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GENERAL COMMITTEES

Public Bill Committee

GROWTH AND INFRASTRUCTURE BILL

Thirteenth Sitting

Thursday 6 December 2012

(Morning)

CONTENTS

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Monday 10 December 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: † Philip Davies, Mr George Howarth

† Birtwistle, Gordon *(Burnley)* (LD)
† Blackman, Bob *(Harrow East)* (Con)
† Blackman-Woods, Roberta *(City of Durham)* (Lab)
† Blomfield, Paul *(Sheffield Central)* (Lab)
† Boles, Nick *(Parliamentary Under-Secretary of State for Communities and Local Government)*
† Bradley, Karen *(Staffordshire Moorlands)* (Con)
† Coffey, Dr Thérèse *(Suffolk Coastal)* (Con)
† Dakin, Nic *(Scunthorpe)* (Lab)
Danczuk, Simon *(Rochdale)* (Lab)
† Fallon, Michael *(Minister of State, Department for Business, Innovation and Skills)*
† Glen, John *(Salisbury)* (Con)
† Glindon, Mrs Mary *(North Tyneside)* (Lab)
† Howell, John *(Henley)* (Con)
† Morris, James *(Halesowen and Rowley Regis)* (Con)
† Murray, Ian *(Edinburgh South)* (Lab)
† Raynsford, Mr Nick *(Greenwich and Woolwich)* (Lab)
Simpson, David *(Upper Bann)* (DUP)
† Smith, Henry *(Crawley)* (Con)
† Stunell, Andrew *(Hazel Grove)* (LD)

Steven Mark, John-Paul Flaherty, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 6 December 2012

(Morning)

[Philip Davies *in the Chair*]

Growth and Infrastructure Bill

Written evidence reported to the House

GIB 59 The Wildlife Trusts
GIB 60 Stephens Scown LLP
GIB 61 Environmental Services Association
GIB 62 Magnus Campbell
GIB 63 St Modwen
GIB 64 Jacqui Mitchell
GIB 65 Andrew Gunn
GIB 66 National Association of Local Councils
GIB 67 The Crown Estate
GIB 68 Manchester Airport Group
GIB 69 Home Builders Federation
GIB 70 UNISON
GIB 71 Capital Shopping Centres
GIB 72 British Chambers of Commerce
GIB 73 Civic Voice
GIB 74 Christine Butterwick
GIB 75 Scott Bader Ltd
GIB 76 Essar Oil (UK) Ltd
GIB 77 GDF SUEZ
GIB 78 Dalton Warner Davis LLP
GIB 79 Poundland
GIB 80 CVS
GIB 81 University of Kent
GIB 82 Halite Energy Group
GIB 83 Knightsbridge Association
GIB 84 The Marches LEP
GIB 85 Institute of Revenue, Rating and Valuation
GIB 86 Business in Sport and Leisure
GIB 87 BT
GIB 88 Broadband Stakeholder Group
GIB 89 Shelter

11.30 am

The Chair: Today is the final day of consideration of the Bill in Committee, which I am sure is a matter of great regret to us all.

Clause 22

Postponement of compilation of rating lists to 2017

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

The Chair: With this it will be convenient to discuss new clause 9—*Report on performance of Valuation Office Agency in relation to non-domestic rating—*

'(1) Prior to the compilation of a rating list, the Secretary of State must prepare and publish a report describing the performance of the Valuation Office Agency (VOA) within the reporting period in relation to non-domestic rating.

(2) The report must set out any recommendation that the Secretary of State believes the VOA should implement to improve its performance in light of the number of outstanding appeals regarding business rates.

(3) The Secretary of State must lay a copy of the report before Parliament.

(4) In this section "reporting period" means the period of 12 months beginning with 1 April prior to the date on which a rating list is to be compiled.'.

The Minister of State, Department for Business, Innovation and Skills (Michael Fallon): Welcome back to the Committee, Mr Davies. I remind the Committee that clause 22 amends those parts of the Local Government Finance Act 1988 that prescribe when rating lists should be compiled. It might be helpful to the Committee if I explain how business rates are calculated and say a little more about revaluations more generally.

Business rate bills are calculated from the rateable value for the property and the tax rate, otherwise known as the multiplier, set by the Government. Rateable values are based on annual rental values. Rental values are set out on a rating list. There are two types of rating list: a local list and a central list. Local rating lists are compiled for every billing authority and comprise all business properties in that authority's area. The central list contains properties that are more difficult to attribute to a particular area; for example, network properties such as electricity and water supply networks.

As we have made clear, revaluations do not raise any extra revenue. Although the total business rates paid do not change on revaluation, some ratepayers' bills increase as a result, and some decrease. Since the last revaluation in 2010, there have been some extraordinary movements in values. The Valuation Office Agency's best estimate of rateable value movements as at January 2012 suggests a 14% drop in values since the last revaluation, but because revaluations are revenue-neutral, that does not mean that rates bills will fall. In fact, it means exactly the opposite, as I said. Large numbers of ratepayers could face increases in rates in order to maintain the total amount of tax raised. Postponing the next revaluation, due in 2015, will therefore provide businesses with certainty during a time of exceptional economic circumstances.

The five-yearly revaluation cycle for both lists is set out in sections 41 and 52 of the 1988 Act. Section 41 deals with the compilation of local lists, and section 52 with the compilation of the central list. Subsection (2) of each section sets the revaluation cycle by requiring the compilation of the rating lists on 1 April 1990 and every five years thereafter, so the next revaluation in England was due in 2015.

Clause 22 breaks that cycle by inserting a new subsection 2A into both sections. New subsection 2A has two limbs: it removes the requirement for a list to be compiled on 1 April 2015, and it sets a fresh five-yearly cycle to run from 1 April 2017, providing certainty about future revaluation dates. Clause 22 also contains consequential provision to ensure that the current local and central rating lists remain valid until 2017 and continue to be maintained as usual throughout that time.

Tax stability is vital for businesses looking to grow and help improve the economy. Postponing the 2015 revaluation in England will avoid sharp changes, preventing businesses and local shops from facing unexpected hikes in their business rate bills over the next five years. The reform will encourage local economic growth by removing any doubt about future rate bills and giving businesses the stability that they need to plan and invest. I commend the clause to the Committee.

Ian Murray (Edinburgh South) (Lab): It is great to have you back in the Chair, Mr Davies. What you missed on Tuesday was the Minister accusing my hon. Friend the Member from Scunthorpe of gloominess. We also had alligators with my right hon. Friend the Member for Greenwich and Woolwich. You missed a bit of poetry in the drafting of some our amendments, and charm from my hon. Friend the Member for City of Durham. Very late on Tuesday we also had snakes and ladders from my hon. Friend the Member for Scunthorpe, because having got all the way to clause 22 we ended up going down the snake to debate clause 1. I hope that we make progress and get to the end of this piece of legislation before we finish this evening.

The debate on clause 22 stand part is important, because most of the communications that have been received by the Committee since the Bill was proposed have come from business organisations and the like, which do not want a postponement until 2017. A number of sectors that the Minister mentioned—retail in particular—have been badly hit by the economic downturn. The Mary Portas review was part of the analysis to try to help local high streets. A revaluation would benefit the sectors that have been hit the hardest, with open-market rents plummeting and the number of empty properties increasing, particularly on local high streets.

