Government; some might say that in a coalition Government, policy making is not always as joined up as it should be. We know that the attitude that the Treasury always knows best has been prevalent throughout many Governments of many political colours over many decades. I tabled the amendment to encourage the Treasury to work closely with a spending Department whose spending envelope is expanding at a great rate over the next few years.

In his helpful remarks, the Minister said that he did not want the Treasury to become the world's tax policeman—I think that was the phrase he used and, if I may say so, it is Blairite in the scope of its ambition. I agree with him; we would not want our Government to be the world's policeman in any context. That would be bad in principle, and I do not think that it would work in practice. Indeed, when I discussed the parameters of this amendment with ActionAid, I made it clear that I do not think it fair or reasonable to expect the UK Government to carry out an in-depth assessment of, potentially, 190 tax regimes around the world that might be affected by the provision, and I therefore accept what the Minister says on that point.

I do, however, want to hear that it is the Treasury's intention to work closely with the Department for International Development to build up capacity among overseas tax authorities so that they can collect the taxes that their Governments decide are due but that are often avoided—I think I heard the Minister mention that issue, and perhaps he will confirm that when he sums up. Tax avoidance has been much in the news today, and as some regimes are perhaps susceptible to corruption and have tax authorities that are likely to be less developed or sophisticated than those in the UK, taxes are even more easily avoided in developing countries than they are in this country.

Since tabling the amendments I have discussed the position with my right hon. Friend the Member for Gordon (Sir Malcolm Bruce), who chairs the Select Committee on International Development. That Committee has since initiated its own inquiry and investigation into the impact of British tax policy and the tax capability of overseas Governments, and we wait with interest to see what the in-depth investigation by that cross-party Committee comes up with when it produces its report later this year.

The Minister has said many useful things that are now on the record and will be useful to ActionAid and other charities and non-governmental organisations that campaign on these issues. I hope that he will write to the Committee and set out in detail what the Treasury is doing in conjunction with DFID, and I am sure that there will be an opportunity to give the issue another airing on Report.

The Exchequer Secretary to the Treasury (Mr David Gauke): It is a great pleasure to serve under your chairmanship, Mr Bone, and if I may, I will briefly respond to the points raised in the debate, having already set out in some detail earlier today the rationale behind the policy.

Her Majesty's Revenue and Customs and the Government provide assistance more broadly to developing countries to help them increase their tax capacity, and I would be happy to elaborate on the remarks that I made this morning and set out for the benefit of the Committee some of the work that is done by DFID—or HMRC, because the two Departments work closely together. This country has a proud record in assisting developing countries in developing their tax capacity, and we are keen to continue with that. My hon. Friend the Member for Bristol West pressed me on that point, and I am happy to confirm that the Treasury, HMRC and DFID will continue to work closely on that issue. The Department for Business, Innovation and Skills also has an interest in the area, and we will continue to work across the Government.

Issues were raised about the economic benefit resulting from reform of the rules on controlled foreign companies. I shall refer back to my earlier speech. Once the new rules come into effect, we expect to see even more companies locating or relocating their business activity to the United Kingdom. That will have wider economic benefits, with new jobs created and increased investment in the UK, which I hope all parties will welcome.

How will we assess the benefits of the provision? Of course, the Government routinely publish detailed information on the corporation tax system and detailed statistics on corporation tax receipts. The Office for Budget Responsibility publishes information on corporation tax forecasts and the economic and fiscal outlook. At the Budget, HMRC publishes detailed information on any proposed changes, particularly tax information, as well as impact notes and policy costing documents.

We have introduced a greater degree of transparency and put more information in the public domain than in the past. I understand that the Opposition will press for further reviews, but we have taken substantial steps forward in terms of transparency.

On keeping the regime under review, the Government meet business and professional tax advisers in a number of forums, such as the corporate tax liaison committee, the Business Forum on Tax and Competitiveness, which met this morning, and the Business Tax Forum. Interested parties have the opportunity to raise their concerns about any matter in those forums, including CFC reforms.

I was asked whether we should subsequently make a commitment to an impact assessment. Tax returns for the first three years of this regime will not be available until 2017 or later, and HMRC does not have the power to obtain information about other countries' tax affairs. I have made that practical point in relation to other amendments.

Behavioural assumptions have been made in estimating the costs, including the cost of restructuring, but no specific assumption of additional tax, in line with the usual prudent basis for cost estimation, has been included.

Any profits derived from UK operations are robustly defended by the rules. Indeed, there is improved targeting

[Mr David Gauke]

of UK profits, compared to the previous regime. We are excluding foreign profits, which is consistent with the overall move to territoriality.

I thank my hon. Friend the Member for Amber Valley for his support on where we have got to. Careful consultation and deliberation have been needed during this long process, and at times there has been criticism of where we have got to. In the previous Parliament, there was significant criticism of what was happening with regard to CFCs. However, we have got to a good place now, where businesses appear to be enthusiastic, and we anticipate their relocating to the UK, which all Committee members should welcome.

In such debates, it is right for Committee members to probe and ask questions, and there have been a number of thoughtful interventions from Members of all parties. However, if the Opposition wish to oppose reforming CFC legislation, that will do them no favours, in terms of business reaction. When there are announcements about businesses locating or relocating themselves in the UK, the Government will be tempted to say that that is happening as a consequence of a policy that was opposed by the Opposition. It is for the Opposition to decide whether, politically, that is a sensible place to be.

I would rather not make such partisan points. I would rather we sent a clear signal to businesses around the world that there is unanimity within the UK and a shared desire to reform our CFC regime to ensure that Britain is open for business, and to say that we want to attract businesses to the UK. Whether we can send that message is up to the Opposition. I can say, on behalf of the Government, that we are pleased with the progress that we have made. This is a substantial step forward, in terms of making our tax system more competitive. I commend the clause to the Committee.

4.45 pm

Catherine McKinnell (Newcastle upon Tyne North) (Lab): I will not take up much of the Committee's time on this matter, but I want to reassure the Minister and Members on the Government Benches that we Opposition Members do not oppose reform of the controlled foreign company rules. We set these wheels in motion and very much support anything that can bring investment and growth to the UK economy.

I shall make a couple of comments on our amendment 190. It does not seek to delay or water down the controlled foreign company reforms in any way, but would monitor three specific impacts on an ongoing basis for the next three years. It is disappointing that the hon. Member for Bristol West has withdrawn his amendment and will not be putting it to a vote.

The Chair: Order. Mr Williams was not able to withdraw his amendment at that point. When the debate is finished, I will ask him to do so formally.

Catherine McKinnell: Thank you for that clarification, Mr Bone. We will see whether amendment 2 will be pushed to a vote. It asks for a delay in the implementation of the rules. That is not something that we Opposition Members are asking for. We are asking for the impact, particularly on developing countries, to be reviewed. We have discussed the complexity surrounding the rules, the resources that are available, the importance of our own efforts—the Treasury and HMRC, working together with DFID—to analyse the effects of the rules, and how best we can target the aid that the UK gives to developing countries. It would be a shame to give aid that is spent only patching up the mess that we may create, inadvertently and unintentionally, with the changes that we are considering today. That is the purpose of our amendment, and I hope that Government Members, and particularly the hon. Member for Bristol West, will be able to support it.

Stephen Williams: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 180 ordered to stand part of the Bill.

Schedule 20

CONTROLLED FOREIGN COMPANIES AND FOREIGN PERMANENT ESTABLISHMENTS

Amendments made: 46, in schedule 20, page 428, line 15, leave out 'section' and insert 'sections 371BG and'.

Amendment 47, in schedule 20, page 428, line 46, leave out 'to 371BG' and insert 'and 371BF'.

Amendment 48, in schedule 20, page 430, line 2, leave out from beginning to end of line 3 on page 431 and insert—

"(1) Subsection (2) applies if conditions A to C are met in relation to a relevant interest, or a part of a relevant interest, which a chargeable company ("CC") has in the CFC at all times during the CFC's accounting period.

(2) Step 5 in section 371BC(1) is to be taken in relation to CC on the following basis.

(3) That basis is—

(a) so much of P% as is attributable to CC having the relevant interest, or the part of a relevant interest, during the CFC's accounting period is to be left out of P%, and

(b) so much of Q% as is so attributable is to be left out of Q%.

(4) Condition A is that, at all times during the CFC's accounting period, CC has the relevant interest, or the part of a relevant interest, by virtue of its holding shares ("the relevant shares") in the CFC (directly or indirectly).

(5) Condition B is that any increase in the value of the relevant shares at any time during the relevant corporation tax accounting period is (or would be) income, or brought into account in determining any income, of CC chargeable to corporation tax for that period.

(6) Condition C is that any dividend or other distribution received at any time during the relevant corporation tax accounting period by CC from the CFC (directly or indirectly) by virtue of its holding the relevant shares is (or would be) income, or brought into account in determining any income, of CC chargeable to corporation tax for that period.

(7) Subsection (8) applies if—

(a) CC has the relevant interest, or the part of a relevant interest, by virtue of section 371OB(3) or (4),

(b) the CFC is an offshore fund (as defined in section 355) which does not meet the qualifying investments test in section 493 of CTA 2009, and

(c) conditions B and C would be met but for the offshore fund not meeting that test.

(8) Conditions B and C are to be taken to be met.

(9) This section is subject to section 371BH.

371BH Companies carrying on BLAGAB

(1) Subsection (2) applies in relation to a chargeable company ("CC") if—

(a) CC carries on basic life assurance and general annuity business during the relevant corporation tax accounting period,

(b) the I-E rules apply to CC for the relevant corporation tax accounting period, and

(c) the following are met in relation to a relevant interest, or a part of a relevant interest, which CC has in the CFC at all times during the CFC's accounting period—

(i) condition D,

(ii) condition E or F (or both), and

(iii) condition G.

(2) An additional sum is charged on CC at step 5 in section 371BC(1) and, for this purpose, step 5 is to be taken on the following basis.

(2A) That basis is—

(a) in paragraph (a) at step 5, the reference to the appropriate rate is to be read as a reference to—

(i) the policyholders' rate of tax under section 102 of FA 2012 applicable to the I-E profit for the relevant corporation tax accounting period, or

(ii) if there is more than one such rate, the average rate over the whole of the relevant corporation tax accounting period, and

(b) any reduction of P% or Q% under section 371BG(3) by reference to any relevant interest of CC is to be ignored, but—

(i) P% is to be reduced so that it represents only the policyholders' share of the BLAGAB component of the apportioned profit (see subsections (2H) to (4)), and

(ii) Q% is to be reduced by the same proportion as P% is reduced under sub-paragraph (i).

(2B) Condition D is that, at all times during the CFC's accounting period, CC has the relevant interest, or the part of a relevant interest, by virtue of its holding shares ("the relevant shares") in the CFC (directly or indirectly).

(2C) Condition E is met if the following requirement is met in relation to a time during the relevant corporation tax accounting period.

(2D) The requirement is that any increase (or any part of any increase) in the value of the relevant shares which occurs at that time is not (or would not be) brought into account at step 1 in section 73 of FA 2012 in determining whether CC has an I-E profit for the relevant corporation tax accounting period.

(2E) Condition F is met if the following requirement is met in relation to a time during the relevant corporation tax accounting period.

(2F) The requirement is that any dividend or other distribution (or any part of any dividend or other distribution) received at that time by CC from the CFC (directly or indirectly) by virtue of its holding the relevant shares is not (or would not be) brought into account at step 1 in section 73 of FA 2012 in determining whether CC has an I-E profit for the relevant corporation tax accounting period.

(2G) Condition G is that the assets which represent the relevant interest, or the part of a relevant interest, during the CFC's accounting period are (to any extent) assets held by CC for the purposes of CC's long-term business.

(2H) "The apportioned profit" means so much of P% as is attributable to CC having the relevant interest, or the part of a relevant interest, during the CFC's accounting period.'.

Amendment 49, in schedule 20, page 433, line 14, leave out from 'under' to end of line 15 and insert '—

(i) the law of the territory in which the CFC is incorporated or formed,

(ii) the articles of association or other document regulating the CFC, or

(iii) any arrangement entered into by or in relation to the CFC,'.

Amendment 50, in schedule 20, page 435, line 33, at end insert—

"(2A) Profits treated as non-trading finance profits under subsection (2) are not to be taken to fall within section 371CB(3) or (4).'.

Amendment 51, in schedule 20, page 435, line 36, at end insert—

"(3A) For this purpose, section 337(1) (definition of "the worldwide group") applies with the omission of paragraph (a).'.

Amendment 146, in schedule 20, page 436, leave out lines 36 and 37 and insert

'by a UK connected company.

(3) In subsection (2)(b)(ii)—

"services" does not include services provided as part of insurance business, and

"UK connected company" means—

(a) a UK resident company connected with the CFC, or

(b) a non-UK resident company connected with the CFC acting through a UK permanent establishment.'.

Amendment 52, in schedule 20, page 447, line 1, leave out

'derive (directly or indirectly) from'

and insert

'represent, or derive (directly or indirectly) from,'.

Amendment 53, in schedule 20, page 449, line 14, leave out 'section 371FB' and insert 'sections 371FB and 371FBA'.

Amendment 54, in schedule 20, page 449, line 39, leave out from 'CFC")' to end of line 40.

Amendment 55, in schedule 20, page 450, line 41, leave out '371BC(3))' and insert

'371BC(3), ignoring sections 371BG(3)(a) and 371BH(2A)(b))'.

Amendment 56, in schedule 20, page 450, line 41, at end insert—

'371FBA Loans from foreign permanent establishments of UK resident companies

(1) Subsection (2) applies if—

(a) there is a company ("C") which has made an election under section 18A of CTA 2009 (exemption for profits or losses of foreign permanent establishments),

(b) during a relevant accounting period of C which begins on or after 1 January 2013, C has a creditor relationship which, applying the assumptions set out in section 18H(3) of CTA 2009 in relation to C for the relevant accounting period, would be a qualifying loan relationship (within the meaning of Chapter 9 of this Part) of C in relation to which the CFC would be the ultimate debtor,

(c) in the application of section 18H(2) of CTA 2009 for the relevant accounting period, C makes a claim under Chapter 9 of this Part (as applied by section 18H(2)), and

(d) the relevant accounting period falls wholly or partly in the CFC's accounting period.

(2) 75% of the principal outstanding during the CFC's accounting period on the loan which is the subject of the qualifying loan relationship is to be added to the CFC's free capital or free assets (as the case may be).

(3) Terms used in this section which are defined in section 18A of CTA 2009 have the meaning given by that section.'.

Amendment 147, in schedule 20, page 451, leave out lines 43 and 44 and insert

'by a UK connected company.

"(2A) In subsection (2)(b)(ii)—

"services" does not include services provided as part of insurance business, and

"UK connected company" means—

(a) a UK resident company connected with the CFC, or

(b) a non-UK resident company connected with the CFC acting through a UK permanent establishment.'.

Amendment 57, in schedule 20, page 452, leave out lines 9 to 11.

Amendment 58, in schedule 20, page 452, line 27, at end insert—

"(8) In this section "original contract of insurance", in relation to a contract of reinsurance which is one in a chain of contracts of reinsurance, means the original contract of insurance reinsured by the first contract in the chain; and in subsection (6)(b) the reference to the original insured is to be read accordingly.'.

Amendment 59, in schedule 20, page 455, line 3, leave out from 'which' to end of line 4 and insert

'a member of the CFC group incurs a debt in the United Kingdom to—

(a) a non-UK resident person, or

(b) a UK resident person who is not a member of the CFC group.'.

Amendment 187, in schedule 20, page 457, line 10, leave out 'and' and insert—

'(ba) the CFC's accounting period ends in that period of account, and'.

Amendment 60, in schedule 20, page 457, line 11, leave out from 'this' to end of line 15 and insert 'section—

(i) the charging of a sum on company C at step 5 in section 371BC(1) would cause section 314A (finance income amounts of chargeable companies) to apply in the case of company C, and

(ii) the relevant finance profits (see section 314A(1)(c)) would include the leftover profits.'.

Amendment 61, in schedule 20, page 457, line 33, after 'have' insert

'as a result of the application of section 314A'.

Amendment 62, in schedule 20, page 457, leave out lines 39 to 41 and insert—

"(6) For the purposes of subsection (5)(a) assume that company C's finance income amount would include P% of the leftover profits.

(6A) "P%" has the meaning given by section 371BC(3), subject to sections 371BG(3)(a) and 371BH(2A)(b).