The revaluation is supposed to maintain fairness by ensuring that rateable values are based on an up-to-date rental value, the purpose being a redistributive model, sharing the burden of liability fairly as property values move up or down. The Secretary of State produced evidence showing that there would be more property losers than winners in that model, but on Tuesday my right hon. Friend the Member for Greenwich and Woolwich pulled that analysis apart in proposing his amendments. I am disappointed that the Government did not accept far greater analysis of the figures.

Our new clause 9 would require the Government to give a full report on the workings of the VOA, to deal with the concerns expressed to the Committee by a number of stakeholders, including, crucially, CVS. The new clause would give business some certainty, provide clarity to the ratings lists that are already being compiled by the VOA and provide for a report on how it may be able to process appeals and other issues.

CVS produced a good overview of postponing the 2015 revaluation, and referred directly to the backlog of appeals sitting at the VOA. It mentioned the rationale for postponing the revaluation on the basis of some figures not having been updated because of the backlog of appeals. CVS concluded in its overview, which prompted the new clause:

"By settling claims more efficiently, businesses will no longer have to carry the financial burden of the VOA's delay, waiting for years for refunds for money they have overpaid and will be given more certainty on whether they are paying the correct rates."

I appreciate that I am just about to cross the border into Scotland, where all business rates are devolved, but let me mention an example from my personal circumstances. When I ran my small business, business rates trebled and, under the process, we had to continue paying until such time as any appeal was granted or otherwise. That was a massive strain on the business that I ran, and it took 18 months for the appeal to go through. Given the pressures on businesses, particularly small businesses, and our local communities, the thrust behind the new clause is to get some new analysis to see whether the backlog of appeals from the previous revaluation can be cleared, thereby giving us a better indication of the analysis required for the revaluation of 2015.

Rates are the third largest expenditure for any business. It is important to ensure that the system is fair and that businesses are supported. It is therefore surprising that the Government have brought forward the provisions without consultation, ignoring the industry's concerns. As Liz Peace told us—it was mentioned on Tuesday—the clause is not relevant to the rest of the Growth and Infrastructure Bill. In the evidence-taking sessions, Edward Cooke told us that the policy to postpone the revaluation of 2015 and the analysis behind it was speculative and "woolly" at best. There must be a thorough review of all the impacts of delaying the system before any decision is taken to postpone until 2017. That was the thrust behind amendments tabled by my hon. and right hon. Friends.

We have the VOA's analysis. The Minister addressed many issues to do with that in debating some amendments proposed by my right hon. Friend the Member for Greenwich and Woolwich. Table 2 contains a rather colourful analysis of winners and losers. It is also broken down into regions, with three specifications: tax payments that are likely to rise more than 2%, tax payments that are likely to fall by more than 2%, and tax payments that are termed "no change", which are those with an increase or decrease between 0% and 2%. The analysis clearly shows that in places other than the east midlands and London, retail and industrial uses will benefit from a revaluation taking place in 2015. Only in the east midlands region will retail, office and industrial be worse off.

We have to bear in mind that table 2 is speculative at best. The Minister did say that the VOA has tried as best as possible to do a proper analysis, but it is difficult to do that without a total revaluation. That seems fairly obvious and a strong point to make. I appreciate that he said that office space in London would be the biggest winner, were a revaluation done now, but the analysis clearly shows, for example, that office space in the west midlands would see a projected 6% drop; office space right across England would receive an 8% drop; retail in the north-east would be 3% down and so would retail in the north-west. The Mary Portas review reflected on all those figures.

The Government are trying to include many properties that fall into the "other" category in the figures. That raises the average payments of non-domestic rates by 5% across the country and skews the analysis. As the analysis is speculative and skewed, delaying the revaluation beyond 2015 is a gamble both for the Government and for many of the businesses that may win from it. Because

[Ian Murray]

the system is about fairness, if the VOA's figures in table 2 are correct, they should be used to distribute the rateable values around the country.

The Royal Institute of Chartered Surveyors said that if the Government are concerned that their modelling would produce more winners than losers and large swings in liability, it could be cushioned by the transitional relief that has been used for every revaluation for more than 20 years. In order to do that, however, we need robust figures that take into account the actual effect of a revaluation in 2015, and the impact on the businesses themselves and the public funding financial element in the regions of England.

It is extraordinary that the Minister could not tell the Committee on Tuesday what analysis has been done of the situation in 2017, even if we accept the figures that have been presented to back the suspension. The position then could be far worse, and given the dire situation we heard about in the autumn statement yesterday, the gamble of postponing the 2015 revaluation by an arbitrary two years to 2017 on the basis of speculative figures may make the situation worse and back up many of the issues that the Minister raised in justifying the postponement.

A consortium of organisations wrote to us about the issue. The Association of Convenience Stores, which is the voice of local shops, the Association of Town Centre Management, the British Council of Shopping Centres, whose motto is "Shaping retail property", the British Independent Retailers Association and the British Property Federation have all come together to give us their views on the Government's postponement of revaluation. The consortium essentially said that the Government's evidence does not stand up to scrutiny, which I have mentioned already. It said:

"The Minister for Local Government, Brandon Lewis MP, has suggested that VOA estimates indicate that if there were a revaluation now, '800,000 premises would see a real-terms rise in their rates bill'",

but the consortium suggests that all the evidence is anecdotal. It concludes:

"That consultation exercise should take place before any definitive decision to delay the revaluation is taken."

That is what our amendments would have done. The Government should have accepted them, because they would have given us proper evidence of whether the justification for delaying the revaluation is true.

11.45 am

It is not just organisations involved in the industry that are concerned. The Minister said on Tuesday that many of the organisations that had written to the Committee had vested interests, such as those that may gain from the revaluation being done in 2015 because of their business interests. However, that cannot be said of the CBI, which produced quite a comprehensive view regarding the delay of the revaluation. In paragraph 29 of GIB 34, the memorandum that it submitted to the Committee, it said:

"The announcement of the two-year delay to the revaluation of commercial property for business rates received a mixed response from business. Where property values have decreased, companies would have reasonably expected their rates bills to fall after revaluation, with the burden shifted to businesses occupying properties that have maintained or increased in value."

That seems to relate to the fairness argument in this issue.

The CBI concluded that it

"has concerns about the lack of consultation and impact assessment that has taken place on this policy. Ministers themselves admit that the assumptions behind the change are based on 'limited rental market evidence'".

That backs up the issues regarding the Valuation Office Agency.

The British Property Federation called the announcement a "surprise" that prompted

"chagrin across the retail and real estates worlds".

It said that the delay could

"further exaggerate existing market imbalances"

across the country.

I want to say a little about the position in Scotland, if you will allow me, Mr Davies. Non-domestic rates are fully devolved to the Scottish Parliament, but the Scottish Government decided in 2007 to reflect completely the position in England. Therefore, if, as happened last September, non-domestic rates bills rise by 5.6%—the rate of indexation last September—the Scottish Government will reflect that. They have now said that they will delay the revaluation in Scotland until 2017 and have laid the blame squarely on the UK Government.

There is therefore a bit of a problem with the Scottish Government. They have decided to follow the UK Government like sheep, despite their protestations that they no longer want to be part of the United Kingdom. They have blamed the UK Government for making a decision when they are able to make the opposite decision. That is important to put on the record, because the Scottish Government have been making noises in both Scottish and national media about the disgraceful decision to delay the revaluation, even though they could carry out the revaluation tomorrow if they so wished.