(6B) Subject to what follows, terms used in this section which are defined in Part 7 (tax treatment of financing costs and income) have the same meaning as they have in Part 7.

(6C) In subsections (2) to (4) references to the tested income amount or the tested expense amount are to that amount determined without regard to any debits, credits or other amounts arising from UK banking business or insurance business.

(6D) But subsection (6C) does not apply for the purpose of determining any finance income amount under section 314A or affect the way in which any such amount is to be taken into account in determining the tested income amount or the tested expense amount.

(6E) "UK banking business or insurance business" means banking business or insurance business carried on by—

(a) a UK resident company, or

(b) a non-UK resident company acting through a UK permanent establishment.'.

Amendment 63, in schedule 20, page 458, leave out lines 1 to 5.

Amendment 64, in schedule 20, page 458, line 17, leave out

'(so far as not reflected in the step 1 credits)'.

Amendment 65, in schedule 20, page 458, line 20, leave out

'(which is not itself a qualifying loan relationship of the CFC)'

and insert

'(other than a qualifying loan relationship)'.

Amendment 66, in schedule 20, page 458, line 30, leave out from beginning to 'credits' in line 42 and insert—

'Allocate to the qualifying loan relationship a just and reasonable proportion of the credits from the CFC's relevant debtor relationships which are brought into account in determining the CFC's non-trading finance profits (so far as not reflected in the step 2 credits).

Add the credits to the step 2 credits.

The result is "the step 3 credits".

A debtor relationship of the CFC is "relevant" if the loan which is the subject of it is used by the CFC to fund the loan which is the subject of the qualifying loan relationship.

Step 4

Allocate to the qualifying loan relationship a just and reasonable proportion of the credits and debits which are brought into account in determining the CFC's non-trading finance profits so far as they—

(a) are from any derivative contract or other arrangement (other than a qualifying loan relationship or a relevant debtor relationship) entered into by the CFC as a hedge of risk in connection with a relevant debtor relationship, and

(b) are attributable to the hedge of risk.

If the credits exceed the debits add the excess to the step 3 credits and if the debits exceed the credits subtract the deficit from the step 3 credits.

The result is "the step 4 credits".

Step 5

Allocate to the qualifying loan relationship a just and reasonable proportion of—

(a) the debits from the CFC's loan relationships which are brought into account in determining the CFC's non-trading finance profits (so far as not reflected in the step 4 credits), and

(b) any amounts set off under Chapter 16 of Part 5 of CTA 2009 (non-trading deficits) against amounts which, apart from the set off, would be included in the CFC's non-trading finance profits.

Reduce the step 4'.

Amendment 67, in schedule 20, page 459, line 35, leave out 'business,' and insert

'business (as the case may be),'.

Amendment 68, in schedule 20, page 459, line 36, leave out from 'company' to end of line 37.

Amendment 69, in schedule 20, page 460, line 39, leave out 'a loan to another person' and insert

'—

(a) a loan to another person, or

(b) so far as not covered by paragraph (a), an arrangement intended to produce for any person a return in relation to any amount which it is reasonable to suppose would be a return by reference to the time value of that amount of money.

"(5A) Subsection (5) does not apply if—

(a) the main business of the ultimate debtor is banking business or insurance business, and

(b) the funding for the loan or arrangement would be provided in the ordinary course of the ultimate debtor's banking business or insurance business (as the case may be).

(5B) A creditor relationship of the CFC cannot be a qualifying loan relationship if—

(a) the main business of the ultimate debtor in relation to the creditor relationship is banking business or insurance business, and

(b) the creditor relationship is, or is connected (directly or indirectly) to, an arrangement the main purpose, or one of the main purposes, of which is for the ultimate debtor to provide (directly or indirectly) funding for a loan or arrangement as mentioned in subsection (5)(a) or (b) in order to obtain a tax advantage for the ultimate debtor.'.

Amendment 70, in schedule 20, page 460, line 42, leave out from 'relationship' to 'an' in line 48 and insert

'if the loan which is the subject of the creditor relationship is made to any extent (other than a negligible one) out of funds received by the CFC (directly or indirectly)—

(a) from a relevant UK connected company other than by way of a loan, or

(b) as a result of'.

Amendment 71, in schedule 20, page 461, leave out lines 3 to 5 and insert—

"(7) For the purposes of subsection (6) a company is "relevant UK connected" if—

(a) the company is a UK resident company connected with the CFC,

(b) the company's main business is banking business or insurance business, and

(c) the company's banking business or insurance business (as the case may be) is a trade.'.

Amendment 72, in schedule 20, page 461, line 13, leave out 'company,' and insert

'company by—

(i) a non-UK resident person, or

(ii) a UK resident person who is not connected with the CFC,'.

Amendment 73, in schedule 20, page 461, line 41, leave out from 'relationship"' to end of line 42 and insert

'or "ultimate debtor" for the purposes of this Chapter.'.

Amendment 74, in schedule 20, page 462, line 2, at end insert—

"(2A) The claim may be amended or withdrawn by company C only by amending the return.'.

Amendment 75, in schedule 20, page 462, line 14, leave out 'assessment' and insert 'amendment'.

Amendment 76, in schedule 20, page 473, line 42, leave out 'by the CFC'.

Amendment 77, in schedule 20, page 473, line 46, leave out

'a person other than the CFC,'

and insert 'any person,'.

Amendment 78, in schedule 20, page 479, line 43, at end insert—

'371QG Anti-avoidance

(1) This section applies in relation to an accounting period ("the relevant accounting period") of a CFC if—

(a) at any time an arrangement is entered into, and

(b) the main purpose, or one of the main purposes, of the arrangement is to obtain for any person a tax advantage within section 1139(2)(da) of CTA 2010 in relation to—

(i) the relevant accounting period, or

(ii) that period and one or more other accounting periods of the CFC.

(2) The CFC's chargeable profits and creditable tax for the relevant accounting period are to be apportioned in accordance with section 371QC(2) (and not section 371QD if that section would otherwise apply).

(3) The apportionments must (in particular) be made in a way which, so far as practicable, counteracts the effects of the arrangement mentioned in subsection (1)(a) so far as those effects are referable to the purpose mentioned in subsection (1)(b).'.

Amendment 79, in schedule 20, page 480, line 7, leave out

'Sections 371RC and 371RG set out circumstances'

and insert

'Section 371RC sets out certain cases'.

Amendment 80, in schedule 20, page 483, line 30, at end insert—

"(3A) The Treasury may by regulations provide that, if specified conditions are met, a company is not to be taken to be a CFC by virtue of—

(a) section 371RE, or

(b) provision corresponding to section 371RE contained in regulations under subsection (3).'.

Amendment 81, in schedule 20, page 483, line 31, leave out 'subsection (3)' and insert 'subsections (3) and (3A)'.

Amendment 82, in schedule 20, page 483, line 33, leave out from beginning to end of line 45 on page 484.

Amendment 83, in schedule 20, page 489, line 5, at end insert—

"(2A) Subsection (2)(b) does not apply if—

(a) a notice is given to an officer of Revenue and Customs revoking the notice under subsection (1), and

(b) the time at which the notice revoking the notice under subsection (1) is given is a time at which, applying the corporation tax assumptions apart from this section and the assumption in subsection (2)(a), the CFC would have been able to revoke its assumed election under section 9A of CTA 2010.'.

Amendment 84, in schedule 20, page 489, line 6, after '(1)' insert 'or (2A)'.

Amendment 85, in schedule 20, page 489, line 29, after '(1)' insert

'or (2A) (as the case may be)'.

Amendment 86, in schedule 20, page 496, line 5, at end insert—

"(4A) In subsections (2) to (4) references to apportioned percentages of the CFC's chargeable profits for the relevant accounting period are to the percentages apportioned at step 3 in section 371BC(1).'.

Amendment 87, in schedule 20, page 496, line 40, after 'including' insert 'an assessment'.

Amendment 88, in schedule 20, page 497, line 13, after ‘conferring’ insert ‘or regulating’.

Amendment 89, in schedule 20, page 498, line 40, at end insert—

“(8) But, in relation to a sum charged on a company by virtue of section 371BH(2), in this section—

(a) “the appropriate rate” means the rate given by section 371BH(2A)(a), and

(b) “relevant allowance” means any adjusted BLAGAB management expenses for the purposes of section 73 of FA 2012.’.

Amendment 90, in schedule 20, page 500, line 20, leave out ‘371RC, 371RE(2) and 371RG,’ and insert

‘371RC and 371RE(2) and regulations under section 371RF(3A),’.

Amendment 91, in schedule 20, page 500, line 24, leave out

‘has the meaning given at’

and insert

‘means a company which is a chargeable company for the purposes of’.

Amendment 92, in schedule 20, page 500, line 34, leave out ‘371RG(6),’ and insert ‘371RF,’.

Amendment 93, in schedule 20, page 502, line 1, leave out

‘(see Chapter 15) ceasing to have that interest’

and insert

‘ceasing to have any relevant interest in the CFC at all’.

Amendment 94, in schedule 20, page 503, line 28, leave out ‘profits,’ and insert

‘profits or property business losses,’.

Amendment 95, in schedule 20, page 503, line 29, at end insert—

“(2A) In subsection (2)(b) “property business losses” means any losses of a UK property business or overseas property business of the CFC; such losses are to be determined in a way corresponding to the way in which property business profits are determined.’.

Amendment 96, in schedule 20, page 503, line 45, leave out from ‘(6)’ to ‘Part’ in line 46.

Amendment 97, in schedule 20, page 505, leave out lines 16 to 20.

Amendment 98, in schedule 20, page 505, line 37, leave out ‘and 371CE(2).’ and insert ‘, 371CE(2) and 371IA(9).’.

Amendment 99, in schedule 20, page 506, line 13, leave out from ‘entitled’ to end of line 15 and insert

‘—

(i) to direct how income or assets of the company are to be applied,

(ii) to have such income or assets applied on the person’s behalf, or

(iii) otherwise to secure that such income or assets will be applied (directly or indirectly) for the person’s benefit, and’.

Amendment 100, in schedule 20, page 506, leave out lines 22 to 26 and insert—

“(4) In subsection (2)(c) references to a person being entitled to do anything also cover cases in which it is reasonable to suppose that a person is presently able, or will at a future date become able, to do the thing (even though the person presently has, or will have, no entitlement to do the thing).

(4A) Subsection (4B) applies if a person’s entitlement (or supposed ability) to do anything mentioned in subsection (2)(c) is (or would be) contingent upon a default of the company or any other person under any agreement.

(4B) The person is not to have an interest in the company under subsection (2)(c) by virtue of that entitlement (or supposed ability) unless the default has occurred.’.

Amendment 101, in schedule 20, page 506, line 45, leave out from beginning to end of line 5 on page 507.

Amendment 102, in schedule 20, page 507, line 45, leave out

‘a loan to any other person.’

and insert

‘—

(i) a loan to any other person, or

(ii) so far as not covered by sub-paragraph (i), an arrangement intended to produce for any person a return in relation to any amount which it is reasonable to suppose would be a return by reference to the time value of that amount of money.’.

Amendment 103, in schedule 20, page 508, line 37, leave out ‘they’ and insert ‘the assets’.

Amendment 104, in schedule 20, page 511, leave out line 19 and insert—

“(3) For section 371IA(5) there is to be substituted—

(5) 75% of the profits of each qualifying loan relationship are “exempt” under this Chapter.”

(3A) In section 371IA(9)(a) the words “or Chapter 8 (solo consolidation)” are to be omitted.

(3B) Sections 371IB to 371IE are to be omitted.

(3C) Section 371IH(9)(a) is to be read ignoring the modification in section 18HC(b) above.’.

Amendment 105, in schedule 20, page 511, line 21, after ‘X’ insert

‘and subsection (5) is to be omitted’.

Amendment 106, in schedule 20, page 513, leave out lines 17 to 19 and insert—

“(4) For the purposes of step 3 in section 371NB(1) the amount of the corresponding UK tax for the accounting period is to be determined in accordance with subsection (5) below; and section 371NE is to be omitted accordingly.

(5) “The corresponding UK tax” is the amount of corporation tax which would be payable in respect of the adjusted relevant profits amount if it were subject in full to corporation tax, ignoring any credit which would be allowed against it under section 18(3) of TIOPA 2010 and assuming, where there is more than one rate of corporation tax applicable to period X, that it were chargeable at the average rate over period X.”’.

Amendment 107, in schedule 20, page 517, line 13, leave out from ‘paragraph’ to end of line 16 and insert

‘(b), and

(b) before paragraph (k) (as inserted by paragraph 136 of Schedule 16 to this Act) insert—

“(ja) Part 9A of that Act (controlled foreign companies),”.’.

Amendment 108, in schedule 20, page 518, line 44, leave out from beginning to ‘references’ in line 7 on page 519 and insert—

“(4) Section 371RB of TIOPA 2010 (read with section 371RD of that Act) applies for the purposes of this section.

(5) Section 371RD of TIOPA 2010 applies for the purpose of determining if the requirements of subsection (3)(b) and (c) are met in any case.

(6) In subsections (4) and (5)’.

Amendment 109, in schedule 20, page 519, line 32, at end insert—

38A (1) Section 938M (group mismatch schemes: controlled foreign companies) is amended as follows.

(2) In subsection (1) for the words from the beginning to "company" substitute "Section 371SL(1) of TIOPA 2010 (assumption that a CFC".

(3) In subsection (2)—

(a) for "chargeable profits" substitute "assumed taxable total profits", and

(b) for "Chapter 4 of Part 17 of ICTA" substitute "Part 9A of TIOPA 2010".'.

Amendment 110, in schedule 20, page 519, line 40, at end insert—

'40A (1) Section 179 (compensating payment if advantaged person is controlled foreign company) is amended as follows.

(2) For subsection (1) substitute—

"(1) Subsection (2) applies if—

(a) the actual provision is provision made or imposed in relation to a CFC,

(b) for the purpose of determining the CFC's assumed taxable total profits for an accounting period, the CFC's profits and losses are to be calculated in accordance with section 147(3) or (5) in the case of that provision,

(c) in relation to the accounting period, sums are charged on chargeable companies at step 5 in section 371BC(1), and

(d) in consequence of the application of section 147(3) or (5) as mentioned in paragraph (b), the total of those sums is more than it would otherwise be."

(3) In subsection (2) for "controlled foreign company" substitute "CFC".

(4) In subsection (3)—

(a) in paragraph (a) for "companies mentioned in subsection (1)(c)" substitute "chargeable companies on which a sum is charged", and

(b) in paragraph (b) for "tax chargeable under section 747(4) of ICTA" substitute "the CFC charge".

'(5) For subsection (4) substitute—

"(4) In this section terms which are defined in Part 9A have the same meaning as they have in that Part.

(5) For the purposes of subsections (1)(c) and (d) and (3)(a) assume that any claims made under Chapter 9 of Part 9A for the accounting period were not made."'.

Amendment 188, in schedule 20, page 520, line 1, at beginning insert—

'40B In Chapter 4 of Part 7 (exemption for financing income) after section 298 insert—

"298A Application of Chapter to financing income amounts determined under section 314A

(1) The Commissioners may by regulations amend this Chapter—

(a) to enable a financing income amount determined in accordance with section 314A for the relevant period of account (or a proportion of such an amount so determined) to be specified in a statement of allocated exemptions under section 292(4)(b), and

(b) to require, where a financing income amount so determined (or a proportion of such an amount so determined) is specified in such a statement, the sum charged on the company as mentioned in section 314A(1)(a) to be re-determined at step 5 in section 371BC(1) on the basis set out in subsection (2) below.

(2) The basis referred to in subsection (1)(b) is—

(a) the relevant finance profits (see section 314A(1)(c)) are to be left out of the CFC's chargeable profits mentioned in paragraph (a) at step 5 in section 371BC(1), and

(b) the CFC's creditable tax mentioned in paragraph (b) at that step is to be reduced so far as it is just and reasonable for it to be reduced having regard to the amounts left out of the CFC's chargeable profits.

(3) For a case where only a proportion ("X%") of a financing income amount is specified in a statement of allocated exemptions under section 292(4)(b), in subsection (2)(a) the reference to the relevant finance profits is to be read as a reference to X% of those profits.

(4) The Commissioners may by regulations amend this Chapter to require, where a financing income amount determined in accordance with section 314A for the relevant period of account is reduced under section 296, the sum charged on the company as mentioned in section 314A(1)(a) to be re-determined in accordance with provision made by regulations under subsection (1)(b) as if the proportion of the financing income amount represented by the amount of the reduction were specified in a statement of allocated exemptions under section 292(4)(b).