We encourage the Government to publish a full assessment of the winners and losers of the revaluation delay, the effect on regional economies, the impact on the finance of local authorities and the impact on our under-pressure high streets. There is no need for the clause. The Government should listen to all the organisations that have contacted the Committee, from the CBI to the Association of Convenience Stores, and remove the clause from the Bill.

Roberta Blackman-Woods (City of Durham) (Lab): I welcome you back to the Chair, Mr Davies. My hon. Friend has made an excellent case against the clause, so I do not want to add too much.

We had a positive afternoon on Tuesday, so it is disappointing that I have to start today by saying something negative: I was disappointed by the Minister's introduction. A lot of evidence was presented to the Committee questioning the impact of the clause, but from his comments, I do not think he has taken them on board in any way at all.

We have already said how poor we think the impact assessment on the postponement of the compilation of rating lists until 2017 is. We know that the purpose of revaluation is to redistribute the rates burden based on

rateable values. The impact assessment seems to concentrate on saying, "There is a total sum of money. Who the winners and losers are depends." It does not go on to give us any firm information on which to base a judgment. That goes to the heart of the Opposition's concern.

As my hon. Friend said, we have all received a paper from the Association of Convenience Stores—the "voice of local shops"—the British Property Federation and many others, which calls into question the Government's assertion that 800,000 premises would see a real-terms rise in the rates bill if the revaluation went ahead in 2015, with only 300,000 premises losing. It then gives us information that the Minister has not adequately addressed to date. A whole collection of organisations that are in the position to have some real understanding of the possible impact of the measure wrote:

"We believe that relatively few areas disproportionately owned or occupied by larger, stronger businesses, will have seen rents perform better than the national average since 2008, with the majority outside those areas therefore standing to benefit from a revaluation and lose from its delay. Essentially this change will thus see those that have suffered most from the declining retail sector, for example Middlesbrough where there are empty shops with rents at a quarter of rateable value and still no takers, subsidise those that have benefited from retailers strategy to focus their property requirements on far fewer locations."

Such comments really get to the heart of my feeling about the proposed measure. Not only have we not received firm evidence of why it is necessary, but the Government have not made a case for why it is necessary at this time or how it is a growth measure. Growth is a key matter for areas such as Middlesbrough that are suffering heavily from the economic downturn and the recession, but the measure offers them no hope whatever. I accept that no hope was given to us yesterday, but we have in front of us a provision that will really add to the concern of several businesses throughout the country, particularly those that are having to struggle the hardest.

The people who wrote that paper have said that, if the Government want to prove them wrong, they can easily do so. They can take on board the arguments that have been made and provide real evidence. They need to publish independent assessments so that the figures can be properly interrogated and we can have a clear understanding of the winners and losers. The case for that was put strongly by Liz Peace in her oral evidence to the Committee. The right hon. Gentleman still needs to answer several questions that were posed in the Gerald Eve letter that we all received and, to date, he has not done so to our satisfaction.

I want to leave the Minister with one particular point. A lot of organisations that have been in touch with us have said, "It is interesting, isn't it, that the Government have at last recognised that what businesses seem to need is certainty?". Those organisations mean "certainty" about the whole economic climate, not only about what business rates they will have to pay. Most importantly, they have said that if certainty means that they have to pay more for longer, it is not the certainty that they are looking for, and I should be grateful if he would respond to that in his comments.

Michael Fallon: I shall try to deal with some of the points made about the clause and comment briefly on new clause 9. I say first to the hon. Lady that the impact assessment does refer to the Valuation Office Agency analysis—it is on page 73. She talked about certainty and asked what the clause had to do with growth, but growth is about certainty. It is about giving businesses certainty about exactly where they will be during the next five years.

I certainly cannot accept what the hon. Lady said about yesterday's autumn statement. I do not know whether she was in the Chamber to hear the Chancellor announce a further increase in small business rate relief for 2013-14, which will be very welcome for small businesses, whether in Middlesbrough or Durham, and additional empty property rate relief for new builds, worth £150 million over the lifetime of the scheme. So I do not accept that the autumn statement did not help.

The comments made by the hon. Members for City of Durham and for Edinburgh South return us to the issue of winners and losers. I have said it several times, but I repeat that none of us can be exactly sure who the winners or losers would have been if we had actually gone ahead with the revaluation exercise, spent the £40 million, and perpetuated the uncertainty for the next few months as to who would gain and who would lose. We have now reached a position where the Friends of Canary Wharf on the Opposition Benches have conceded that one of the big winners would certainly have been central London offices and banks. Whoever the losers, I think it is now accepted that offices in the centre of London would be among the biggest winners. At this particular point, economically, I would wonder whether they are the most obvious target for help.

The real issue is not just who the winners and losers are, it is how we would deal with what would certainly happen if we carried out the revaluation now. It would result in immense volatility. There would be a large number of winners and a large number of losers, and a lot of businesses would see huge swings upwards or downwards in their rates. That is what we must avoid.

Nic Dakin (Scunthorpe) (Lab): Would the Minister accept, notwithstanding the need for certainty, which everybody recognises, that the evidence we have heard from across business is that businesses that need relief from inappropriate business rates will not get it, and that that will damage them?

Michael Fallon: I do not wholly accept that. We do not yet know who exactly the winners and loser would be. We have had examples from the Valuation Office Agency's estimates of how different sectors would be hit in different ways, which I gave to the Committee. Of course, if a firm is losing a reduction it was expecting, that is obviously not good news for that firm, but that is balanced by gains elsewhere in the system.

Andrew Stunell (Hazel Grove) (LD): Can the Minister confirm that, if the revaluation went ahead, the one thing we know from the VOA figures is that £440 million would be transferred into the centre of London from businesses around the rest of the country?

Michael Fallon: Exactly, and the point I made to the Committee was that I am not sure shovelling more money into that sector, as the Friends of Canary Wharf would like, should be the first target of any Government spending decision.

[Michael Fallon]

The hon. Member for Edinburgh South asked me what would happen in 2017. We cannot possibly know what will be happening with rateable values in five years' time. We do know that in 2017 the economy will be growing strongly. Indeed, by then, thanks to the coalition's tough decisions, we have every prospect of clearing the appallingly high structural deficit that we inherited. That is the one thing we do know will be happening by 2017. It is a great shame that the Opposition are not helping us in taking or supporting any of the tough decisions that Conservatives and Liberal Democrats have joined together to take, and to defend, in order to deal with the deficit.

Mr Nick Raynsford (Greenwich and Woolwich) (Lab): May I bring the Minister back to 2015? His whole case is predicated on VOA figures that have been shot to pieces by all the expert witnesses who gave evidence to us. He cannot feel comfortable defending the statement that there are 800,000 potential gainers from the postponement when such figures are clearly not substantiated or supported by the industry.

Michael Fallon: They have been substantiated in the Valuation Office Agency's analysis. I am surprised that the right hon. Gentleman puts greater faith in some of the evidence put forward by some commercial agents in some particular sectors.

The hon. Member for Edinburgh South, however, was implicitly putting a slightly different question. How do we know that there might not be further delays beyond 2017? I say to the Committee that it is important for us to have regular revaluations and that we do not get further out of date. We are having a two-year postponement, which is helpful in the current economic circumstances, but we have no plans to allow rateable values to fall any further out of date and the next revaluation will therefore be in 2017, and they will be every five years thereafter. That strikes the right balance between certainty now for businesses struggling in the current climate and keeping rateable values up to date.