(5) The Commissioners may by regulations amend this Part or Part 9A in consequence of provision made by regulations under subsection (1) or (4)."'.

Amendment 189, in schedule 20, page 520, line 12, leave out 'and' and insert—

'(ba) the CFC's accounting period in relation to which the sum is charged ends in the period of account of the worldwide group, and'.

Amendment 111, in schedule 20, page 520, line 21, after '371BC(3)' insert

', subject to sections 371BG(3)(a) and 371BH(2A)(b)'.

Amendment 112, in schedule 20, page 520, line 23, leave out from '9A' to 'by' in line 24 and insert

'or which are qualifying loan relationship profits is limited to amounts—

(a) which so fall or which are such profits'.

Amendment 113, in schedule 20, page 520, line 28, at end insert—

'Insurance Companies (Reserve) (Tax) Regulations 1996 (S.I. 1996/2991)

42A The Insurance Companies (Reserve) (Tax) Regulations 1996 (S.I. 1996/2991) are amended as follows.

42B (1) Regulation 8A is amended as follows.

(2) In paragraph (1)—

(a) in sub-paragraph (a) for "controlled foreign company" substitute "CFC (within the meaning of Part 9A of the Taxation (International and Other Provisions) Act 2010)", and

(b) in sub-paragraph (b) for "controlled foreign company" substitute "CFC".

(3) In paragraph (4)—

(a) for "controlled foreign company's" substitute "CFC's", and

(b) for "the company" substitute "the CFC".

42C In regulation 8B for "controlled foreign company" substitute "CFC (within the meaning of Part 9A of the Taxation (International and Other Provisions) Act 2010)".'.

Amendment 114, in schedule 20, page 521, line 26, leave out 'and 38' and insert ', 38, 38A, 40A, 42B and 42C'.—*(Mr Gauke.)*

Amendment proposed: 190, in schedule 20, page 522, line 2, at end insert—

'(3) HM Treasury and HM Revenue and Customs shall publish an assessment of the implementation and impact of the changes made in this schedule each year from commencement for the first three years of operation, including—

(a) the impact of the changes on developing countries and whether any further aid or technical assistance needs to be provided to those countries to safeguard their tax revenues;

(b) the cost of the changes to the Exchequer and whether they are consistent with HM Treasury forecasts;

(c) whether the rules operate as expected and provide certainty to companies.'.—*(Catherine McKinnell.)*

Question put, That the amendment be made.

The Committee divided: Ayes 13, Noes 18.

Division No. 12]

AYES

Blenkinsop, Tom
Gilmore, Sheila
Hilling, Julie
Jamieson, Cathy
Lavery, Ian
McKenzie, Mr Iain
McKinnell, Catherine
Malhotra, Seema
Mann, John
Mearns, Ian
Morrice, Graeme *(Livingston)*
Morris, Grahame M. *(Easington)*
Reeves, Rachel

NOES

Baldwin, Harriett
Barclay, Stephen
Burley, Mr Aidan
Elphicke, Charlie
Garnier, Mark
Gauke, Mr David
Hands, Greg
Harrington, Richard
Hoban, Mr Mark
Kirby, Simon
Mills, Nigel
Pugh, John
Rees-Mogg, Jacob
Smith, Miss Chloe
Swales, Ian
Syms, Mr Robert
Williams, Stephen
Williamson, Gavin
Wilson, Sammy

Question accordingly negatived.

Amendments made: 115, in schedule 20, page 522, line 4, at end insert—

'First accounting periods

49A (1) This paragraph applies in relation to a CFC the first accounting period of which is determined in accordance with paragraph 43(2) or 44(4) above.

(2) For the purposes of sections 371SD(6), 371SK(3) and 371SM(3) of TIOPA 2010, assume that the CFC became a CFC at the time mentioned in paragraph 43(2) or 44(4) (as the case may be).

Elections under section 9A of CTA 2010

49B (1) This paragraph applies if—

(a) during a company's accounting period within the meaning of Chapter 4 of Part 17 of ICTA a notice is given in relation to the company under paragraph 4(2C) of Schedule 24 to ICTA,

(b) as a result of that, the company is to be assumed under paragraph 4(2C) of Schedule 24 to ICTA to have made an election under section 9A of CTA 2010,

(c) the assumed election—

(i) does not cease to have effect before the end of the company's last accounting period within the meaning of Chapter 4 of Part 17 of ICTA to begin before 1 January 2013, and

(ii) apart from the repeal of that Chapter by paragraph 14 above, would not have ceased to have effect at the end of that period, and

(d) the company is a CFC immediately after the end of its last accounting period mentioned in paragraph (c) and its first accounting period within the meaning of Part 9A of TIOPA 2010 begins at that time accordingly.

(2) In the application of Part 9A of TIOPA 2010 in relation to the company as a CFC, the assumption mentioned in sub-paragraph (1)(b) is to continue to be made as if it were required to be made by section 371SH(2) of TIOPA 2010.'.

Amendment 116, in schedule 20, page 522, line 10, leave out from 'exempt' to end of line 12 and insert

'period—

(i) does not end before the end of the company's last accounting period within the meaning of Chapter 4 of Part 17 of ICTA to begin before 1 January 2013, and

(ii) apart from the repeal of that Chapter by paragraph 14 above, would not have ended at the end of that period, and'.

Amendment 117, in schedule 20, page 522, line 29, after 'exemption' insert

'or section 371JE of TIOPA 2010'.—*(Mr Gauke.)*

Schedule 20, as amended, agreed to.

Clause 181

Transfers within a group by companies carrying on ring fence trade

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

Cathy Jamieson (Kilmarnock and Loudoun) (Lab/Co-op): This clause is technical and considered relatively uncontroversial by the industry. It ensures consistency of tax treatment of all gains and losses within the so-called ring fence. It amends section 171A of the Taxation of Chargeable Gains Act 1992, which provides for an election to transfer a gain or loss from one company to another member of the group. It restricts the scope of section 171A. Under the current legislation, where there is a transfer of a ring-fence chargeable gain from a ring-fence company to a non-ring fence company, the ring-fence gain is not subject to a supplementary charge, because the non-ring-fence company does not fall within the scope of the supplementary charge. I am sure that that is known to everyone in detail.

I want to make a few comments so that the Minister can, if she wishes, bring up any concerns or issues relating to the measures. I understand that we want to reach a certain point in the Bill—having given the measures proper scrutiny, of course—in good time for 7.45 pm, when people may have other commitments, although the Scots among us may perhaps take a different view on that. I will therefore restrict my remarks.

The Economic Secretary to the Treasury (Miss Chloe Smith): I will honour that spirit by being as brief as I can in discussing clauses 181 and 182. Clause 181 ensures that an election cannot be made to transfer a ring-fence chargeable gain from a company carrying on a ring-fence trade to a company not carrying on a ring-fence trade, and so avoid supplementary charge on the gain.

For hon. Members who are still in the dark, this provision relates to oil and gas activity, notably in the UK continental shelf. By way of background, this clause makes changes to the oil and gas fiscal regime which applies to companies producing oil and gas there. The regime, as Members will know, is made up of three main taxes: petroleum revenue tax, ring-fence corporation tax, and supplementary charge.

The introduction of this clause and clause 182 was announced on 6 December 2011 and both clauses are effective from that date. Clause 182 simply confirms that the supplementary charge applies to chargeable gains as ring-fence corporation tax does. Clause 181 affects the way asset disposals by companies in a group are treated for the purposes of ring-fence corporation tax and supplementary charge on chargeable gains. The general rule is that companies that are members of the same group can elect to transfer chargeable gains and losses between them. The rules for the election were simplified in the Finance Act 2009. However, an unintended consequence was that where a transfer took place from a ring-fence company to a non-ring-fence company, any ring-fence chargeable gain transferred would not be subject to supplementary charge. Therefore, as I have said, the changes made by the clause ensure that an election cannot be made to transfer a ring-fence chargeable gain from a company carrying on a ring-fence trade to a company not carrying on a ring-fence trade.

The change will affect only group companies carrying on a ring-fence trade that were contemplating making such a choice, the effect of which could be to avoid paying a supplementary charge applying to a ring-fence chargeable gain. It is probably clear to the Committee that we wish to avoid any such use of an unintended consequence, and the Government's firm view is that the scope of the supplementary charge matches that of the ring-fence corporation tax.

The clause supports the Government's commitment to protect revenues and promote fairness in the tax system by removing an unintended consequence of current legislation. Companies will no longer be able to make such a side-step on the supplementary charge, and it is anticipated that the clause may, as a result, increase Government receipts by some £10 million per annum.

The amendment was introduced with immediate effect from December last year to prevent loss to the Exchequer in the period between the announcement of the policy and enactment of the legislation. As the hon. Member for Kilmarnock and Loudoun has said, the clause is not controversial. We are not aware of any calls from the industry for changes to the clause since its publication in draft form last year.

I will briefly refer to the package of oil and gas measures that were announced at this year's Budget. The package was warmly welcomed by industry and will help to maximise the potential return from the UK's natural resources. In conclusion, the clause supports the Government's objective of protecting revenues in that vital industry by ensuring that the supplementary charge applies to ring-fence chargeable gains as intended.

Question put and agreed to.

Clause 181 accordingly ordered to stand part of the Bill.

Clause 182

SUPPLEMENTARY CHARGE

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

Cathy Jamieson: We seem to be making good progress, and I hope to continue that. I mentioned earlier that 7.45 was a key moment for many people in the Committee. I have to say that 4 August will be a key moment for Kilmarnock football club, which has on that day drawn "club 12" in the opening home game of the season. Those who are familiar with the current disputes involving certain football clubs and taxation issues—there is an element here—will, I have no doubt, understand the meaning of "club 12".

To return to the issues of oil and gas, clause 182 clarifies the definition of the scope of the supplementary charge set out in section 330 of the Corporation Tax Act 2010. The clause provides that that supplementary charge be charged by reference to a company's ring-fence profits. As the Minister has indicated, the clause has effect from 6 December 2011.

The supplementary charge is chargeable on a company's adjusted ring-fence profits as if it were an amount of corporation tax chargeable on the company. The company's adjusted ring-fence profits for an accounting period are currently defined in section 330(2) of the Corporation Tax Act as the profits of the company's ring-fence trade chargeable to corporation tax, on the assumption in subsection (3) that financing costs are left out of account.

It was the Government's intention when the legislation was first introduced in 2002 that a company's adjusted ring-fence profits should include all profits that could arise to a company carrying on a ring-fence trade from ring-fence activities. In other words, the intention was that the scope of the supplementary charge should match the scope of ring-fence corporation tax. This includes chargeable gains, which can arise on the disposal of an interest in an oil licence.

I am sure the Minister can confirm whether this is the case, but as I understand it, it remains the Government's view that under the existing law the scope of the supplementary charge matches the scope of the ring-fence corporation tax. However, the Government are aware that some people in the industry take a different view, believing that chargeable gains fall outside the scope of the supplementary charge. For that reason, as I understand it, this technical clause clarifies the scope of the supplementary charge by ensuring that it matches that on the ring-fence corporation tax, in accordance with the Government's intention when the legislation was first enacted in 2002.

5 pm

Miss Smith: Again, I shall be brief. *[Interruption.]* May I pay tribute to the cheerleaders? Clearly, they are cheerleaders not for the Finance Bill but for England tonight in our match against Ukraine.

Hon. Members: Hear, hear!

Miss Smith: Returning to the scintillating matters before us in the Finance Bill, as the hon. Member for Kilmarnock and Loudoun noted, the clause confirms that the scope of the supplementary charge matches the scope of the ring-fence corporation tax. Both taxes apply to the profits from upstream oil and gas production. The clause complements clause 181, which we have just discussed, on the clarification of revenue. Before I set out the changes made by the clause, I shall put in a little background, some of which the hon. Lady pre-empted, so I thank her for that.

[Miss Chloe Smith]

When the supplementary charge was introduced in 2002, it was the intention that a company's adjusted ring-fence profits, on which SC is chargeable, should include all the profits that could arise from ring-fence activities. In other words, the intention was that the scope of the SC should match that of the RFCT. That includes chargeable gains, which can arise on the disposal of an interest in an oil licence.

The Government's firm view is that the law as currently worded achieves the intention of matching the scope of the two taxes, but the Government are aware that some in the industry consider that the matter is not free from doubt. There are those who consider that chargeable gains fall outside the scope of the supplementary charge. The clause therefore confirms that the scope of the supplementary charge matches that of ring-fence corporation tax, providing certainty on the point. It will not change the treatment of any company operating in the oil and gas industry, but it confirms the current position by way of a simple clarification.

The Government do not accept the suggestion made by some in the industry that the measure amounts to a change in the law, and nor do we accept the argument of a small number of companies that the clarification should not apply to chargeable gains that were held over before 6 December and will crystallise after that date. The Government's view is that all ring-fence chargeable gains that arose or crystallised before 6 December were subject to the supplementary charge. The clause also confirms what would also have been the position under the law as it is currently worded: that gains arising or crystallising on or after 6 December are likewise subject to the supplementary charge.

In conclusion, the Government have always been absolutely clear that the UK fiscal regime for oil and gas seeks to encourage investment and innovation in the UK continental shelf, while ensuring a fair return for taxpayers and clarity through the relevant tax code. Together with clause 181, the clause supports the Government objective to promote fairness in the tax system while also providing clarity and certainty for companies.

Question put and agreed to.

Clause 182 accordingly ordered to stand part of the Bill.

Clause 183

Relief in respect of decommissioning expenditure

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

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

That schedule 21 be the Twenty-first schedule to the Bill.

Cathy Jamieson: I need some additional minutes to speak to some of the broader issues arising from the clause, because I heard the Minister on an earlier clause refer to the plan for the future of the oil and gas industry. It is fair to say that at the time of the 2011 Budget, there was some consternation among the industry at the outset regarding some of the measures announced. I have several pages of quotes—I will not read out every one—but suffice it to say that at that stage, a whole range of industry spokespeople felt not only that the Government had not consulted them in advance, but that some of the tax measures, which were described as a tax grab, a tax hike, and so on, would be particularly problematic for the industry. I may say a little more about that when I ask the Minister some particular questions.

Clause 183 and schedule 21 restrict to 20% the relief available for decommissioning expenditure for supplementary charge purposes by increasing the profits liable to the supplementary charge when decommissioning expenditure is taken into account in computing those profits. Where such expenditure reduces the amount of petroleum revenue tax chargeable, the schedule also reduces the profits liable to the supplementary charge, where the profits resulting from the reduction in PRT would be subject to the supplementary charge at a rate of more than 20%. The schedule further provides that losses arising from mineral extraction allowances given in respect of decommissioning expenditure are brought within the scope of the provision, which extends the period in which loss relief may be given.

The Minister has already referred to the timing of the implementation and introduction of the charges. In this case, the charge is effective from 24 March 2011, and the supplementary charge, therefore, increases from 20% to 32%.

At Budget 2011, it was announced that legislation would be introduced in the Finance Bill 2012 with effect from Budget 2012 to restrict the rate of tax relief from decommissioning expenditure for the purposes of the 20% supplementary charge. The schedule simply seeks to ensure that the principles that govern the restriction of decommissioning relief are applied consistently to PRT and non-PRT fields. The schedule also ensures consistency of treatment on decommissioning expenditure with regard to the restriction of relief and access to the extended period for which losses may be carried back.

An explanation of why restricting relief on decommissioning expenditure to 20% is fair when a rate of 32% is applied to profits might be helpful, because there has been some discussion on that point. The heat from the original debate has subsided, but the point I hear most often from people in these industries is that they need certainty to plan for long-term investment. The industry, therefore, is focused on the legislation required to ensure the contractual entitlements to such relief. In other words, each company wants to be certain of the relief's future so that it can plan accordingly. I understand that the Minister will further consult the industry on that. Will she say a little more on the timing and scope of that consultation? How will the position be monitored?

Will the Minister also indicate how she intends to use legislation and policy to incentivise new activity by ensuring that smaller companies are able to operate at the margins of those areas where the larger companies work? How will she ensure that companies have the certainty they are looking for?

A response to those questions from the Minister would be helpful. We all want to see the future of our oil and gas industry in the UK, and we also want security of supply. Concerns have been raised that if we do not get the investment infrastructure right—again, there are concerns both offshore and onshore, particularly for the petroleum refining industry—the cost of building, creating and modernising the infrastructure are not necessarily incentivised by the taxation regime.

I appreciate that not all of that can be addressed by this one schedule, or indeed by this Bill, but it would be a helpful signal to the Committee and the industry if the Minister explained how she intends to take matters forward.

Miss Smith: I will, with pleasure, tackle the questions about clause 183 and will also briefly refer to some of what clause 184 does. Clause 183 and schedule 21 make changes to ensure that the rate of tax relief on expenditure related to the decommissioning of oil and gas fields is capped at 20% for supplementary charge purposes. To set out some background, let me take us back to Budget 2011 when, as part of a sizeable package to support motorists, the Government introduced a fair fuel stabiliser. The Committee will well remember that at that Budget we were able to reduce fuel duty by 1p in order to support the motorist. This means that the rate of supplementary charge on the profits from oil and gas production is higher when, as now, oil prices are high and activity is more profitable.

At Budget 2011, the rate of supplementary charge was therefore increased from 20% to 32%, where it has remained. If oil prices fall below a trigger price of £45 per barrel on a sustained basis, the fair fuel stabiliser will reduce the rate of supplementary charge back to 20%, on a staged and affordable basis. However, as the clause makes clear, the rate of tax relief given for decommissioning will not change with that supplementary charge rate. As hon. Members may already know, licensees in offshore oil and gas fields are required by law to decommission their installations at the end of a field's life. The oil and gas fiscal regime provides tax relief on the costs of that decommissioning.

The restriction in clause 183 and schedule 21 means that the rate of relief will remain at 20% for SC purposes. The total rate of relief that companies receive on their decommissioning costs will therefore remain at 50%, or 75% for fields that pay petroleum revenue tax. This measure is designed to ensure that companies are not encouraged to bring forward the decision to decommission mature fields when oil prices are high in order to obtain a higher rate of relief. The Government are committed to ensuring the maximum economic recovery of oil and gas in the UK continental shelf. Clause 183 and schedule 21 seek to ensure that we do not give companies an incentive which undermines this objective by allowing them to choose to decommission fields for tax reasons, even though they may still have potentially recoverable reserves.

Cathy Jamieson: I welcome what the Minister is saying about the importance of not encouraging or wrongly incentivising companies to decommission at an early stage to take advantage of some kind of tax break. How does she balance that with ensuring that the taxation regime encourages further investment? I am thinking particularly of the balance between some of the larger companies and the smaller companies.

5.15 pm

Miss Smith: The hon. Lady is only a micro step ahead of me. I will do just that in a moment and on clause 184 too. I suspect we have common interests in the principles, which are to ensure that the UK continental shelf performs to the best of its economic ability.

The clause restricts the relief available for decommissioning expenditure for SC purposes to 20%. In doing so, it seeks to ensure that the principles governing the restriction of decommissioning relief are applied consistently to fields that pay petroleum revenue tax and those that do not. It also provides that losses arising from mineral extraction allowances in relation to decommissioning expenditure are eligible for the same loss carry-back periods as apply to losses arising from plant and machinery capital allowances in respect of decommissioning expenditure.

The point I want to take forward in answer to the hon. Lady's question is how to encourage maximum production from appropriate fields, and how to incentivise smaller companies. The point is absolutely clear. The clause goes hand in hand with a much broader piece of work that the Government have done to provide the sort of certainty on decommissioning relief that I suspect she wants to hear about. That work began last year, and has continued into this year.

We announced in the 2012 Budget that the Government will legislate in 2013 on a contractual approach to provide further long-term certainty on decommissioning tax relief. Perhaps those of us who are lucky enough to be here again on the 2013 Finance Bill will enjoy every moment of that—if we are not put on the libraries committee in the meantime. The announcement in the 2012 Budget followed close engagement with the industry, which has warmly welcomed our proposed approach to provide greater certainty for the investment that we all want to see on the UK continental shelf. We believe that it should result in billions of pounds of additional investment and production over the life of the basin at no net cost to the Exchequer.

We will discuss further points on clause 184 that relate to how we can incentivise smaller companies to take part. They have been very much part of the discussions that I and my Department have had, and of the work that I outlined. Indeed, they can be discussed with field allowances.

I want to make it clear that we value consistency between the definition of decommissioning expenditure used in the clause and schedule, and in any contract in respect of the wider certainty work. However, I think it will be one of the issues covered in the consultation on decommissioning certainty that the hon. Lady asked about and which will be published later this year. Because of that ongoing consultation process, the clause includes a power to amend the definition of decommissioning expenditure through secondary legislation.

In conclusion, the clause and the schedule will ensure that companies remain eligible for tax relief worth half, or in some cases three quarters of their decommissioning costs. Losses arising from those costs will continue to qualify for generous carry-back provisions, and the clause seeks to ensure consistency of treatment for different types of decommissioning expenditure. We believe that restricting the rate of relief in that way is the most sensible way to address the risk that companies

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might otherwise be incentivised to accelerate the decision to decommission mature fields on tax grounds. The clause and schedule also complement the Government's wider ongoing work to ensure that companies have long-term certainty on decommissioning relief, which will be the subject of consultation in due course.

Question put and agreed to.

Clause 183 accordingly ordered to stand part of the Bill.

Schedule 21 agreed to.

Clause 184

Reduction of supplementary charge for certain oil fields

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

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

That schedule 22 be the Twenty-second schedule to the Bill.

Cathy Jamieson: Given that we may have strayed into some of the territory of clause 184 during our previous discussion, I shall be brief to allow the Minister to respond. In summary, the clause and the schedule amend the field allowance legislation in chapter 7 of part 8 of the Corporation Tax Act 2010, with which we are all becoming extremely familiar, or we will be when the Committee has finished. The amendments enable the allowance to be extended to fields that have already been developed. As the Minister has indicated, the field allowance reduces the amount of profits, subject to the supplementary charge, when fields meet specific criteria. It is currently available only for new fields, and a new field is described as an oil field that is a qualifying oil field, by virtue of satisfying particular criteria, and whose development is authorised for the first time on or after 22 April 2009. I heard what the Economic Secretary said about recognising the importance of securing ongoing investment in existing North sea fields and infrastructure, and of looking to the future in giving industry the certainty that it needs to make the investments required, and I am interested, therefore, to hear what she has to say about how the measure will affect industry.

The Economic Secretary indicated that she would say something about smaller companies, and it would be helpful if she also mentioned some of the steps that will be introduced in the Finance Bill 2013. Whether or not we are here to be part of that, I think that we will all continue to take an interest in the matter, and it would help, therefore, to have an indication of what the stepping stones are in the consultation with industry, what she anticipates doing and how she anticipates reporting back to the House during that period, so that at Finance Bill 2013 we do not find ourselves stumbling across changes, complex clauses or technical amendments on which we have not been fully updated. I look forward to hearing what the Minister has to say.

Miss Smith: I wonder whether at the outset I ought to decline the hon. Lady's kind invitation to provide a full update on a consultation that has not yet taken place. I happily undertake, however, to come back as appropriate as the work progresses, to keep Members updated. What I will say about clause 184 might frustrate Members with its technicality, but not, I hope, its length. There are, however, a number of important concepts to explain.

The field allowance is another important element of the ring-fence fiscal regime for oil and gas production. Under the previous clause, we spoke about how the Government are setting out a contractual approach, which will provide certainty to industry on the relief available in decommissioning expenditure. In that debate, I said that I was not sure whether one could ensure certainty. I was, of course, being light-hearted; a mathematical moment took me about whether one could ensure certainty in life. I want to make it absolutely clear that the Government are consulting on taking a contractual approach to providing the type of certainty that industry has asked us for; it has worked carefully with us on its design.

Industry has also been engaged with extensively, and it has been extremely constructive in discussing field allowances, which are the second important element, alongside decommissioning certainty, in our fiscal regime for oil and gas production. Field allowances facilitate investment in projects that are economic but which might not be sufficiently commercial to be developed without some reduction in the level of tax. A field allowance would achieve that by shielding an initial portion of income in a qualifying field from supplementary charge, and reducing the overall tax liability of the company or companies developing the field.

To date, the field allowance has applied only to new fields—those that were first given development authorisation on or after 22 April 2009. Before Budget 2012, four categories of field qualified for the allowance: small fields, heavy oilfields, deep-water gas fields, and high-pressure, high-temperature fields. At Budget 2012, the Government announced a range of new measures to support investment in the UK continental shelf, including a package of changes to the field allowance regime, which were focused on increasing the development of commercially marginal fields. Companies that develop such fields may often—although not always—be the smaller firms that the hon. Lady has spoken about. We think that our work on field allowances and decommissioning certainty will help companies across the basin, including smaller ones; indeed, the Budget 2012 announcements included changes to a new small-field allowance. I shall run through a few more aspects of that package before returning closely to what clause 184 does.

The announcements follow close discussions between Government and industry since the 2011 Budget. They include changes to the amount and scope of the small-field allowance and the introduction of a new category of qualifying fields targeted at particularly deep fields with sizeable reserves, as are found in the west of Shetland region. The Government also announced that we would introduce legislation to enable the field allowance regime to be extended to development projects in fields that have already been approved—so-called brownfields. That is the issue that clause 184 and schedule 22 address.

In previous debates, we covered how important it is that the tax regime in the North sea continues to provide the right framework for the development of the continental shelf—not only existing fields, for which we wish to continue to encourage economic production, but also the possible development of new fields. As Committee members know, as fields develop, there are often opportunities for incremental investment. Those are referred to as brownfield opportunities, and that kind of additional investment can bring significant benefits. It can result in greater overall reserve recovery and therefore tax take. It can also prolong the life of infrastructure, and it is vital to exploit that opportunity.

A strong message we heard in our work with industry is that it wants the Government to address flexibility in the tax system to cover the kind of investment that we are discussing. There are examples of incremental projects that companies are considering, where further reserve recovery would be economic, but where the tax regime makes the decision to take forward additional development commercially marginal. Not going ahead could have an adverse impact on our economy.

The clause and schedule extend the existing field allowance legislation. They enable the allowance to be extended to fields that have already been developed and are to undergo a programme of additional development authorised by the Department of Energy and Climate Change. As with existing legislation applying to new fields, the clause and schedule give the Government powers to determine the structure and amount of any such allowance, including any relevant qualifying criteria, through subsequent secondary legislation. They also give the Government the ability to provide a field allowance retrospectively, provided that they do so for wholly relieving purposes. The implementation of any such allowance through secondary legislation would of course be subject to the affirmative procedure, which I am sure gratifies you, Mr Bone.

On timing, a feature of brownfield projects is that they can extend the life of assets that are otherwise ready to be decommissioned. It is important to note that any remaining reserves reliant on the associated infrastructure could be permanently lost at that point, including reserves in other nearby fields. That is not in the UK's interest. Some companies are likely to decide whether to decommission some assets this year. Some of those decisions could be affected by the availability of a field allowance for brownfields. By legislating now, the Government are therefore ensuring that we have enough flexibility to make any such allowance operational within a short time frame.

With a legislative framework in place, we will continue to engage with industry on how an allowance could be structured to facilitate investment in commercially marginal fields while protecting Exchequer revenues. As hon. Members may know, industry has firmly welcomed clause 184, which follows the months of engagement I mentioned. It is a positive clause, which means that the UK oil and gas fiscal regime can continue to develop in a way that not only recognises investment in new fields, but allows the possibility of making the most of existing assets in the continental shelf as the basin matures.

The Chair: Before I put the question, I want to say for the benefit of Ministers that they do not have to move clauses and schedules that are already in the Bill. It saves a bit of time if they do not.

Question put and agreed to.

Clause 184 accordingly ordered to stand part of the Bill.

Schedule 22 agreed to.

Clause 185

Rates of Tobacco Products Duty

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

5.30 pm

Cathy Jamieson: We have moved on rapidly from discussing the oil industry to discussing tobacco products. The clause provides for changes to the level of excise duty on tobacco products, including cigarettes, cigars, hand-rolling tobacco, other smoking tobacco and chewing tobacco, to take effect from 21 March 2012. We all understand the concerns around smoking, the health implications and the consequences for some of the least well-off people in the various communities in the UK. Successive Governments have chosen to maintain high tobacco duty rates to support health objectives. They have also ensured that tobacco duties continue to contribute to Government revenues and fiscal consolidation. Over the years, a link has been made with the price of tobacco products, the level of demand and the issues around health.

Under the clause, excise duty on all tobacco products is increased by 5% in real terms, in addition to the retail price index and the pre-announced increases of 2% above inflation on all tobacco product duties that will be maintained in 2013 and 2014—the so-called escalator. That duty, together with the consequential VAT increase, will on average increase the price of a pack of 20 cigarettes by 37p, a pack of five small cigars by 12p, a pack of hand-rolling tobacco by 37p and a pack of pipe tobacco by 20p. The revenue yield from those changes is estimated at £70 million in 2012-13.

I should have perhaps said at the outset that I have never been a smoker. As someone who was actively involved in sport in my much younger days, I never felt the need to take up that particular hobby as I had to spend my time training. None the less, I do wish to comment on the questions that have been raised by some in the industry about the excise duty and VAT rises and also about the potential impact of higher tobacco prices on the sale of illegal and cheap imports coming into the country. Potentially, the non-UK duty-paid products will impact on the duty-paid products. The industry has done some work on this issue and preliminary results show an increase in the non-UK duty-paid products this year compared with the same period last year. There is a fear that there will be further large increases in the current year.

Will the Minister tell us how the Treasury views the future and whether it will consider the scale of future duty increases on tobacco products? Does it intend to continue with the increase in tobacco duties by 2% above inflation in each of the next two Budgets in the face of rising levels of non-UK duty-paid products or does it intend to balance out some of those issues? I ask that question because in the 2011 Budget, the changes that were announced by the Chancellor to reduce tax differentials were meant to address the exploitation of the tax structure by those producing cheaper cigarettes and the revenue loss caused by the downtrading from the more expensive brands to the cheaper cigarettes. Does the Minister believe that that has been successful? I understand that some data from Her Majesty's Revenue

[Cathy Jamieson]

and Customs suggest that, far from the differential decreasing, the gap has actually widened, and that, potentially, downtrading has continued. It would be helpful if she could say something about that. If the information is not all there, can this issue be considered in more detail at this point in time? Will the Minister consider undertaking some work to try to understand the impact of the changes in structure, and to look ahead to the next Budget in terms of how best to ensure that the Government's policy is successful?

Will the Minister refer to the suggestion—I understand that some in the industry would be supportive, though others would not—of a minimum excise tax? In other words, a point would be set below which manufacturers of cheaper products would be forced to make an additional excise payment or simply increase the prices to comply. I understand that a similar proposal is currently being introduced by the Irish Government in their Finance Bill. Some who are involved in considering health issues and who want to ensure that smoking is not made more attractive, particularly to younger people, have suggested that this is something that the Government should consider. Perhaps the Minister could give us an indication of whether she intends to introduce any further changes to the tax and duty system in relation to cigarettes and other tobacco products linked to health issues.

I hope the Minister will also be able to address the measures relating to enforcement and anti-avoidance. I attended a useful debate in Westminster Hall some time ago, as the Minister will no doubt recall. We were able, in a non-partisan and non-party political way, to discuss the serious issue of ensuring support for all health initiatives, while at the same time ensuring that those who were determined to undermine the taxation system and criminal law were brought to account and held to account.

With those few remarks, I ask the Minister to answer those questions. I may come back if I feel there are other points I wish to raise.

Miss Smith: I shall not take too long, as I suspect that there is some consensus in the Committee on the health impacts of smoking and other aspects relating to tobacco products.

Clause 185 makes changes to ensure that tobacco products duty continues to contribute to wider efforts to reduce the deficit and support the Government's health objectives. It reduces the affordability of smoking, which is acknowledged to be very effective in encouraging smokers to quit, and in discouraging young people from taking up smoking—points finely put across by the hon. Member for Kilmarnock and Loudoun. I will endeavour to answer her questions as I move through my comments.

It is clear to all of us that smoking kills. We have all been brought up with that message, depending on our ages and what advertising campaigns we grew up with. Smoking kills half of all long-term users and is the single biggest cause of inequalities in death rates between the richest and poorest in the UK. Smoking accounts for more than 100,000 deaths in the UK each year, and continues to be the single largest cause of preventable illness and premature death. Treating smoking-related illnesses has been estimated to cost the NHS £2.7 billion a year. Maintaining high levels of tobacco products duty, alongside continuing action to clamp down on tobacco smuggling, which I will come on to in a moment, is a key part of the Government's strategy to reduce the prevalence of smoking.