12 noon

Nic Dakin: Is the Minister being clear that there will definitely be a revaluation in 2017, and thereafter, as he has just said?

Michael Fallon: Yes, that is in the Bill and that is what will happen.

Ian Murray: The Minister is being incredibly generous in giving way—*[Interruption.]* Gracious and generous, if not a bit gloomy like my hon. Friend the Member for Scunthorpe.

We suggest that the VOA figures are speculative and therefore—as I think you admitted on Tuesday—until a full revaluation is done, we will not know them exactly. In fact, you said to the Committee in evidence that the VOA data were based on "limited rental evidence"—at column 7 of the evidence we took from the ministerial team directly on 13 November. What is the danger in leaving a revaluation until 2017, given the figures before us? We dispute that they are accurate enough to be able to make this judgment. What if that central London office figure doubles to 28% gain, will you then delay it further until such time as—

The Chair: Order. First, interventions should be brief. Secondly, I have not said anything at any point—you are perhaps referring to the Minister.

Michael Fallon: Of course it is true that the Valuation Office Agency analysis cannot be complete—it cannot be complete until a complete revaluation is done. Is that not self-evident? Its analysis, however, is the best analysis we have and, therefore, there will be a revaluation in five years' time.

Although the hon. Member for Edinburgh South did not dwell on new clause 9 too much, it raises some important issues concerning the rates system and the role of the Valuation Office Agency. I want to deal with that because, in tabling the new clause, Opposition Members have given us the opportunity to discuss a subject that is important not only to the ratepayer but to local authorities, now that the Government are giving them a direct interest in business rates income.

I agree that it is important that the Valuation Office Agency is accountable for its performance. The agency is already held to account by a number of mechanisms which, I suggest to the Committee, the new clause simply duplicates. Accountability of the agency is important, however, and I will remind the Committee of the existing arrangements. First, the Valuation Office Agency is an agency of Her Majesty's Revenue and Customs and is therefore answerable to Parliament through Ministers in the Treasury. The Exchequer Secretary can and does answer questions about the Valuation Office Agency, and senior officials from the agency can be and are called to give evidence to the Treasury Committee.

The Treasury Committee last interrogated the VOA on 15 October 2008. If the Committee members read that transcript, they will see some vigorous questioning led by the then Chair of the Treasury Sub-Committee on the ports revaluation, a serious issue that the previous Labour Government dumped on us and which this Government had to address quickly, and did so on coming to power in 2010. In 2008, however, there was a serious scrutiny session about the performance of the agency and the unfairness for ports of the backdated rates bills, which were subsequently cancelled thanks to the rapid action of the coalition Government.

In addition, the agency is required to prepare an annual business plan, which is approved by Ministers and published in full. It sets out what the agency is doing to support the Government's agenda and includes some high-level performance measures. The agency also publishes an annual report and annual financial statements, which are laid before the House. In that, there is an explanation of its work and a review of its performance against its objectives, as well as a section on the priorities for the coming year. For 2011-12, for example, the agency was able to report that it had met all but one of its key performance indicators and 28 out of 30 operating targets. All key performance targets relating to the operation of the rating list were met.

As an Executive agency, the Valuation Office Agency is also subject to the framework review process, in which the parent Department—HMRC—reviews whether

the agency continues to support the Government's objectives. That is a thorough exercise, usually taking several months, and leads to the publication of a detailed report on the operations of the agency. The last framework review was done in 2009 and published in June of that year. The timing of framework reviews is decided by Ministers, but can be as frequent as every three years.

The report required by the new clause would duplicate the existing arrangements, but, as I have said, we take the performance of the agency very seriously, and beyond the annual reporting cycles, officials and Ministers in the Treasury and the Department for Communities and Local Government meet the agency regularly to discuss its work.

Mr Raynsford: The Minister has given the Committee a rather glowing account of the Valuation Office Agency's performance. Does he accept the evidence from CVS—Commercial Valuers and Surveyors—that at March 2012 the VOA carried forward 241,000 outstanding appeals—a backlog 74% higher than in the equivalent stage of the previous list? Is that a satisfactory performance?

Michael Fallon: I was coming to the backlog of appeals, but let me just say to the right hon. Gentleman that I did not give a glowing account in any way. The point is that there is regular scrutiny of the agency's performance, through all the mechanisms that I have described. We do not need to duplicate those in the way that the new clause sets out, but let me deal specifically with the issue that he raised.

These are the facts. The agency clears vast numbers of rating appeals. In 2011-12, the agency cleared more than 190,000 appeals, and its performance has continued to improve. This year, it had cleared 120,000 by the autumn, and it hopes to double that to 250,000 appeals cleared by the end of 2012-13, so by the end of this year, it will have cleared more than 400,000 rating appeals over two years. The Committee might like to know that more than 70% of those appeals result in no change at all.

It is also perfectly true—this may be the point to which the right hon. Gentleman referred—that the level of outstanding appeals is still above 200,000, but that is because appeals continue to be received. The number is falling, and I am optimistic that the agency's progress will be maintained. It has prioritised the clearance of appeals by improving efficiency, diverting resources from other work areas and recruiting additional front-line staff. Although it is not the reason for the revaluation being postponed, it does follow from the postponement of the revaluation that the agency will be able to continue its focus on clearing appeals.

I hope that I have reassured right hon. and hon. Members that proper scrutiny arrangements already exist to ensure that the agency reports to Parliament and to the public on its performance, that as a Government we continue to work actively with the agency to improve its work and that new clause 9 is not needed as any further reassurance on that.

Question put and agreed to.

Clause 22 accordingly ordered to stand part of the Bill.

Clause 23

EMPLOYEE OWNERS

Michael Fallon: I beg to move amendment 117, in clause 23, page 28, line 40, after 'individual', insert 'fully paid up'.

The Chair: With this it will be convenient to discuss Government amendments 118, 120, 123 and 124.

Michael Fallon: This is the first of a package of amendments, which we tabled as a result of the consultation on the clause. A number of technical issues have been raised about how it might operate.

Amendment 117 requires that the shares involved—

Paul Blomfield (Sheffield Central) (Lab): Given the large number of amendments that have been tabled, and in view of the fact that the consultation produced only five positive responses out of 209, clearly there is no support for this proposal. Would it not save the Committee time and the Government embarrassment, and be easier, if the clause were withdrawn?

Michael Fallon: There is no embarrassment about the clause or the amendments. This Government consult and listen to the consultation. A number of points have been made about the clause. The amendments clears up some technical points that have been made as a result of the consultation on a proposal that is, as might be expected of this Government, ground-breaking and has not been considered by the House before.

Amendment 117 will require that the shares are fully paid up before being issued. That is important, because if the shares issued were not fully paid up, the employee owner would be liable for any balance relating to the value of the shares. If that were so, and if the company requested the outstanding amount, or if the company became insolvent, the employee owner would have to pay the outstanding amounts. That would not be fair. The amendment will ensure that the employee owner is not liable to pay any money for the shares issued. It is not the Government's aim to require the employee owner to pay for the shares.

Amendment 120 will prevent the company from asking the employee owner to provide any other form of consideration, apart from agreeing to become an employee owner, for the shares issued to them under the scheme. The Government do not believe that the employee should pay for those shares in any other way, apart from simply agreeing to the arrangement, and the amendment makes that clear.