Clause 185 increased the duty paid on all tobacco products by 5% above RPI from 6 pm on 21 March 2012. The new rate therefore adds 37p to a packet of 20 cigarettes or a 25 g packet of hand-rolling tobacco. The clause will raise an additional £260 million over the next five years, which will make an extremely valuable contribution to Government revenues and to fiscal consolidation.

In one of her many questions, the hon. Member for Kilmarnock and Loudoun tempted me with talk about future tobacco rates. As I have made clear, because this type of rate becomes effective from a given time on Budget day, I am unlikely to be able to stand here, many months in advance, and give her the means, if she so wishes, to stockpile—I am sure that she would not wish to do such a thing.

The fact is that tobacco duty is the subject of some debate. During the year, I have discussed the issue with and received information from a range of industry stakeholders, including, crucially, those campaigning on the health side. That kind of engagement will certainly continue, including no doubt at the time of next year's Budget.

Ian Mearns (Gateshead) (Lab): I should declare an interest as a member of the all-party group on smoking and health, and I am still a member of the Gateshead Smokefree Alliance. I am very keen to see a reduction in the prevalence of smoking among the general population of my constituency and across the whole country. I know that, across Departments, the Government are considering a whole range of measures—including plain packaging and a reduction in the display of marketing—but it is clear that the tobacco industry needs new recruits. As the Minister pointed out, annually about 100,000 people die prematurely from the effects of smoking. To replace those who have died and, sadly, can no longer buy cigarettes, the tobacco industry needs new recruits, and it is determinedly marketing towards young people. Have Treasury Ministers thought about taxing products that are particularly aimed at young people?

Miss Smith: I thank the hon. Gentleman, and everyone in the House and in the all-party group who do sterling work on this topic. I know that several colleagues and other hon. Members do such work.

The hon. Gentleman makes an interesting point. Not having been a smoker either, I did some preparatory research by looking at various tobacco packages in order to understand the range available. I was shocked by those that are being redesigned to appeal, frankly, to younger or to female smokers. There are different ways of designing packages, as the advertising industry has done since time immemorial, to appeal to a given audience. We should continue to make a cultural point about what it is acceptable to encourage our young people to do and not to do. That topic could be approached in several different ways, and in due course I would be delighted to hear more from the hon. Gentleman.

Stephen Williams *rose—*

Miss Smith: And, indeed, from my hon. Friend, who also does great work on this matter.

5.45 pm

Stephen Williams: I am the chairman of the all-party group on smoking and health, which has members from all parties across both Houses, and the hon. Member for Gateshead is a particularly enthusiastic member. I am pleased that the Minister has mentioned the different packaging designs—in the shape of lipstick tubes, camera phones, iPods—that are now being used by the tobacco industry to recruit a new generation of smokers. No longer are cigarettes marketed purely in the traditional rectangular boxes, with which some of us might be familiar. Does she agree that the best way forward is therefore to move to standardised and plain packs? I do not know whether anyone is involved in this, but will she deplore the recent edition of *The House* magazine, which we have all been sent? It is packaged and has as its cover an advertorial on behalf of the tobacco industry, but it does not disclose that that has been paid for by the industry.

The Chair: Order. I really do not want to get into a debate about smoking, and I really do not think that packaging has much to do with the duty, so perhaps the Minister could continue.

Miss Smith: Thank you, Mr Bone. I have not yet found my copy of *The House* magazine, but I clearly need to.

The point that unifies the sensible concerns raised by hon. Members today with the clause is the need for evidence and to continue to understand the industry. As my hon. Friend the Member for Bristol West knows, the Government are consulting on tobacco packaging, and, as I was saying to the hon. Member for Gateshead, there is much to listen to and learn from in the groups that he works with, and I am happy to receive work from them.

I want to touch on a point made by the hon. Member for Kilmarnock and Loudoun, which relates to the concept of downtrading. It is true—I have already put it on the record—that the rate adds 37p to a pack of 20 cigarettes. For those non-smokers who may not know, there are different bandings of cigarettes, but it adds that kind of money to a smoke, and some people will choose to seek out a cheaper product in the market. There is a bottom to that market and that leads on to the illicit trade, which is an important topic that the hon. Lady also raised.

Charlie Elphicke (Dover) (Con): I do not want to follow the route of my hon. Friend the Member for Bristol West in making a massive attack on the freedom of speech and the press in this country, but I want to note—this is in order—a key point. The level of taxation on cigarettes is particularly difficult for the least well-off. I must declare an interest as a former smoker who has recently given up. Being a Member of Parliament nowadays means that I can no longer afford to smoke, but it is much harder for those who are particularly hard-pressed and do not earn much money. Would it not be better to have greater education rather than taxation? I also note that the illicit supply of smuggled cigarettes seems to be on the rise, which is a concern and a potentially serious health hazard.

Miss Smith: There is a grain of truth here, which is that research has consistently shown that the price of tobacco products does affect demand. It is my aim to reduce smoking through increasing duty on tobacco products, and I say that plainly. I would like to see people choose not to afford to smoke, and I would like to see young people choose not to take it up in the first place. I would like to see all the effects of reducing smoking prevalence.

Jacob Rees-Mogg (North East Somerset) (Con): Some people will refuse to give up smoking, and some of those people will be extremely poor and on very limited means. They will find that an increasing part of their budget is going on taxation. The measure is regressive and hits some of the poorest people in the country, so should the Government not be concerned?

Miss Smith: My hon. Friend raises a point. People up and down the income distribution and with different profiles choose to smoke. I make no bones about that and I am not embarrassed to have to say that. This measure adds money to the price of cigarettes, and I think that that is a good thing. I would like to see less smoking.

Jacob Rees-Mogg: Unfortunately, tobacco is addictive, and therefore some of these people who are addicted find that they have almost no choice but to smoke. Unless there are alternatives to help them quite strongly to give up, we are taxing the poorest people in society.

Miss Smith: Perhaps I ought to pray in aid my hon. Friend the Member for Dover. I do not know whether my hon. Friend the Member for North East Somerset has taken part recently in some of the excellent NHS campaigns, but they are providing exactly what he seeks: help, through the state, for people to give up and kick their addiction. He is right that the problem of addiction underpins this debate. I do not have all the answers—I have only the tax rate—but it is clear that a broader job needs to be done across the education, business and health sectors.

Grahame M. Morris (Easington) (Lab): What would the cost to the Treasury be if everyone gave up their addiction to cigarettes and stopped buying them via legal means? Would it be in the order of £12 billion?

Miss Smith: I suspect that even HMRC modelling and the most wishful of thinking would not allow that scenario to arise. As I have said, the clause will raise an additional £260 million. I am sure that the figure sought by the hon. Gentleman can be supplied to him at another time.

I want to address the issue of illicit trade, which is also relevant to the hon. Gentleman's intervention. Whatever the product, someone will try to sell it for gain, which is as true of the market under discussion as it is of any other market. The Government are committed to tackling tobacco smuggling, which is only one element of illicit trade, but a major one at that. Tobacco fraud costs taxpayers more than £2 billion a year, depriving

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the general public of revenue to fund vital public services that support us all, including those to whom my hon. Friend the Member for North East Somerset has referred. Illicit tobacco undermines public health objectives and affects the health both of individuals who smoke and of wider communities.

Mark Garnier (Wyre Forest) (Con): I am yet another in the queue of many people who have given up smoking. On trying to affect behavioural change, in 2003 it was estimated that about £10 billion a year was lost to the Revenue through tax avoidance as a result of smuggling and so on. That has now come down, as the Economic Secretary has said, to about £2 billion. However, as taxes go up, people are pushed towards behavioural change and buy illicit tobacco from car boot sales, for example, which they would not otherwise have done. What efforts is HMRC making to tackle the illicit trade in cheap whites and so on, in order to try to recover money on behalf of taxpayers?

Miss Smith: I certainly can provide that update—my hon. Friend may even be able to look over my shoulder and see the figures on the page in front of me. The key point is that HMRC and the UK Border Agency launched a renewed smuggling strategy in April 2011. Since the precursor to that strategy was introduced in 2000—this covers a period of 11 years—the size of the illicit cigarette market has been cut by almost half, which I am sure hon. Members will agree is a sizeable achievement. The renewed strategy has to build on that success.

Ian Mearns: I have had some experience of the illicit smuggling market in my own constituency of Gateshead. There has been a significant variation in the exchange rate between the pound and the euro since 2003. Back in 2003, busloads of people used to leave the north-east to go to places such as Luxembourg, buy cigarettes—the personal allowance was 3,000 cigarettes per person—bring them back into the country and then smoke 150 packets before going on their next trip a fortnight later. The difference in the exchange rate was widely abused. The fact that European countries, by and large, increased their tobacco duties has cut down on much of that trade.

Miss Smith: The hon. Gentleman makes a valuable point, and he highlights how HMRC must keep on its toes to stay abreast of all the latest developments in technology and products, and of what is happening in the markets in which Britain operates.

Charlie Elphicke: I want to touch on smuggling again. As the Minister knows, I represent Dover. Does she agree that the border officers do a fine job of stopping smuggling at our border? Does she agree that some of the £260 million that the measure raises might be invested in strengthening our border still further, so that we can clamp down even harder on smuggling and protect Exchequer revenues?

Miss Smith: I am delighted to join my hon. Friend in praising the work of border staff. I have already noted that their work has resulted in the halving of the illicit cigarette market—a task that was set them—which is laudable. I hear his suggestion about how we should use that £260 million, and I will consider it along with other points made in the debate.

Jacob Rees-Mogg: Following on from the point made by the hon. Member for Gateshead, will the Minister tell us whether there are any emergency plans in place in the event of a collapse of the euro? In that event, tobacco from Greece, Spain, Italy and any other countries that had left the euro would be a good deal cheaper. What might the Treasury do about that to protect its revenues?

Miss Smith: All hon. Members—particularly my hon. Friend—well know, from having asked similar questions, that contingency plans are in place in case that should occur.

Cathy Jamieson: Before the Minister finishes, I would like to return to clause 185. During the Finance Bill Committee in May 2011 the then Economic Secretary justified the change that was being made by saying that she wished to target duty increases on cheaper tobacco products, because that would help to tackle down-trading from more expensive to cheaper tobacco products. Will the Minister reinforce that commitment? Will the Government look at the matter in the year ahead and perhaps introduce further changes in 2013?

Miss Smith: I am glad that the hon. Lady has noted that point. I wanted to finish by answering one of her earlier questions about changes to structure. Hon. Members may know that tobacco taxes have two component parts. My predecessor made the changes that the hon. Lady has mentioned at Budget 2011. When the Budget 2012 decisions were taken, 12 months' data were not yet available to me. I would like to be able to assess the impact of the Budget 2011 measures prudently before committing to further changes in the structure of cigarette duty.

The hon. Lady asked about a potential gap in HMRC data, and I can confirm that our latest data on the tobacco tax gap have not shown an increase in illicit trade. Those data are updated annually and official figures will be available in September. Some industry data show an increase, and hon. Members may draw their own conclusions about that. As I say, we will have to wait for official data to be released, because information is vital in this area.

I have said that the clause will raise an additional £260 million over five years, which will help us to reduce the deficit and to fund the vital public services that relate to the health aspects of the measure. The taxation change supports the Government's health objectives by helping to reduce smoking. I am confident of the performance of HMRC and Border Force officials in tackling the illicit market. I end with a quote from the Action on Smoking and Health group from February of this year, the views of which were endorsed by 91 health and welfare organisations:

> "Reducing affordability through increasing taxation is acknowledged to be very effective in encouraging smokers to quit and in discouraging young people, who are particularly price sensitive, from taking up smoking."

6 pm

Charlie Elphicke: Will my hon. Friend give way?

Miss Chloe Smith: I was about to sit down, but of course I will give way.

Charlie Elphicke: My hon. Friend will know that there is a rise in the new electronic cigarettes, of which I am a beneficiary. I have noticed that many Members from both sides of the House increasingly use them. Currently, they are untaxed. Does she envisage that they will remain so for the rest of this Parliament?

Miss Smith: My hon. Friend goes a step too far—I announce for the record that he is about to show one of said products to the Committee. I shall leave my comments there.

Question put and agreed to.

Clause 185 accordingly ordered to stand part of the Bill.

Clause 186

Rates of alcoholic liquor duties

Grahame M. Morris: I beg to move amendment 191, in clause 186, page 107, line 9, at end insert—

'(3A) The Chancellor of the Exchequer shall review the wider economic impact of the duty increases imposed by subsection 3 on the beer and pub industry, and consumers, and shall lay a report of his review in the House of Commons Library.'.

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

Grahame M. Morris: I am grateful to have the opportunity to raise a subject that is dear to my heart. The clause increases the rate of excise duty charged on spirits, beers, wines and other alcoholic beverages. I am sure that hon. Members from both sides of the Committee, and Officers and Clerks, will be enjoying some alcoholic beverages in an activity that has become popular, which is known as chillaxing—I think the Prime Minister is fond of that phrase. Perhaps they will be doing so while watching the Euro 2012 football and, I hope, celebrating success for England this evening.

I declare an interest not only as someone who obviously loves beer—hon. Members can tell that from my shape—but as vice-chair of the all-party save the pub group. I am also a member of the working men's club and institute union, the CIU, and of various working men's clubs, including the Murton Victoria club; Easington colliery working men's club; Peterlee Labour club, hon. Members will not be surprised to hear; and Deneside working men's club in Seaham. *[Interruption.]* Hon. Members opposite are probably members of very exclusive London clubs, but the clubs that I have listed are very inclusive establishments.

The amendment tabled by my hon. Friend the Member for Livingston requires a review of the impact of the proposed duty increases. The clause's effect is to substitute new rates of excise duty in the Alcoholic Liquor Duties Act 1979, ALDA, which is not to be confused with Aldi, the discount supermarket. I certainly do not want to get into a debate about minimum price on alcohol, which is a separate issue, but it is relevant to a couple of points that I shall make shortly.

The previous excise duty rate on spirits of £25.52 was replaced by the new rate of £26.81 from March of this year, and the previous beer duty rate increased from £18.57 to £19.51. For the Committee's information, perhaps the Minister can equate those figures to a price increase per pint or bottle of alcoholic spirits. Unless hon. Members are like the Olympic flame and never go out, it cannot have escaped their notice that the pub industry has been one of the hardest hit sectors during this economic downturn. Across the country, pubs are closing their doors for the last time, which has a considerable social and economic impact on villages, towns and cities. It looks like it is becoming irreversible.

Since the beer duty escalator was introduced in 2008, a range of new and demanding costs have also been applied across the industry. I have received a briefing from the British Beer and Pub Association and I have had discussions with it through the all-party group. It has pointed out to me that inflation has risen, VAT has increased, brewing costs have risen and incomes have fallen right across the sector. There has also been the impact of the fuel duty increases, which have impacted on delivery costs.

As we all know from our constituencies, pubs are a vital part of our social life and are a social boon. No matter what sort of areas we represent—whether it is Labour, Tory or Lib Dem, north or south, countryside or urban, wealthy or poor—our public houses are the hubs of those communities. Just as important, pubs and brewing are vital to the UK economy. It is a little known fact that more than 1 million jobs depend on this sector. Again, according to the British Beer and Pub Association, beer duty has increased by 42% since 2008, while household incomes have fallen, making a pint in the pub increasingly unaffordable for many.

I know from my constituency of Easington that pubs are struggling in these tighter economic times. I understand that 16 pubs a month are closing across the north-east. Clubs are struggling, too. Many places have closed, never to reopen. That all contributes to the changing habits of people across Britain, with more alcohol being consumed in the home. Some may judge that to be a good thing. I make no moral judgment about it, but this is a fact: the change in excise duty is having an impact on the whole sector, on unemployment and on Treasury revenue. More alcohol is being consumed in the home, with cut-price loss-leaders filling the shelves of our supermarkets.

Can the Minister confirm that over the course of this Parliament the Government are planning to increase beer tax by a further 27%? Treasury forecasts show that there will be no additional revenue generated from those tax increases over the next two years. Government Members have referred to the Laffer curve of diminishing returns, and it certainly applies here. I understand that Professor Laffer is giving a lecture in the building this week.

The time is right for a pro-active strategy—not just to help those pubs that are struggling now but to boost growth in the pub and brewing industry. The previous Government went as far as appointing a Minister with

[Grahame M. Morris]

responsibility for pubs, my right hon. Friend the Member for Wentworth and Dearne (John Healey), and I hope that this Government will go even further.

There is a real potential to create vital jobs and build on a great UK manufacturing success story. Our British beer is famous around the world, and our pub culture is envied by many countries. There is also the multiplier effect. One job in brewing supports one job in agriculture, one job in retail, one job in the beer supply chain and 18 jobs in pubs and clubs. Freezing beer duty in the 2013 Budget would save more than 5,000 jobs, mainly in pubs and clubs, and 16,000 over the next three years. That surely supports the Government's growth agenda. In the Finance Bill 2012, the Government have committed to continuing the beer duty escalator, resulting in a 5% rise in beer duty in 2012-13. The turnover of the beer and pub sector is £28 billion, and the sector makes a massive contribution to the Treasury already. Sales in pubs have fallen sharply, so why, just at a time when demand is being driven down and sales are falling, are the Government once again clobbering pubs and brewers with higher and higher taxes? Last year alone, it resulted in the loss of over 5,000 jobs and hundreds of pub closures.

I am also concerned about the wider economic and social impact of beer tax, which needs to be taken into account when policy is developed. The amendment is not revolutionary; it is a request for a review of the wider economic impact of the escalator on the beer and pub sector before any decision is made to continue the policy in the 2013 Budget.

The Chair: I remind Committee members that there are no time limits on speeches in this Committee.

Graeme Morrice (Livingston) (Lab): I shall just read the Whip's note. Now I will file it.

It is a pleasure to follow my good friend and colleague, my hon. Friend the Member for Easington. I, too, like a wee bevvie, as we say in Scotland.

The amendment was tabled as a result of increasing public concern regarding the impact of alcohol duty on the price of beer and the pub industry. The British Beer and Pub Association has highlighted the fact that beer duty has increased by 42% since the beer duty escalator was introduced in 2008. It is worth noting that, when the escalator was introduced, it was against a backdrop of rising household incomes and lower inflation and VAT. Since 2008, household incomes have been falling while inflation and VAT have both risen, leading to an increase in brewing costs. As a consequence, the humble pint of beer—a staple pleasure for millions, including, I am sure, many Committee members—is fast becoming an expensive luxury. The BBPA states that UK consumers now pay 40% of EU beer tax, while consuming only 13% of the beer. That figure is astonishing.

On the industry side, brewers pay half their brewing turnover in tax, which is crippling one of Britain's great manufacturing industries and putting thousands of jobs at risk. The BBPA has also said that, based on current Government plans, that will increase by 27% during this Parliament, despite Treasury forecasts showing that no additional revenue will be generated over the next couple of years.

Changed circumstances mean that the impact of the beer duty escalator on consumers and the industry has been far greater than originally anticipated and a careful re-examination of the policy is required. Local community pubs, and consumers who enjoy visiting them, are paying the price.

Research conducted by the Campaign for Real Ale shows that 84% of people believe that a pub is as essential to community life as a shop or post office. I have always held the view that well-managed pubs play an invaluable role in local communities, especially in rural areas, where they are often one of the only venues available for people to gather socially. They can provide a safe, sociable environment in which people can enjoy a drink responsibly and socialise with people of different ages and backgrounds.

CAMRA states that the UK already has the second highest duty on beer in the EU and suggests that that is causing untold damage to local pubs. In just six years, there has been a 30% collapse in the volume of beer sold in pubs, as more than 7,000 pubs have closed for ever. Most Committee members will be aware of community pubs that have gone to the wall, costing jobs and leading to the loss of an important hub for community activity and socialising. CAMRA fears that this worrying trend will continue, putting many more traditional beers and pubs under threat, and is calling for an end to the beer duty escalator and a long-term freeze on beer duty. Some 58,000 people have already signed an e-petition calling for the escalator to be scrapped in next year's Budget, making it almost certain that it will reach 100,000 signatures in the near future and allow campaigners to seek a parliamentary debate.

Given the importance of the beer and pub sector to the economy, with a £28 billion turnover and around a million jobs supported, it is vital that the wider economic and social impact of the beer duty escalator is fully considered when decisions are reached. This amendment would help to inform the debate, by ensuring a full review of the wider economic impact.

6.15 pm

Ian Mearns: I am pleased to update my hon. Friend. I attended the Backbench Business Committee earlier this afternoon and the number of people who have now signed the petition comes to 57,893, so it is going up rapidly. We ignore the social service that often occurs within public houses in our constituencies at our peril. I know many public houses in my constituency and the wider Tyneside area that provide cheap food at lunchtimes, particularly for pensioners and those receiving benefits. They provide that social service, which we ignore. If we undermine the capacity of pubs to carry on doing this, we will all see a social cost.

Graeme Morrice: I am grateful to my hon. Friend the Member for Gateshead for bringing me up to speed on the current figures for the petition. I agree with his comments. He helps me make my argument. The amendment would help to inform the debate on the subject by ensuring a full review of the wider economic impact of the escalator on the beer and pub industry in advance of further decisions in the 2013 Budget. It is a considered response to a damaging and deteriorating situation, which is not only putting at risk jobs and investment in the beer and pub sector, but also making one of life's simple pleasures—a pint in a local pub—increasingly unaffordable for many hard-working people.

Mr Robert Syms (Poole) (Con): I will make a brief contribution. The hon. Member for Livingston makes a good point. The brewing industry employs a lot of people and is very important. It has a lot of regional roots and we should be extremely careful how we treat it, because—going back to our dear old friends, imports—we know that people import a lot of beer which does not attract the same rate of duty. I will make one point to cheer up hon. Members opposite. When you have inflation at over 5% because of the VAT rise, petrol prices and everything else, anything on top of that will mean quite high price rises. That is why the news today that inflation measured by the consumer prices index and retail prices index has fallen will tend to mean that 2013, 2014 and 2015 are likely to be less painful, and therefore less painful for the brewing industry.

Cathy Jamieson: I thank my hon. Friends and the hon. Gentleman for making those contributions. Hon. Friends have set out a powerful case exploring both the issues around the taxation regime and the social value provided by pubs and clubs in many areas and the contribution that they play to keeping community cohesion. I also know from my constituency and other parts of rural Scotland how difficult it is for some of those pubs that have been there for many years to continue to make enough to keep them going. In many instances, they are looking to diversify and they are looking to Government and local authorities and others to assist in allowing them to do so.

I do not want to repeat all the points raised by my hon. Friends. I will confine my contribution to asking the Minister some questions. I will resist the temptation to pick up the point raised by my hon. Friend about UK consumers footing 40% of the EU beer tax bill, yet consuming only 13% of the beer. I am not sure how much beer is going to be consumed later this evening. Hopefully, some of that revenue will accrue to the Exchequer and make the Minister happy, even if the overall result of the match does not turn out as people wish. [Hon. Members: "Oh!"] I can see that I am not making friends on either side here, which is not unusual for a Kilmarnock football club supporter.

On a serious note—*[Interruption.]* I am afraid that I did not have the benefit of hearing that aside, but perhaps it is better that I did not. Will the Minister respond to questions that have been raised by the industry, particularly in relation to encouraging the responsible consumption of low-strength alcohol? Does she have plans to examine how the beer duty escalator influences that? Will she look to the future, using the opportunity proposed by the amendments, and ensure that the matter is revisited, perhaps in light of next year's Budget, even if she has not been able to do so this time around?

Julie Hilling (Bolton West) (Lab): I want to strengthen the point that my hon. Friend makes, in terms of people turning to beverages that have a higher alcohol content, which as we know, has a severe, detrimental effect on people's health. We are seeing an increasing number of young people with liver disease and other illnesses that are caused by high-level alcohol consumption. We would surely be better focusing any tax increases on drinks with a higher volume of alcohol, rather than on those with a lower volume. It seems absolutely topsy-turvy to be putting a huge increase on beer, rather than on the drinks that cause the most harm in society, not only in terms of health but in terms of anti-social behaviour.

Cathy Jamieson: Mr Bone, I suspect that you do not want me to go off on too much of a tangent and discuss some of the wider issues. We could stray into very difficult territory, in terms of moving to minimum pricing, what form that would take, and how to deal with anti-social behaviour, which the hon. Lady mentioned. She has made a very important point, however. If we are to try and ensure that related health issues are dealt with, we must encourage responsible drinking. Any way in which that can be done—for example, by considering low-strength beers—would be helpful, as I am sure the Minister would agree.

My specific questions relate to the ongoing debate about duty marks on beer. As the Minister is well aware, there are different views and opinions on that issue. The Federation of Wholesale Distributors has made submissions in favour of duty marks. It believes that there would be a number of benefits, because the marks would be a simple and easily identifiable way for HMRC to identify whether the duty on beer has been correctly paid, and it would provide reassurance to businesses and customers that they were selling or buying legitimate products. The federation believes that it would be a cost-effective way of tackling alcohol fraud, with the process perhaps requiring less bureaucracy than product tracking.

On the other hand, the brewing industry—the beer industry in particular—is very concerned about the proposal, and it believes that the proposal has been lifted from measures that were made in relation to the tobacco strategy. The industry feels that counterfeiting and fraud is more prevalent there, and therefore, the proportionality of applying something like a duty mark or stamp would not be helpful, and would cause problems for the industry.

Will the Minister comment on those points, and provide some indication of how she intends to continue that debate with the industry, as well as stating when further measures on that matter will be introduced for us to consider?

Miss Smith: Mr Bone, I regret that I did not say at the outset that it continues to be a pleasure to serve under your chairmanship, as we draw to the final period of today's sitting. On one of your rulings earlier, I do not know whether you wanted to see the downfall of the Whip or the downing of a pint as you get us quicker to the end of today's sitting and closer to the football.

My role today is to say what the clause does. It increases the duty rate charged on beer, cider, wine and spirits by 2% above inflation with effect from 26 March this year. Together with VAT, the pre-announced increases from the previous Government are equivalent to 3p on the price of a pint of beer; 2p on a litre of cider; 11p on a bottle of wine; and 41p on a bottle of spirits.

Ian Swales (Redcar) (LD): Opposition Members rightly pointed out that according to the Red Book, the measures have no net impact. Does the Minister agree that what she is proposing means that the industry declines by the percentages that she is reading out, because if it did not there would be a net impact of extra taxation?

Miss Smith: Of course I do not agree with that suggestion. The measure was included in Budget 2012 for a number of extremely good reasons. We certainly do not want to see the death of the industry. I shall continue with my remarks and deal with that and other points that have been made.

I, too, am a big supporter of the local pub. I run "politics in the pub" surgeries in my constituency. *[Interruption.]* Indeed, I am told that the thing to do in such debates is to name your local paper. I must laud the *Norwich Evening News* for its "Love your Local" campaign, in which I have played an active part for the past few years and which I think is very effective in highlighting how good pubs can do good trade in a very good city.

I shall provide the Committee with some background to the clause, which implements the pre-announced, above-inflation increases that were first announced at Budget 2008 by the previous Government, and which were extended in the March 2010 Budget. The additional revenue from the increases was included in the public finance projections at that time. I might suggest to one of the "Morrises", if I may call them that—

Grahame M. Morris: We are both called Grahame.

Miss Smith: I will more politely answer the hon. Member for Easington, who is one of the two who has tabled amendments. He asked what the numbers add up to over five years. For one thing, he will be aware that the increases depend on the level of inflation. Secondly, he will of course wish to ask his own Front Bench team what they were doing in 2008 and 2010 to get those figures. As I said, the revenue from the increases was included in the public finance projections at that time, hence my suggestion about where he should direct that question.

Hon. Members will be aware that sticking with revenue plans as set out is vital for the economy. As the previous Government had already accounted for the revenue before it had been received, cancelling the increase would mean that we would have to raise other taxes to stay in the same position. I humbly suggest to the Committee that leaving a hole in the public finances would help nobody—not landlords, not pub drinkers nor anybody else in the UK economy—so we have decided to go no further than the policy we inherited from our predecessors and we have sought to safeguard revenue.

Ian Swales: I want to apologise to the Minister and correct the record. I misread the Red Book. As she rightly points out, this policy is a policy of the previous Government. It is shown in the part on measures that were already in place when this Government came to power.

6.30 pm

Miss Smith: I thank my hon. Friend for that clarification. I will go a little further into the amendment tabled by the hon. Members for Livingston and for Easington. It is a genuine delight to see them acting in unison, as they have when the Committee has divided. The amendment proposes that the Chancellor review the wider economic impact of the duty increases on the beer and pub industry and consumers.

It is good to see Opposition Back Benchers following their Front Bench and, rather than necessarily proposing a change of substance, requesting a report. I recognise the important contribution that pubs make to local communities and the wider economy. In November 2010, we published an extensive review of alcohol taxation in which we spoke to the relevant industry groups. I was not the Minister at the time but my predecessor did that. The British Beer and Pub Association and the Campaign for Real Ale welcomed the review. We continue to keep all the taxes under review and regularly monitor the impact of alcohol duty rates on industry and consumers.

The hon. Member for Easington asked whether duty take would fall over the period in question. Forecasts show that implementing the preannounced increase will increase duty receipts. That is true for all alcohol types. At that point I would refer to the argument that I made at the outset. Nobody raises revenue for fun. The Government use revenue to fund vital public services, which is something that Members might consider when they hear that duty receipts are to rise.

Let me return to something else that CAMRA has brought to the fore. CAMRA figures show that the net rate of pub closures has slowed dramatically over the past two years, which is very positive. I have already said a little about what I try to do in my constituency to support pubs. I am sure that we all seek to support pubs in our areas, but let us discuss what the Government are already doing. We support pubs as places where people can drink sensibly in a responsible way and enjoy themselves and the company of others.

Ian Mearns: It's somewhere to leave the kids.

Miss Smith: I think I may need to get my hearing tested. I have the benefit of not having heard that remark.

We want to reverse the trend towards pre-loading, as it is called, on cheap alcohol at home. As hon. Members will be aware, the recent alcohol strategy highlighted plans for a minimum unit price. Without going into that in too great detail because it is not part of the clause, it is important to note that it will help to tackle the issue of excessive alcohol consumption and heavily discounted alcohol sold in supermarkets and off-licences. This measure will not only reduce alcohol consumption and curb pre-loading before a night out but should help to reduce the demand for cheap alcohol on the off-trade side, then help the on-trade by extension.

Let me also refer to what has been done to support low-strength British products, as beer is called. As hon. Members will know, beer is currently taxed in proportion to its strength, so lower-strength beers pay less tax. One of the decisions the Government made in October 2011 was to reduce taxation on beer by 50% for beers at or below 2.8% ABV. Indeed, CAMRA welcomed that measure and said that reduced tax on low-strength beers was good news for pub goers. I certainly agree with that.

We are consulting on legislative measures to tackle alcohol duty fraud. The hon. Member for Kilmarnock and Loudoun mentioned fiscal marks. I would be happy to have a longer conversation after the Committee has risen about that. Alcohol duty fraud results in tax losses of up to £1.2 billion a year and undermines the legitimate industry, resulting in lost sales, jobs and growth prospects. Hon. Members have sought to raise the problem of illicit trade in the context of a number of different clauses, and HMRC will work on that issue in relation to alcohol as much as for any other product. I will happily return to the issue if hon. Members wish to discuss it at a later date.

Let me reiterate: the changes proposed by clause 186 add what I will say is "only" 3p to a pint of average strength beer. That includes VAT, and let me put on the record the fact that the total duty on a pint of beer is 47p. I think that hon. Members will agree that 3p is not an unreasonable amount, especially as alcohol consumption comes with its own costs—again, we return in part to discussions that we have already had about how the provisions in the Bill will impact on wider society in relation to health and perhaps crime.

Let me return to the issue of what is paid by the customer inside the pub, and whether or not that could be damaging to the economy. Alcohol duty is only one of a wide range of factors that determine the final price paid by the customer, and it is clear that many factors have influenced the trend of pub industry decline. Beer consumption itself has been in a period of decline; lifestyles are changing and individuals have increased choices not only between different types of drink but in their leisure activities and where they are conducted. Consumer tastes change, as do economic times, and the amendment looks narrowly at the impact of an increase in duty. The wider context should be considered. For example, pubs that serve food often do better than those that do not, but that is not linked to the level of duty. As I said about my own constituency, good pubs do good trade, and that is relevant to what is proposed by the amendment.