Amendment 118 will enable the employer company to grant shares in a parent company to employee owners. In some cases, the employer company may have little value and the Government do not want to prevent employer companies from granting shares in their parent companies—such shares might have more value—and the amendment enables that.

Amendment 124 will define consequently what is meant by "parent undertaking", giving clarity to those many people considering using that status.

[Michael Fallon]

Amendment 123 will extend the type of companies that are able to use the employee owner status to include overseas and European companies. The Government intend to ensure that that status is available to all companies with share capital. The amendment will ensure that we are not inadvertently discriminating against European or overseas companies—I am sure that you will support this, Mr Davies—and will bring us in line with our obligations under European law.

I commend the amendments to the Committee.

Ian Murray: This group of amendments brings together some anomalies in the Bill. My hon. Friend the Member for Sheffield Central, in his early intervention, hit the nail on the head. There is so little appetite in the business community—in any community, for that matter—for these changes, that we could have finished the entire Bill by lunch if the Minister had withdrawn the clause. We are unclear why the clause relates to the Bill, in any case. The Minister gave a robust response, saying that the Government consult and listen, but they have not really listened to the consultation results produced late last night, with only five out of 209 responses even remotely welcoming the proposal.

The Government amendments will resolve the following anomaly. As the Bill stands, employers who take up the employee-owner scheme could be issued with shares that are not fully paid up. The Government's own consultation states:

"If an employee owner is given shares that are not fully paid up, they could be left with a financial liability if the company becomes insolvent"

under company law. As the Minister said, the other amendments in the group expand the availability of the employee-owner scheme to overseas companies and parent companies.

12.15 pm

The consultation is yet another perfect example of the mistakes and problems surrounding the Bill because of the Government's haste in introducing parts of it. The Chancellor stood up at the Conservative party conference and announced a policy that, I suspect, had everyone in the Treasury and the Department for Business, Innovation and Skills holding their foreheads in their hands, as they tried to find a way of implementing it quickly. There is little doubt that the Beecroft agenda, which underpins this policy, was cobbled together rather quickly to drive home some ideological point about workers' rights. The Department's consultation response states that, if the amendments were not included, employers would be left carrying the can for any issues with regard to financial liability if the company became insolvent.

The Opposition do not object to these tidying-up amendments, but I would like to ask the Minister some questions. The amendments extend the scheme to parent companies and overseas companies, so how can he assure us that he will deal with any tax avoidance issues? Where a subsidiary company has shares allocated in it for employee owners, will it actually be the employer of those employees, rather than just an opportunity for tax avoidance and to deal with PAYE and national insurance through a different subsidiary of a parent company? There is also the case law on establishment, in terms of where an employee works and who they work for. Can the Minister give us some assurances on that?

What guidance will be given about the scheme to make sure that subsidiary holding companies, particularly overseas companies, use the scheme properly, for the benefit of not only themselves but employees who may take up employee ownership contracts in the future?

Roberta Blackman-Woods: My hon. Friend asks pertinent questions. Has he considered whether the amendments could inadvertently lead to pressure being put on employees to move to another part of the parent company, if that is where the shares are being given for? Has he had any reassurance from the Government that that will not happen?

Ian Murray: That is a critical question, and I am grateful for it. There is a great fear that employees in a particular company or organisation will be transferred en masse to a related organisation, and that that transfer will have attached to it the condition that the employment contract is dissolved and a new employee-owner contract is put in place. An employee in those circumstances will be given little option but to transfer, and it is important to get clarity from the Minister on the guidance that will be given and on what will be put in place to prevent such things. An overseas holding company could set up a separate subsidiary company that deals merely with the human resources part of the holding company. It would then be able to transfer in people with shares that may not have the same value as those of the holding company. That might force employees into a different employment relationship, and the Minister needs to give not only the Opposition but businesses and employees, assurances on that.

Gordon Birtwistle (Burnley) (LD): Would the TUPE arrangements not prevent that from happening? If someone is transferred from one business to another, and they are doing the same job, the TUPE arrangements secure their work programme after they have moved. All the statutory arrangements and contracts of employment they have are transferred under TUPE, so surely that would prevent the things the hon. Gentleman talks about from happening.

Ian Murray: That is a significant intervention, and I hope the Minister heard it, because the TUPE arrangements are not referred to in the legislation. They have not been referred to in the consultation response or the impact assessment, so there is an issue about not only, as my hon. Friend the Member for City of Durham proposes, the transfer of an employee under TUPE into a different holding or subsidiary company, but about the opposite: if someone is on an employee ownership contract and transfers out, do they transfer out with the shareholding, or do they transfer it under a standard employment contract?

There are huge issues relating to transfer, and TUPE may not apply in some instances, if the same holding company that a person is employed by is merely transferring employees from one area of the business to another; because the employer in itself may be the same. That is why I put a question to the Minister about how to

prevent a holding company that directly employs the staff from merely transferring them into another part of the business.

I am delighted with the intervention, because I am unclear about how all those aspects of the matter would operate, and the Minister should give some clarity about how they fit together.

Michael Fallon: Those are perfectly legitimate questions. I want to say first—because the question governs several amendments tabled by the Opposition and by my right hon. Friend the Member for Hazel Grove—that we do not want a situation in which an employee is put under pressure, in any way, to subscribe to the shares or accept a new status.

There will be guidance on the operation of the scheme. It is a new one and that is why, perhaps, it has not yet been universally acknowledged or as widely supported as it might have been.

Nic Dakin: I welcome the Minister's comments about no one being put under pressure; but in the reality of employment the pressures are sometimes invisible. I am interested in what protections the Minister will set up to ensure that accidental as opposed to deliberate pressure is not put on individuals.

Michael Fallon: I understand that distinction, which is addressed in the reference to "consideration" in one of the amendments. We would not want an employee to be told, for example, "All right, you do not have to pay for the shares, but you have to agree now to extra working, or giving up holiday time" and so on. That is what the word "consideration" clarifies.

Amendments in a later group deal directly with the issue of protection. I may be able to answer a little more fully in discussing them, but I wanted to explain that I do not want employees to be coerced into the status in question, whether that coercion is explicit or implicit. I look forward to discussing with my hon. Friend the Member for Burnley and Opposition Members whether we can make improvements.

The hon. Member for Edinburgh South asked me about tax. I am advised that with any disposal of shares, the tax position would of course depend on the circumstances, including the type of shares and the details of the transfer arrangement. Those are matters for the Chancellor in the Finance Bill and we cannot go into detailed discussion ahead of the publication of draft Finance Bill clauses next week. However, we would obviously not expect capital gains tax to be due if the shares were within the scope of the exemption.

I am happy to write to the hon. Gentleman more specifically about the tax avoidance issue that he raised, and to clarify for him the exact position in relation to TUPE. As I read the clause, and as I am advised, the arrangement falls into the normal category of what is covered by TUPE, but, if I am wrong, I shall certainly get back to him.

Ian Murray: The Minister is being incredibly helpful. If he investigates the TUPE issue and writes to me, will he also investigate it from the other side—the situation of an employee-owner who would transfer out of a business, under TUPE, to somewhere else? What would the status of that employee-owner be, and what right would they carry with them in relation to the allocation of shares in the business and so on?