As I pointed out, we published a review of alcohol taxation a year and a half ago, and although I welcome the chance to discuss the issues raised in the amendments, I do not think that there is a case for asking the Government to produce a formal review on the subject. I therefore urge the hon. Member for Easington to withdraw the amendment. In conclusion, the clause implements pre-announced increases in alcohol duty made by the previous Government. It also plays an important role in reducing what I might describe as the last Government's debt.

Grahame M. Morris: In view of the assurances that we have heard, and under the circumstances, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 186 ordered to stand part of the Bill.

Clause 187

REPEAL OF DRAWBACK ON BRITISH COMPOUNDS AND SPIRITS OF WINE

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

Jacob Rees-Mogg: I am sorry to trouble members of the Committee with this matter because I know that they are keen to prepare themselves for the debate on financial services market abuse later this evening. However, this clause deals with a concerning change in the regulations, and I wish to bring people's attention to the explanatory notes which state that

> "it is doubtful whether section 22 is fully compliant with EU directive 2008/118, which concerns the general arrangements for excise duty."

I am surprised that the hon. Member for Bassetlaw did not point that out.

I am concerned, first, that we are introducing a piece of legislation primarily because of the European Union, which is something of which we should always be suspicious, particularly in taxation, which is reserved to this country. Although this measure concerns tax not being paid or being rebated at a particular stage in the process, it is still fundamentally a taxation issue.

Secondly, the clause might discriminate against smaller businesses. If a producer of alcohol stores their alcohol on site, they do not have to pay duty until it moves from their premises. For a small operator who warehouses alcohol, should the repeal be implemented, duty will become payable at the point at which the alcohol is moved to the warehouse. That will have unfortunate cash-flow implications for small businesses at a time when they are particularly hard pressed. I am deeply concerned that we are slightly rushing through what appears to be a tidying-up exercise, by getting rid of a minor section of a 1979 Act, pretty much the last Act passed by the Callaghan Government before it collapsed. It is a minor section of an old Act that could have an effect on businesses in this country. When it is very difficult to get bank credit, as we discussed earlier, requiring the payment of duty before the goods are finally shipped on to the end retailer could be very damaging for businesses. I hope the Government will think again or explain why the clause does not have the effects that concern me.

Miss Smith: I certainly shall endeavour to answer those points. I think I can offer my hon. Friend sufficient reassurance. Clause 187 makes changes to repeal section 22 of the Alcoholic Liquor Duties Act 1979, or ALDA—as has been made clear to the Committee, with thanks to the hon. Member for Easington—with effect from Royal Assent.

ALDA section 22 provides for the drawback—in other words, repayment—of excise duty on spirits manufactured by licensed rectifiers and compounders that are exported from a producer's premises or placed in a warehouse for approved purposes. For example, that would be for use as stores onboard ship or for any permitted operation in a warehouse.

The section is being repealed because it is redundant. Rectifiers and compounders no longer regularly claim drawback. That is due to changes in business practices, including an increase in the use of duty suspended spirits, removing the need for duty repayment. I can reassure my hon. Friend that this measure will not pose problems to industry. HMRC consulted all licensed rectifiers and compounders, as well as the Gin and Vodka Association—we never knew it existed—and the Wine and Spirits Trade Association, on its proposals in October 2010, and no objections were raised. I hope that my mention of October 2010 reassures hon. Members that the measure is not being rushed through. Time has been given to its consideration.

[Miss Chloe Smith]

Producers and exporters wishing to claim drawback on direct exports of rectified and compounded spirits may do so using the existing provisions of the Excise Goods Drawback Regulations 1995, which I will abbreviate to EGDR. It is the case, again to reassure my hon. Friend, that there is an alternative means by which the end, from the Minister's point of view, can be achieved.

Jacob Rees-Mogg: I accept that for export it is not a problem. It is merely a problem for people who warehouse off-site and move to a third-party warehouse, which will then impose an extra cash-flow cost.

Miss Smith: I thank my hon. Friend. Let me make a little more progress and I suspect I will be able to deal with his concern. I will define and clarify for the Committee what is meant by rectifiers and compounders, and turn from there to those who might warehouse products.

HMRC conducted a review of the regime for rectifiers and compounders. A rectifier is someone who is licensed by HMRC to re-distil spirits, for example, in the manufacture of UK-produced neutral spirit. A compounder is someone who is licensed by HMRC to combine or mix plain spirits with any other substance, so as to alter distinctly the character or flavour of the original spirits, for example in the manufacture of UK-produced gin.

HMRC's review established that ALDA section 22 was no longer being used by businesses, so was ripe for repeal. I regret I cannot say whether those businesses split their responses according to warehousing duties and activities, and other activities, but I would be happy to speak to my hon. Friend after the Committee has risen and provide a little more information, if I do not manage to answer his points.

6.45 pm

Changes made by the clause will remove ALDA section 22 from the statute book. Rectifiers and compounders will be unaffected by the repeal, because they no longer use ALDA section 22. They have told us that, and we in HMRC feel that we can go ahead. They will not have to change their procedures as a result of the measure. The consultation I referred to was, I think, broad enough, although since it took place in October 2010, I was not the Minister involved. I am very happy to go back and see what I can find further to reassure my hon. Friend. Those who wish to claim drawback will be able to use the EGDR, as I set out. That follows the procedure set out in HMRC Notice 207 in relation to excise duty and drawback. That change has been accepted by industry and will have no effect, as I said, on the practices of rectifiers and compounders.

HMRC will, however, carry out a review of the associated secondary legislation, the Spirits Rectifying, Compounding and Drawback Regulations 1988—fascinating as I am sure they are—in the next 12 months. Those regulations set out specific requirements placed on rectifiers and compounders. The review will identify any changes necessary to the regulations, particularly as a result of the repeal of ALDA section 22.

In conclusion, if I have been able to reassure my hon. Friend sufficiently, this measure supports the Government's objective of simplifying the tax system by removing redundant legislation from the statute book. I am hopeful that the full consultation undertaken by HMRC means that this piece of legislation was no longer used by businesses. No objections were raised to its repeal.

Question put and agreed to.

Clause 187 accordingly ordered to stand part of the Bill.

Clause 188 ordered to stand part of the Bill.

Clause 190

Machine games duty

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

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

Amendment 193, in schedule 24, page 542, line 11, leave out '20%' and insert '15%'.

Amendment 192, in schedule 24, page 542, line 34, at end insert—

'Allowable deductions from duty payable

11A (1) A taxable person shall be entitled to reduce the amount of duty payable in an accounting period by an amount equal to the irrecoverable VAT brought about solely as a result of changes to the VAT liability of income from Machine Games resulting from the introduction of the duty ("Newly Irrecoverable VAT"), to be calculated as follows:

(2) "Newly Irrecoverable VAT" for the purposes of sub-paragraph (1) will be calculated as follows:

(a) at the time the taxable person carries out the "longer period adjustment" calculations and capital goods scheme adjustments for the purposes of Part 14 to 16 of the VAT Regulations 1995, he shall, in accordance with the method in place under those Parts, for that longer period, identify—

(i) the amount of irrecoverable VAT incurred during that longer period based on income from Machine Games being exempt for VAT purposes; and

(ii) the amount of irrecoverable VAT that would be incurred had income from Machine Games remained liable to VAT at the standard rate;

(b) Newly Irrecoverable VAT will be calculated by subtracting the amount under (ii) above from (i) above.

(3) On each duty return in the year following the VAT longer period adjustment, a taxable person shall be entitled to provisionally reduce the amount of duty payable by an amount equal to one quarter of the amount calculated under sub-paragraph (2) above.

(4) At the end of the year in which provisional quarterly reductions have been carried out under sub-paragraph (3) above, a taxable person shall carry out the calculation under sub-paragraph (2) above and compare it to the total provision reduction for the year. Any difference shall serve to increase, or decrease, the duty due in the accounting period in which the calculation is made.

(5) Should the reduction of the amount of duty payable arising from Newly Irrecoverable VAT result in a negative amount of duty in any accounting period the provisions of paragraph (10) (negative amounts of duty) shall apply.

(6) For the purposes of this paragraph, any references to terms imported from Part 14 to 16 of the VAT Regulations 1995 shall have the same meaning as defined in those Regulations.'.

That schedule 24 be the Twenty-fourth schedule to the Bill.

Graeme Morrice: Members will be aware of the industry concerns which have been raised about the potential impact of the machine games duty. Industry representatives have highlighted various flaws in the Government's proposals. They believe it will result in an increased tax burden on small businesses in the amusement sector, which has already been struggling in recent years, with the closure of more than 280 arcades over the last 18 months.

The introduction of the MGD, at a rate which is too high to be sustainable, will also impact on bingo halls, pubs and clubs across the country. Bingo is one of the most popular pastimes in the UK, with 3 million people making around 48 million visits to bingo clubs in 2010. The role of bingo clubs in local communities is well recognised, and I know many of my constituents really look forward to their regular game of bingo, partly for the chance to earn a few pounds, but mostly for the opportunity it provides to socialise with friends. Often, this is the only opportunity some older constituents have each week.

Industry representatives have highlighted that 180 bingo clubs closed between 2005 and 2010, and that if the MGD is set at a rate above 20%, it could lead to a further 100 or more clubs closing, with a loss of over 2,500 jobs.

These amendments set out a solution by allowing businesses to net off irrecoverable VAT against MGD, and ensuring that MGD rates are set at a realistic level. The amusement industry sector believes that the current structure of two rates will not achieve the objectives sought by the Treasury. In particular, it highlights the vastly different business models that exist for small businesses in the amusement sector, which means the impact of irrecoverable VAT will vary from business to business.

The bottom line appears to be that an industry built on small businesses, many in seaside locations, is in a perilous state and needs a little extra help to get through this difficult period and sustain important jobs in rural areas in the process. I will be interested to hear the Minister's response to the proposal.

Sheila Gilmore: My hon. Friend referred to rural areas, but he might be surprised to learn that I have a seaside in my urban constituency. Like many other places, it has suffered in recent years and is suffering now, perhaps because of people's desire to go elsewhere for the sun. Does he agree that that kind of imposition on small businesses is serious and will make it more difficult for such areas to flourish?

Graeme Morrice: I certainly agree with my hon. Friend, whose constituency of Edinburgh East contains that lovely seaside resort of Portobello, which I have visited on many occasions going back many decades.

To crack on, the second amendment that we have tabled is important because the rate of machine games duty is critical. Representatives of the bingo and amusement arcade industries are united in the belief that MGD at 20% would be unfair and would damage businesses. Members will be aware of research conducted by Ernst and Young that shows an annual burden of more than £9 million in the current tax regime for bingo if MGD is introduced at 20%.

The Bingo Association has highlighted that that would result in more club closures and further job losses, as well as a far wider impact on machine supply and servicing firms, building contractors, food and drinks suppliers and other businesses connected with bingo. The rate can always be looked at again in future years, but starting at a more cautious one of 15% would lessen the risk of more businesses being damaged, while having a negligible impact on duty revenues. Setting the standard rate of MGD at 15% would minimise the harmful impact on the industries affected and enable them to grow and increase the tax take. I very much hope that the Government will listen to the genuine concerns expressed by those representing thousands of small businesses in the bingo and amusement sectors and accept this proposed change to the MGD rate.

Ian Swales: My constituency of Redcar has the sort of establishments that every constituency has—bookmakers, pubs, clubs and so on—but it has a thriving working men's club sector of the type referred to by the hon. Gentleman. It also has a race course that depends on a healthy bookmaking industry, and a seaside with amusement arcades. This area of legislation is therefore important to my constituency.

I have absolutely no problem with the objectives of the proposed legislation, including simplification, although, having looked at the 27 pages of schedule 24, it does not seem that simple to me.

Grahame M. Morris: The hon. Gentleman is saying that he has no problem with the legislation, but although the justification of the proposal is simplification, and it is tax neutral, a detailed study carried out by Ernst and Young indicates that the tax take will in fact be bigger, which will have a negative impact on the small businesses in his area that he has just been praising.

Ian Swales: I am coming on to the points made by the hon. Gentleman, because I was about to say that one of the proposal's objectives is to be revenue neutral. We want to see that that is based on evidence, consultation and correct assumptions. I know that the Minister is aware of the representations, some of which have already been referred to, and I want to highlight the input into the exercise made by the Association of British Bookmakers. Licensed betting offices account for 48% of the machine games duty tax take. We have had analysis from Ernst and Young, and I have seen some detailed private analysis. Despite all the different premises, businesses and categories, I have not yet seen a single one that shows a rate of 20%, so the average rate is clearly lower than 20% right now.

Bookmakers are already taxed from nine different sources and have an overall tax bill far higher than their profits. Any increase, which, again, they believe the legislation will lead to, threatens jobs and shops. The big five bookmakers categorise their shops by size, and they categorise 1,350 as very small. They believe that many of those shops will be under threat. There are also bookmakers outside the big five, including independent operators and even single-shop operators, that account for another 1,250 shops that might be under threat.

The Treasury has admitted a degree of uncertainty in the calculation, and the Chancellor's reply to the chief executive of the ABB stated that

"the Government is considering what further data can be published."

[Ian Swales]

I urge the Minister to publish further data so that the industry can understand the thinking behind the measure, and check and challenge the numbers. As I have said previously, I have no wish to change the policy's objectives, but it is important that the Minister check that the objectives will be achieved and, in particular, are revenue neutral.

Grahame M. Morris: It is a real pleasure to follow my hon. Friend the Member for Livingston and to pick up on the points raised by the hon. Member for Redcar. I have also read the brief from the ABB, and I want to highlight two issues: the impact on betting shops and the impact on bingo halls.

There are 17 betting shops in my constituency, and they employ 85 people directly and support a further 119 jobs. Those shops pay some £187,000 in business rates. As was indicated a little earlier, the betting industry predicts that 11,000 jobs and 2,600 shops will be lost as a direct consequence of the 20% machine games duty rate, because more than 2,600 shops make less than £22,000 in profits each year. That is a large proportion, almost a third, of the total number of shops.

Today's betting shops are, in the main, modern leisure and retail businesses. However, one of the things that has characterised this debate—this is true of Opposition as well as Government Members—is the view that betting shops and gambling have a bad name. There is a perception of bookies in large cities being the same as bookies in an area such as mine, where staff and customers are well acquainted and friendly, and where there tends to be less passing trade. Betting shops are an important part of the retail mix in the high street, especially in areas such as mine. Apart from post offices and pharmacies, they generate more footfall than all other similar sized businesses.

The Mary Portas report, which has had a lot of publicity recently, recommended that empty units be used as bingo halls. In Easington, we have a problem with the high level of vacant and derelict shops. Betting offices could fill some of those premises and keep a modest number of people coming to often quiet high street areas.

John Mann (Bassetlaw) (Lab): Has my hon. Friend noted, as I have, that a theme of the Budget—from bingo and bookies to pasties and caravans—is taxing the pleasures in which the Prime Minister and, particularly, the Chancellor never partake.

7 pm

Grahame M. Morris: That is an interesting point very well made. I had not given it any thought, but my hon. Friend is probably correct.

In the few minutes I have left, I want to make some points about the amusement industry and bingo halls. Like other sectors in this country, the amusement industry is facing a critical period in these tough economic times. More than 280 arcades have closed in the past 18 months, which has had an impact on the manufacturing sector. Companies that manufacture amusement machines have seen their sales drop by 55% in five years. Bingo halls and pubs and clubs up and down the country have also been affected. I appreciate and value these businesses, especially in communities such as mine. Bingo halls are a lifeline to many older people, as indeed are local pubs and clubs. They are often at the heart of the communities they serve. The Budget proposals are likely to cause further closures. As well as the knock-on effect of job losses and falling tax revenues, the Bill contains plans to reform the taxation of gaming machines through the introduction of a machine gaming duty.

As has been said, although the Treasury claims in the explanatory notes that its aim is to simplify the tax system in this area and that the changes are revenue-neutral, such assertions are strongly challenged by industry representatives. Will the Minister comment on that? If it is not the Government's intention to increase the tax burden on small businesses but simply to reform the tax system, why is the burden being increased? Ernst and Young has cast real doubt on the claim that these measures are revenue-neutral. It says that they are likely to increase the tax burden on small businesses and introduce additional complexity and compliance burdens. Government Members often claim to be the champions in the war on red tape and bureaucracy, but that is exactly the issue we will now have to face.

Ian Swales: When the Government have been challenged on these issues, one of the expressions that has come back is that there may be winners and losers. The hon. Gentleman has obviously researched the matter extensively. Is he aware of who the winners are?

Grahame M. Morris: That is an interesting question. If the industry is right and the surveys are correct, the Treasury stands to gain from these measures, at least in the short term. However, it is a pyrrhic victory if the consequence is that more jobs are lost. Although 180 bingo clubs have closed since 2005, with the loss of 2,500 jobs, we still have a significant industry in many areas of the country, which generates more than £300 million a year in tax revenues for the Treasury.

I am pleased to say that Easington has a number of bingo clubs, which I have visited. Like other Members, I have taken the opportunity to play bingo with local residents. For many people, especially the elderly, bingo is their sole social outing, so it is a vital lifeline. Bingo fulfils a basic social function for vulnerable people and is important in communities such as mine.

Gala Bingo has sent me a brief. It says that the

"break-even rate of machines taxation for bingo is 16.3%",

which is much closer to the 15% that our amendment proposes, rather than the 20% that the Treasury is proposing. The danger for many clubs is that the increased tax burden will make them unprofitable. Although the figures may look small and the overall impact on company profits may be low in percentage terms, the real risk is that more remote clubs, such as those in my area, will be forced to close.

Ian Mearns: Like my hon. Friend, I have a number of pubs, clubs and bookmakers in my constituency that rely on revenue from gaming machines. Unfortunately, due to the local economy many of those establishments are teetering on the brink. The trade in the area tells me that this relatively modest change—from the Government's perspective—will drive some establishments over the brink and into closure. Sadly, it is unlikely that they would ever return from that position.

Grahame M. Morris: I am grateful to my hon. Friend. With bookmakers, it is particularly the small independents who are most vulnerable. Machine gaming duty should be set at 15%. Any tax rise above 15% will cause club closures and job losses.

Cathy Jamieson: I thank my hon. Friends. My hon. Friend the Member for Easington and the hon. Member for Redcar have given powerful speeches explaining why the Government should think again. I will reiterate some of the most important points and seek assurances from the Minister.

As my hon. Friends said, we have received representations from the amusement arcade industry and the bingo sector, as I am sure has the Minister. They tell us that they are facing difficult times at the moment. More than 280 arcades have closed. As my hon. Friend the Member for Edinburgh East suggested, the seaside economy is in difficulty at the moment and we want to ensure that people who have made their living in traditional ways can continue to do so.

As my hon. Friend the Member for Easington said, the people bingo halls and clubs serve have changed over the years. They are no longer exclusively the province of women, although traditionally they served much the same purpose as a social hub for women, as the pub did for men in some working-class communities. They were a place where women could meet people and have a social evening, as well as hope to win something more than they could get from their jobs or other income.

The real question I want to press the Minister on is that, as has been mentioned, the Treasury's justification for the reform appears to be that it will simplify the tax system and remain revenue-neutral. Evidence and submissions, which I believe the Minister has been given, suggest that that is unlikely to be the case. The Ernst and Young report, to which my hon. Friend referred, suggests that the changes make it unlikely that the Treasury will achieve its aim of a neutral change. It believes that the proposed structural tax change will introduce additional complexity and compliance burdens to businesses, particularly in seaside constituencies, and are likely to cause the further closure of businesses, potential reduction in investment, loss of jobs and the loss of tax revenue for the Treasury.

As others have mentioned, submissions from the bingo industry particularly highlight that the fiscal-neutral rate for the sector is 16.3%. Bingo industry modelling shows that an MGD rate of 18% would cost each bingo club about £11,000, a 20% rate would cost about £26,000 per club, and a 22% rate would cost about £41,000 per club. It also points out that about 170 bingo clubs make less than £70,000 a year. It estimates that an MGD rate of 22% would therefore lead to a further 100-plus clubs closing with the loss of more than 2,500 jobs and further damage to local communities

Ian Swales: I am interested in the hon. Lady's calculations and numbers. Does she believe that the amendment is revenue-neutral or does it entail a tax cut?

Cathy Jamieson: I hear what the hon. Gentleman is saying and, as ever, he has made a powerful contribution. I should like to put those figures and questions to the Minister, and I hope that she will be able to come forward in the spirit in which the amendments have been tabled by my hon. Friends. She has made much play of listening to industry in relation to other parts of the Bill and trying to work with industry to come to a consensual position, so I hope that in that context, she will give an assurance that she will take the figures, look at all the information provided by the industry and come back to us before Report, or before the Bill proceeds further, in order that we can scrutinise it more carefully and look at the issue again. Given that we are under a bit of pressure at the moment to get through the clauses, I will give the Minister the opportunity to respond.

Miss Smith: I shall try to be as quick as possible, although there are a number of points I need to respond to.

Clause 190 and schedule 94 introduce machine games duty, or MGD. Where MGD is payable, it will replace both amusement machine licence duty and VAT, and it will come into force on 1 February 2013. The reform to gaming machine taxation will put tax revenues from gaming machines on a more sustainable footing.

The hon. Member for Kilmarnock and Loudoun asked me what the benefits are and why we were making the change. The benefits of introducing a gross profits tax are as follows: amusement machines face a more complex regime, as they are subject to amusement machine licence duty, a licence fee for each new gaming machine and VAT on net takings. Compared with other gambling regimes, it is inconvenient to pay and a cash-based system is not able to deal with technological changes, or changes to social regulations, with the same flexibility. Machines making equal profits can also pay different levels of duty if they are in different categories. The reform is

"right because the new system would be fairer."—[*Official Report, Finance Public Bill Committee,* 17 May 2011; c. 180.]

I hate to pull this kind of trick, because of course those are not my words, but those of the hon. Member for Bristol East (Kerry McCarthy), speaking in the debate on last year's Finance Bill from the position where the hon. Member for Kilmarnock and Loudoun is sitting today.

I shall explain why I—like the hon. Member for Bristol East and the Labour party when they began these reforms in government—went ahead with the reforms, before coming to the broader points that have been made by Members today. The VAT treatment of gaming machines has been challenged in the courts, as some Members will be aware, and any Government have to respond to such challenges. The point I have made in relation to previous clauses before us today is one—naturally enough, in a Finance Bill—of needing to secure the public finances, which we have to pay for, after all. Introducing machine games duty and exempting dutiable machine games from VAT will protect tax revenues, and will ensure that operators of those machines continue to make a fair contribution to tax receipts. MGD will also support the objective of a fairer tax system by ensuring that the taxation of machine games is more closely linked to machine takings, as, indeed, the hon. Member for Bristol East said last year.

The Government first announced their intention of going ahead with the reform of gaming machines and introducing MGD in December 2010. That decision followed a consultation on the taxation of gaming

[Miss Chloe Smith]

machines launched by the previous Government in July 2009. Following a second consultation over the summer of 2011 on the design characteristics of MGD, significant amendments were made to MGD based on feedback received. In particular, the Government limited the scope of MGD to machines offering cash prizes greater than stakes. That measure—here I begin my reassurance of hon. Members who have asked questions today—will help to support many small family entertainment centres with non-cash prize machines, such as crane grabs and so-called redemption machines. The Government have also excluded B3A lottery machines from the scope of MGD.

7.15 pm

I turn to the rates and costings relevant to MGD, as that is the subject of much of what we have discussed today. MGD will be charged on the net takings from playing dutiable machine games, which are games played on a machine from which customers hope to win a cash prize worth more than their stake. There will be two rates: the standard rate will be 20%, and the lower rate will be 5% of net takings The lower rate will apply to machines with maximum stakes of 10p and maximum cash prizes of £8. The lower rate will particularly help to support many small businesses that are commonly found at British seaside resorts. Again, I seek to emphasise to the Committee that I am well aware of the industry's concerns in relation to the measure, and we have taken steps to help many of the industries referred to today.

Let me set out the argument about revenue neutrality, which has been referred to. The rates of MGD have not been set to raise additional revenue. Instead, the revenue from MGD will replace that from amusement machine licence duty and VAT on dutiable machine games on a revenue-neutral basis. I am happy to repeat that commitment today.

On that note, let me turn to the amendments that Opposition Members have tabled to the clause. Amendment 192, tabled by the hon. Members for Livingston and for Easington, proposes to allow businesses to offset a sum equivalent to the input VAT that becomes irrecoverable against MGD liabilities. I oppose the amendment for two reasons. The first is the impact on Exchequer revenues, and the second relates to the administrative burdens within the industry. The rates of MGD have been set to achieve revenue neutrality to the Exchequer. I shall come on to that shortly.

Ian Swales: Is the Minister aware that small operators may rent their premises? Some may pay VAT on that rent, and others might not. There might be two premises next door to each other, and the fact that the irrecoverable VAT cannot be recovered may mean that the two businesses have distinctively different outcomes. Potentially, one could close and the other stay open.

Miss Smith: I am aware of that scenario, and of the range of different decisions that businesses across the industries in question will take. I do not think it is fair for the Treasury to be held responsible for decisions on whether to rent or buy, or for myriad other decisions pertaining to a business. I can reassure the hon. Gentleman that the loss of recoverable VAT was taken into account when the MGD rates were set. If it had not been done that way, MGD rates would have been set significantly higher, based in part on data supplied by the industry. I am happy to repeat that point if necessary. It is the crucial argument to make in response to what trade bodies have been putting about in relation to irrecoverable VAT. If one does the maths, the figures would have come out higher if things were not done this way. Again, we are in revenue-neutral territory.

John Mann: Are those Treasury figures that the Minister is quoting, or ones checked by the Office for Budget Responsibility or an outside body?

Miss Smith: Allow me to come to that in due course. I have a whole series of comments that will cover everything. I said that I opposed amendment 192 on two grounds. The first is on Exchequer revenue grounds. To allow business to offset a sum equivalent to the input VAT that becomes irrecoverable without a corresponding increase in MGD rates would cost the Exchequer in the region of £200 million per annum. That would not be advisable given that the most important task facing this Government is to reduce Britain's debt. The second reason is that the proposal would also be administratively very burdensome for both businesses and Her Majesty's Revenue and Customs.

Grahame M. Morris: I am intrigued. In the last group of amendments, the Minister's criticism was that we were following our Front Benchers and just asking for a review. Now when we have asked for something specific—a 15% rate, which is in line with what was requested by the consultants engaged by the industry—the Minister has been dismissive of the modelling. They are concerned that a third of bookmakers could go out of business. Surely that must affect the Treasury's revenue.

Miss Smith: I am grateful to the hon. Gentleman for that intervention, because I was feeling that I had been a bit harsh in the previous debate on the topic of whether a review was a good thing. I trust that he will realise from what I am doing that I am engaging in the substance of what he is highlighting in his amendment. Let me reassure him and other members of the Committee that I am in no way dismissive of what the industry is saying to me. Two consultations have been held on this topic, and all the responses have been considered. My predecessor and I met all the major trade organisations—in some cases repeatedly. We have met businesses large and small to discuss the measure. There is a list of meetings in the summary of responses, including those that officials carried out—meetings with 11 trade bodies and 21 individual companies. I put it to the Committee that that constitutes fairly serious engagement with industry.

To deal with the detail, as the hon. Gentleman requests me to do, under his proposal businesses would need to calculate both the input VAT actually claimed against businesses' VAT-able supplies, and what they would have been able to claim had machines continued to be subject to VAT. Businesses would need to do that every quarter. In addition, subsequent adjustments would be required when the full partial exemption information became available after the annual adjustments had been made. That is not a reasonable burden to ask businesses, particularly at the small end, to take on, because it would leave them astride two different systems. The Bill seeks to create a fairer system to replace both amusement machine licence duty and VAT, as I have outlined. I ask the hon. Gentleman not to press amendment 192 to a vote on the two grounds I have set out.

I apologise for potentially keeping hon. Members from their football, but it is important that I answer Committee members' questions. Amendment 193 was tabled by the hon. Members for Easington and for Livingston to reduce the standard rate of machine games duty to 15%. I have already set out the kind of impact that that could have on Exchequer revenues. As I have said, the rates of MGD have been set in a way that is intended to achieve revenue neutrality for the Exchequer. The policy costings document published alongside the Budget outlines how rates have been calculated. The hon. Member for Bassetlaw will be overjoyed to know that those costings have been independently scrutinised by the OBR, which he fêted in his intervention.

The Government have also published a technical note, which the hon. Member for Redcar will be keen to read, if he has not done so already, describing the data and methodology used to calculate the standard and lower rates of MGD in greater detail. The note shows how, based on a thorough analysis of all the available evidence, the rates are set in a way that is intended to achieve revenue neutrality for the Exchequer. The industry is saying, "Well, are you sure about that?" and yes, I am sure about that. The data used in HMRC's modelling has been collected from many sources. Statistics from the Gambling Commission underpin many of the inputs, although those have been corroborated by and adjusted for other sources of information, including the consultation responses that I referred to earlier.

John Mann: The Minister referred to the huge amount of intricate and complex detail that the Treasury used to calculate this guesstimate, and then said that the Office for Budget Responsibility had been able to verify it. How possibly could a small, poorly resourced body like the OBR do that level of calculation necessary to verify the statistics? Is the Minister suggesting that this has been nodded through by the OBR? That brings in wider questions, not for this Committee, about what on earth is going on if the OBR is able to verify things that require that level of intricate detail and are disputed by the betting industry.

Miss Smith: I refer the hon. Gentleman to two sources. The first is the technical note that I have just mentioned. I suspect that he has not yet had the pleasure of reading it, but it outlines exactly how the figures were arrived at and validated. The second source is the published costings of all measures in the Budget, in which the hon. Gentleman will be able to see perfectly well that the OBR has the capacity to work through that amount of data.

When the hon. Gentleman was late for this morning's sitting, he and I had a conversation outside the Committee Room about ways in which we could hold a Budget to account. I applauded him for the detailed and forensic job he was doing on this Committee before he gets relegated back to the Information Committee. I am sure that he knows from his work this summer that the OBR is capable of achieving the same feats as he is. I hope that we will have his company for many seasons to come.

Ian Swales: I referred to the Chancellor's suggestion that he might be willing to publish more data. Would the Treasury be prepared to publish the kinds of details under discussion, so that the industry can see where its numbers are wrong, if, indeed, the Economic Secretary is right?

Miss Smith: That is exactly what the technical note, which has been published and is available on the Treasury website, does. I suspect that, as we speak, the industry is taking a close look at it, as it is more than welcome to. I reassure the Committee that the data and methodology used have arrived at the correct rate for the reform.

On the question of winners and losers, the analysis shows that seaside arcades and the majority of pubs will gain from the machine games duty, while bingo operators will, on average, lose out marginally. The losers will be casinos and licensed betting offices. Members may wish to keep that information in mind and question who is telling them what when they are being briefed.

On 21 March, the AMG Leisure website cited an adult game centre owner who said, referring to the changes:

> "At the moment I am paying both vat and license duty which is nearly 40% of turnover at my AGC. This way I am not restricted on the amount of…machines and am paying 20%...I know we cannot claim VAT back on purchases but I still feel I will benefit as a whole."

I know that that is but one business owner, but it is an important voice that needs to be heard alongside those cited by other members of the Committee.

Let me wrap up by saying that the most important task is not only for England to win their match tonight, but for the Government to reduce Britain's debt. As has been said this afternoon, if we did not do that, it would be worse for everybody. I therefore oppose the amendments and ask that the Opposition do not press them to a vote. Last year, the hon. Member for Bristol East (Kerry McCarthy) said:

> "Given the urgent need to protect revenues now and to maximise revenues that will not impact families directly, such as gambling duties"—[*Official Report, Finance (No. 3) Public Bill Committee,* 17 May 2011; cc. 179.]

I will complete the sentence for her: we ought to go ahead with this reform and improve the sustainability of the gaming duties regime.

Question put and agreed to.

Clause 190 accordingly ordered to stand part of the Bill.

The Chair: Mr Morrice, do you want to press either of your amendments to a vote?

Graeme Morrice: Thank you, Mr Bone. We have made our arguments and I hope that the Government have listened. Being a genuine Scot, I do not wish to keep hon. Members away from the football—it would be too risky for me—so on that basis, I will not press the amendment to a vote.

Schedule 24 agreed to.

Clauses 191 to 193 ordered to stand part of the Bill.

Schedule 25 agreed to.

Clause 194 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—*(Greg Hands.)*

7.31 pm

Adjourned till Thursday 21 June at Nine o'clock.