Michael Fallon: It is my understanding that the rights would transfer, but again, I am ready to be corrected if I am wrong, and will certainly include the issue in my letter to the hon. Gentleman. I am happy to set out for him in a little more detail than I have time for now exactly how that will apply. There will be guidance, not simply from HMRC, but from the Government, on how the new scheme will operate. As I have said, the scheme is new, so all the companies that wish to take it up and all the employees who may express an interest in it will need some guidance as to how it will operate.

As I understand it from the various points raised, I do not think Opposition Members were querying the intent of the amendments, and in that spirit I commend them to the Committee.

Amendment 117 agreed to.

Amendment made: 118, in clause 23, page 28, line 40, after 'company', insert

', or procures the issue or allotment to the individual of fully paid up shares in its parent undertaking,'.—*(Michael Fallon.)*

Michael Fallon: I beg to move amendment 119, in clause 23, page 29, line 1, leave out

'and no more than £50,000'.

The Chair: With this it will be convenient to discuss Government amendments 122 and 125.

Michael Fallon: Here are three further amendments from a listening and consulting Government.

Amendment 119 will remove the upper limit of £50,000, thus enabling a person with £50,001 of shares to qualify as an employee owner. The Finance Bill will include a clause allowing employee owners to benefit from capital gains tax exemption for the first £50,000 of shares issued.

More importantly, amendment 122 will enable the Secretary of State to increase the minimum qualifying amount from £2,000. The amendment will ensure that the minimum qualifying amount of shares is not eroded over time and remains a sufficiently significant value.

Amendment 125 details the process by which the Secretary of State may increase—but not decrease—the minimum qualifying amount. That will be done by affirmative resolution, which requires a debate in each House of Parliament.

Ian Murray: The amendments will tidy up some of the Government's initial proposals regarding the parameters of £2,000 and £50,000. As we have discussed, and as the Minister is aware, many stakeholders have expressed considerable concern that the potential for misuse of the scheme is huge. Therefore, while the Government believe that the cap on £50,000 of shares is arbitrary and are amending that, there could be significant unintended consequences.

By allowing companies to offer shares in excess of £50,000, the Government will open the scheme up to potential tax avoidance by individuals who command such large offers. There are already employee share

[Ian Murray]

schemes in operation that allow employees to gain shares without paying income tax or national insurance on those shares. Most employee owners who are allocated low levels of shares would almost certainly be better off receiving their shares through an existing approved share ownership plan. We therefore urge the Government to consider carefully a cap on the level of gain not subject to capital gains tax. While we oppose the clause in general, it would be remiss of us, as a diligent and listening Opposition, to push the Government on that point, as they are insistent on ploughing on with the clause, despite the woeful response by stakeholders to the consultation. We therefore believe that it is essential to ensure that the proposal will not create opportunities for additional tax avoidance. "Tax avoidance" is a terminology that will run through many of the Government's proposals. The issue has been raised not just by tax accountants but by many businesses, which have run for the hills when they heard about those proposals.

Amendment 122 will allow the Secretary of State to increase the minimum worth of shares. We believe that that is reasonable, particularly given amendment 125, which will require any change to be approved by both Houses of Parliament.

12.30 pm

The lower level is important for a number of reasons. The main reason is that the principle of an employee selling off their rights for what is essentially cash—my right hon. Friend the Member for Leeds Central (Hilary Benn) called it, "Cash for repeal"—sets an important precedent. Workers will be giving up many of their hard-fought rights in the workplace for a small cash gain. Therefore, giving the Secretary of State the power to increase that cash gain may remove some of the problems of the scheme. We are glad that the amendment has been tabled, and we are also glad that the power will be subject to the approval of both Houses of Parliament. I have to say, many of our amendments that would bring issues to both Houses of Parliament were rejected. It is interesting to see the contradictory nature of the amendment.

Given the lack of guidance available on current employee ownership schemes, there is a risk that the clause will enable senior executives in leveraged buy-out situations, such as private equity-backed companies, to avoid tax. Typically, those companies are larger, more mature businesses, not the fast-growing start ups that the scheme is most intended to benefit. There is nothing in the clause to restrict the scheme to the high-growth technology sector that many people in the evidence session stated the scheme is designed for. Therefore, anyone can use it, including in the leveraged buy-out situations of private equity-backed companies. The scheme may be rolled out to the whole of business.

The idea of employee ownership is already common with private equity, where funds typically invest alongside a number of board directors and other senior employees. After a few years, the board of directors and other senior employers seek to exit, alongside the private equity house when the underlying business is sold, often to another private equity company. Historically, those individuals are subject to capital gains tax on gains that are often very large. Under the Chancellor's plan, those individuals will no longer be subject to capital gains tax up to the £50,000 limit. However, we fear that if the top level of £50,000 is removed, it will be easy for the Secretary of State to change the legislation to increase the capital gains tax threshold. I appreciate that the clause does not mention capital gains tax. That will be in the Treasury's Finance Bill, which the Minister said will be published in the next few weeks. However, it is important that the Committee puts it on record that the capital gains tax threshold must be robust. If the top level of £50,000 is removed, then it is important that a capital gains tax threshold is robustly put in place in legislation to prevent tax avoidance.

Industry experts have raised the warning flag to the Government. For example, Richard Murphy, director of Tax Research UK, said:

"There are lots of tax abuse opportunities, including contractual abuse, which accountants will want to exploit. Give them any opportunity and they will take it."

David Ellis, head of the reward practice at accountants KPMG, said:

"If there's a tax efficient way to give employees equity, you will use it even if you don't want to take away employment rights."

Given that the tax advantage would only accrue to those with high-value shares over a period of years,

"That pushes it down a certain avenue about who to offer this to".

With one hand, the Conservative Government, aided and abetted by their listening partners, the Liberal Democrats, are paying lip service to the idea that they are standing up for employee rights. We saw that with the Enterprise and Regulatory Reform Bill, we saw it with the changes to the qualification period on unfair dismissal, which was put through by statutory instrument, we saw it with the removal of lay members from employment tribunals and with a whole package of measures that they have introduced. The addition of a potential tax loophole for wealthy employers and employees to exploit gives us serious concern.

The capital gains tax threshold of £2,000 at the lower end would have to increase by a considerable multiple for the capital gains tax threshold, which is currently set at £10,600, to kick in. There is no doubt that the benefit to the capital gains tax regime—and therefore the disbenefit to the Treasury and the public purse—is at the higher end of the proposal, not the lower. That point relates to the issues about the Secretary of State having the power to raise the £2,000 limit.

The matter of capital gains tax that was raised by Richard Murphy is also relevant to starter companies that have become successful very quickly. That is why in a later amendment we shall be pressing the Government for a full analysis of the PAYE contributions to employees. The current share ownership and employee ownership schemes have a particular exemption for PAYE national insurance, and that has not been dealt with under the Bill or by what the Minister has said. We shall not be voting against the Government amendments, but we have serious concerns about tax avoidance and the way in which such measures may be used in the future.

Amendment 119 agreed to.

Amendment made: 120, in clause 23, page 29, line 2, at end insert ', and

() the individual gives no consideration other than by entering into the agreement.'—*(Michael Fallon.)*

Ian Murray: I beg to move amendment 105, in clause 23, page 29, line 2, at end insert—

'(c) the employee has entered into such an agreement on a voluntary basis.'.

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

Amendment 106, in clause 23, page 29, line 2, at end insert—

'(1A) Before entering into an agreement with a company as set out in subsection (1), an individual is entitled to seek advice and assistance from anyone of the following—

(a) a trade union official;

(b) a workplace representative; or

(c) a legal representative;

and the costs of that advice and assistance shall be met by the company.'.

Amendment 115, in clause 23, page 29, line 2, at end insert—

'(1A) The Secretary of State shall make such regulations or issue such codes and advice as is necessary to provide that no employee who declines to enter into a voluntary agreement under subsection (1)(a) shall suffer any consequential detriment.'.

Amendment 116, in clause 23, page 29, line 31, at end add—

'(7) The Secretary of State shall issue such guidance as is necessary to provide that refusal to enter a voluntary agreement under subsection (1)(a) by any person shall not be grounds for reducing or withdrawing any state benefit to which they are entitled by virtue of their current employment status.'.

Ian Murray: We have tabled this key set of amendments to tease out whether the new employee ownership scheme will be voluntary. In his introduction to the first set of amendments, the Minister—with all due respect—might have been wearing rose-tinted glasses in respect of whether the scheme would remain voluntary. There are several instances whereby it can be demonstrated that the scheme will not be voluntary.

Amendment 106 would ensure that an employee who is taking on the status of employee ownership receives the best possible advice. It is important that it is given by a trade union representative, a workplace representative or, indeed, a legal representative, and is paid for by the company. I am delighted by the amendments tabled by the right hon. Member for Hazel Grove, which the Opposition thoroughly endorse. I am sure that he will speak to them later, but it is important that, if the scheme were shown not to be voluntary, the consequences of such action will be dealt with through the proper channels such as unfair dismissal or constructive dismissal proceedings. The Government have changed many rules in respect of unfair dismissal measures under the Enterprise and Regulatory Reform Bill, but if it can be shown that there is a problem with the scheme not being seen to be voluntary, we want such a position to be dealt with.

When the Chancellor announced the scheme in October, everyone questioned how the Government could possibly ensure that the scheme would be voluntary. That is not clear under the Bill. Many of those who have written to the Committee have said that they do not know how it could possibly be enshrined in statute that such a scheme would remain voluntary. While we are against the proposal, which is bad for employees and also potentially bad for business, if the Government are adamant and want to push forward the measure, they must make sure that employees throughout the United Kingdom have protection so that the scheme is genuinely voluntary.

The Confederation of British Industry has called the scheme a niche and does not consider that many businesses will use it. The Minister will be pleased that we are friends of the CBI and Canary Wharf this morning. Ultimately, companies will decide if they want to use the scheme and, judging by the response to the Government's consultation, the chance of that is slim to none. Businesses will be able to offer the new type of contract as an option to existing employees but, as drafted, the Bill does not make it clear if they will be able to force that on new recruits.

Ministers have been at pains to stress that the proposal will be completely voluntary. However, upon its announcement, a Treasury source told the political news website, PoliticsHome, that employers

"would be able to specify that rights would be traded for shares in job descriptions, effectively making the scheme mandatory for some positions."

Yet again, we see that BIS and the Treasury are at odds about what will be delivered by the proposal.

Roberta Blackman-Woods: Has my hon. Friend also looked at the evidence given to the Committee by Paul Callaghan? He said:

"This proposal is clearly only optional one way. If a job can be made conditional on accepting an owner-employee contract, that is only optional to the extent that eating and drinking are optional. If you need a job, you have to take whatever terms are offered. It is a fallacy to suggest that that is optional."—[*Official Report, Growth and Infrastructure Public Bill Committee,* 20 November 2012; c. 122, Q272.]

Does he agree with Mr Callaghan and does the Minister need to take that on board?

Ian Murray: Mr Callaghan was robust when giving evidence about whether these contracts are voluntary. He is a very senior partner who told us that he deals particularly with the high-growth technology businesses that the measure is designed to be used by. Not only was he robust about the voluntary nature, but the Under-Secretary of State for Communities and Local Government, was equally robust in his response to Mr Callaghan when he said that he did not think that these contracts were optional. The phrase that it is

"only optional to the extent that eating and drinking are optional"

is a good way of putting it.

The Chancellor called it

"a voluntary three way deal"

and yet it is unclear what measures will be taken to prevent employers abusing the scheme, such as by dismissing an entire work force and imposing the contract as new terms and conditions on re-engagement. That goes back to some of the concerns we had about the holding companies and subsidiaries. There is no reference to safeguards, such as compromise agreements or a requirement for independent legal and/or financial advice, for employees thinking about going down this route.

There is a connection between this measure and some of the clauses in the Enterprise and Regulatory Reform Bill, because the new settlement agreements allow for an employer and an employee to have a combination of

[Ian Murray]

without prejudice, protected conversations about certain aspects of their employment relationship that cannot then be used for unfair dismissal. While compromise agreements were used when a dispute was in place, settlement agreements can be used where no dispute is in place. An employer and an employee can have a conversation about moving someone from a normal employment contract on to a new employee owners contract under the guise of a settlement agreement, without having any of that independent legal or financial advice put alongside it. That is a real danger. I am sorry to mention cocktails with my hon. Friend the Member for North Tyneside here, because I know espresso martinis were her certain favourite last night—I am bringing back all those memories already—but this cocktail of changes to the Enterprise and Regulatory Reform Bill alongside some of the changes in this Bill have to be taken into account so that we can look at how it impacts together.

There is no genuine choice over whether to sign up for fewer rights at work, if the employer decides to move employees on to employee owner contracts. Employers would be free to decide to employ all new recruits on employee owner contracts, and individuals would have no choice but to contract out their basic employment rights if they want that particular job. We can see the number of people—particularly young people—who are unemployed in the current economic climate. If a job is advertised as an employee owner-only job, any perfectly reasonable person would deduce that that is no longer voluntary. Yes, that young person could decide that they do not want to apply for that job. Alternatively, they could apply for a job on the understanding that it is not an employee owners contract, but it could come forward as such and that voluntary element would be taken out of it.

There will be nothing to prevent employers from threatening existing employees that they will only retain their jobs if they agree to sign new employee owner contracts. That could be done through a process of collective redundancy discussions with trade unions and the like. If existing employees refuse to agree to the new contracts, what is there to stop rogue employers dismissing them and offering them reinstatement on new employee owner contracts? If the employee refused, it may be difficult to convince an employment tribunal that they had been unfairly dismissed. In any event, they would have lost their job and their livelihood in the process. There seems to be no provision to protect an employee who is offered employee ownership but does not want to accept it.

For the agreement to be truly voluntary, the employee needs to have a right to refuse the employer's offer, with protection against unfair dismissal and detriment, equivalent to the protection given to an employee refusing to sign an opt-out from the 48-hour working time directive. Are the provisions to be introduced at a later stage in the Bill's progress?

12.45 pm

Roberta Blackman-Woods: Is it worth suggesting to the Government again that they might look at their report on the consultation, which showed that more than two thirds of respondents said that there would be no benefits or only benefits to unscrupulous employers? That seems to be an important consideration.

Ian Murray: That is an important consideration. We cannot be under any illusion that unscrupulous employers are not out there. As I say regularly when talking about employee rights, the vast majority of employers in this country look after their employees and they go to work every day to run their businesses with the prime goal of looking after employees because they know that employees are their biggest asset. In actual fact, however, as we know through case law and experience, that is not always the case, so we have to ensure that we are protecting people.

Nic Dakin: Is it not true that if unscrupulous employers do unscrupulous things, they disadvantage not only their employees but scrupulous employers?

Ian Murray: That is a critical point, which I think the chief executive of Sainsbury's was making when he responded to the Chancellor's statement on employee owners. He said that the reputation of business had been damaged because of the current economic crisis and that the potential was for decent employers to be damaged even further by use of such schemes and people being offered cash to sell their rights. What happens if a pay rise, promotion or any other aspect related to an employer-employee relationship is conditional on changing to an employee owner's contract?

No one will decide to leave an employment—perhaps having worked there for a considerable amount of time—on the basis of being moved on to a different contract. If people have been in a particular employment for less than 24 months, they will have no protection against unfair dismissal in any case, unless there is a discriminatory or whistleblowing element. There is a real issue about being able to switch people on to such contracts when that is not clearly voluntary, if attached to another part of the relationship. The Opposition cannot emphasise enough, and I continue to state, that the proposal is not only bad for employees but catastrophic for employers if they get it wrong. There is no clear policy on offering such an arrangement to all staff, and there is a risk of it giving rise to discrimination claims, which are costly.

Any lawyer in the City or, to return to Canary Wharf—at the moment, the Minister's favourite location in London—the many lawyers there that deal with the relationship between employee and employer in private business might have legal advice sought from them by someone who loses a job over such an arrangement. I suggest that any legal officer worth the fee likely to be earned on such a case would run a double-track tribunal with a discrimination case at the same time. That is the only protection left, from day one, that an employee can take forward. If people refuse to go on to that kind of contract or there is a relationship breakdown with the employer, the only option left open to the employee is to attempt a discrimination or whistleblowing case. Surely that is bad for employers in this country, potentially to put them at that risk.

If we set aside all the legal issues that might arise from the schemes not being voluntary, it is important that anyone who wishes to enter into one of those

complex contracts should be given the appropriate advice. Amendment 106 merely asks the Government to install in the Bill a mechanism that allows employees, at the employer's expense, to seek some guidance and advice from a legal or other work-place representative, to ensure that they fully understand the consequences of entering into one of those complex arrangements. Section 203 of the Employment Rights Act 1996 imposes minimum independent legal advice requirements on the surrender of unfair dismissal rights. The shorthand for that was "compromise agreement advice", although of course they are now called settlement agreements, and the key element was a written agreement upon which the employee has received advice from an insured independent legal adviser. That adviser may only be a lawyer, certain trade union officials or certain advice centre workers, as we suggest in our amendment. There is no provision for that in the Bill, so the unscrupulous nature my hon. Friend the Member for City of Durham mentioned earlier could come into play.

Will the Minister tell us who he will consult on the guidance when putting this scheme together? Will employers have to refer prospective employees to where they can seek advice if they decide to go down this route? How will the Government enforce this? If there is no proper enforcement mechanism, it cannot truly be voluntary, because, as the right hon. Member for Hazel Grove is probably just about to tell the Committee, the employee must have some kind of insurance. The only way it can truly be voluntary is if an employee can turn down the offer of an employee owner contract without any consequences for their relationship with their employer. Unless that is guaranteed in the Bill, we could be going down a very dangerous path.

Andrew Stunell: I want to speak to amendments 115 and 116. Throughout proceedings I have approached the Bill in a spirit of helpfulness, and I hope Ministers would accept that. Today, I am going to go up a gear and try robust helpfulness, which is why I have tabled the amendments.

We heard a lot of negative words when taking evidence, and, of course, the consultation has revealed the same lack of support for this proposal. It is fair to say that the CBI was at least polite about it, describing it as a "niche" product. My issue, and the point I wish to make with my amendments, is not really about whether the proposal is good or bad overall. Social enterprise is not for everyone, co-ops are not for everyone, and employee share ownerships are not for everyone, so I am not concerned about it being niche. I am not concerned about it being useful in only a small minority of cases, for instance, IT start-ups or other, perhaps professionalised, businesses where it is really a route into partnerships. That is fine and does not give me any difficulties, as long as it is safe and secure for those who use it.

My questions, like my questions to the Minister at our evidence session, focus not so much on what happens if nobody uses the scheme, but on what happens if it becomes more commonplace, particularly if it becomes more commonplace where the power relationship between the employee and the company is unequal. As the hon. Member for Edinburgh South said, employers want to ensure that their employees do not just contribute to the business, but feel enjoyment and fulfilment from their work. That is commonly the case, but we must recognise that it is not universal. In the evidence session, I put a question to the Minister of State relating to the possibility that a cleaning company, with staff employed at a very low level, may decide to transfer to the new structure. How would that be dealt with? He replied:

> "I obviously understand that concern. No one wants to see employees pressurised into making a choice that may not be in their own best interests."—[*Official Report, Growth and Infrastructure Public Bill Committee,* 13 November 2012; c. 9, Q5.]

In the light of my understanding of where the Minister wants the Bill to be, I have tabled two amendments that deal with two different situations, and I want briefly to explain them.

The first relates to an employee who receives an offer while employed by that company, but does not wish to take it up. The amendment provides for the Secretary of State to make regulations, or to provide codes or advice to establish clearly that an employee who enters into a voluntary agreement will not suffer any consequential detriment.

The second, amendment 116, deals with a very different situation when a vacancy is advertised by such a company, and the jobcentre sends an individual to attend a job interview at that company, the individual is not content to accept the job offer on those terms and returns to the jobcentre saying that they have not accepted the job. The current situation is that that would lead to a suspension of benefits, because it would be a refusal to take up employment. Amendment 116 specifies:

> "The Secretary of State shall issue such guidance as is necessary to provide that refusal to enter a voluntary agreement…shall not be grounds for reducing…any state benefit".

The Minister may properly and correctly say that neither amendment captures the issue in the necessary legal language, but the House and the other place will want to be assured that the intention behind my amendment has been fulfilled before the Bill finishes its course through Parliament.

I hope that the Minister can give me an assurance on, if not the words in the amendment, what words, and how to secure what we all want. Obviously, I want to hear some words from the Minister today, and I will be happy with some assurances, but Ministers and circumstances change, and assurances given in Committee may not transfer to the desk at the jobcentre in Stockport when one of my constituents finds that their benefits have been suspended. They may not transfer back to the situation when a small company in my area decides to transfer to the new scheme and a constituent in my office is saying that they have consequently been disadvantaged, and perhaps even dismissed for failing to take that on.

Ian Murray: The right hon. Gentleman raises a very important point, and I hope the Minister will give a written assurance that it is not the case. About six weeks ago, all MPs received an update from the Department for Work and Pensions about sanctions that can be placed on individuals. One was on voluntarily leaving employment, and another was on voluntarily not accepting employment. As MPs have had that guidance, I hope that transferring it down the supply chain will be dealt with properly.

Andrew Stunell: I do not want to be left with one more sentence to say at our next sitting this afternoon. I have made my point in essence. I want to hear what the

[Andrew Stunell]

Minister has to say, and I may want to ask questions on that. I think my case is clearly understood, and I hope the amendments are clear to the Committee. I look forward to hearing the Minister's response, probably this afternoon.

Ordered, That the debate be now adjourned.—*(Karen Bradley.)*

12.59 pm

Adjourned till this day at Two o'clock.