

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

Public Bill Committee

## DEREGULATION BILL

*Sixteenth Sitting*

*Thursday 20 March 2014*

*(Afternoon)*

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CLAUSES 61 to 67 agreed to, one with an amendment.  
Adjourned till Tuesday 25 March at five minutes to Nine o'clock.  
Written evidence reported to the House.

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

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

*Chairs:* MR JIM HOOD, †MR CHRISTOPHER CHOPE

- |   |   |
|---|---|
| † Barwell, Gavin ( <i>Croydon Central</i> ) (Con)   | Maynard, Paul ( <i>Blackpool North and Cleveleys</i> ) (Con)    |
| † Bingham, Andrew ( <i>High Peak</i> ) (Con)  | † Nokes, Caroline ( <i>Romsey and Southampton North</i> ) (Con) |
| † Brake, Tom ( <i>Parliamentary Secretary, Office of the Leader of the House of Commons</i> ) | † Onwurah, Chi ( <i>Newcastle upon Tyne Central</i> ) (Lab)     |
| † Bridgen, Andrew ( <i>North West Leicestershire</i> ) (Con)                                  | † Perkins, Toby ( <i>Chesterfield</i> ) (Lab)                   |
| † Cryer, John ( <i>Leyton and Wanstead</i> ) (Lab)  | † Rutley, David ( <i>Macclesfield</i> ) (Con)                   |
| Docherty, Thomas ( <i>Dunfermline and West Fife</i> ) (Lab)                                   | Shannon, Jim ( <i>Strangford</i> ) (DUP)                        |
| † Duddridge, James ( <i>Rochford and Southend East</i> ) (Con)                                | † Turner, Karl ( <i>Kingston upon Hull East</i> ) (Lab)         |
| † Heald, Oliver ( <i>Solicitor-General</i> )  | † Williamson, Chris ( <i>Derby North</i> ) (Lab)                |
| † Hemming, John ( <i>Birmingham, Yardley</i> ) (LD)   | Fergus Reid, David Slater, <i>Committee Clerks</i>              |
| Hopkins, Kelvin ( <i>Luton North</i> ) (Lab)  |   |
| Johnson, Gareth ( <i>Dartford</i> ) (Con)   | † <b>attended the Committee</b>                                 |

## Public Bill Committee

Thursday 20 March 2014

(Afternoon)

[MR CHRISTOPHER CHOPE *in the Chair*]

### Deregulation Bill

#### Clause 61

EXERCISE OF REGULATORY FUNCTIONS: ECONOMIC GROWTH

*Amendment proposed (this day):* 27, in clause 61, page 40, line 34, leave out from ‘function’ to end of line 41 and insert—

‘must publish an annual report which—

- ‘(a) makes an assessment of the extent to which they have taken into account the specific needs of small and medium sized enterprises in the exercise of that function, and
- (b) sets out complaints received relating to the exercise to of their functions and/or their engagement with their duties.’—(*Toby Perkins.*)

2 pm

*Question again proposed,* That the amendment be made.

**The Chair:** I remind the Committee that with this we are discussing clause stand part.

**Chris Williamson** (Derby North) (Lab): Thank you for calling me to deliver the second half of my speech, Mr Chope. I know Government Members have been thoroughly enjoying it.

I was about to go on to point out that no less than the Confederation of British Industry has said that the clause is unlikely to be relevant. There we have it. The Minister of State, Department for Business, Innovation and Skills, the right hon. Member for Sevenoaks (Michael Fallon), has said it will make only a possible difference and that will be “perhaps at the margin”, and the CBI says that it is unlikely to be relevant, yet the Government are seemingly prepared to go to the wire about it. Or perhaps not—let us wait and see how they respond to the sensible amendment tabled by my hon. Friend the Member for Chesterfield.

If we look specifically at that amendment, my hon. Friend is asking merely for a requirement that a person exercising a regulatory function under the Bill publish a report that

“makes an assessment of the extent to which they have taken into account the specific needs of small and medium sized enterprises in the exercise of that function”.

Who could argue with that? Anybody? I cannot see why anybody would wish to reject such an eminently sensible proposition. Surely it is right and proper for regulatory bodies to take account of any impact on small and medium-sized enterprises in the exercise of their functions.

As we know—indeed, we hear it often from Government Members, a number of whom have experience in small and medium-sized enterprises in this country—SMEs are the backbone of the economy. They often say that, and I do not disagree. Why would the Government not want to ensure that regulatory bodies prepare a report on the impact that the fulfilment of their functions has on SMEs?

**John Hemming** (Birmingham, Yardley) (LD): The hon. Gentleman is asking rhetorically what is wrong with the Labour amendment. What is wrong with it is that it deletes the rest of the clause. The Opposition are therefore arguing for unnecessary and disproportionate regulation.

**Chris Williamson:** I do not think that is fair at all. The hon. Gentleman is being extremely unfair and perhaps, dare I say it, even deliberately obtuse. I have already made the point that we do not want to see a lawyers’ charter. Is he a lawyer? Does he have shares in a law firm? Is there a law company that he represents that will benefit from this lawyers’ charter that the Government want to introduce?

**John Hemming:** The hon. Gentleman has asked a rhetorical question about whether I am or ever have been a lawyer. I am not and never have been, and I do not earn any money from the law.

**Chris Williamson:** I therefore do not understand why the hon. Gentleman wants to be so benevolent to law firms. The clause is clearly going to be a lawyers’ charter.

**John Hemming:** My motivation for opposing the ludicrously badly drafted amendment tabled by the Opposition is that I do not think we should have unnecessary and disproportionate regulation—or even unnecessary or disproportionate regulation.

**Chris Williamson:** Nobody is arguing for disproportionate regulation.

**John Hemming:** The hon. Gentleman is very kind with his time. The amendment deletes the requirement for regulation to be proportionate and also the requirement that regulation be needed.

**Chris Williamson:** That is a moot point. It is not really the nub of the issue, it seems to me.

**Andrew Bridgen** (North West Leicestershire) (Con): Is the hon. Gentleman maintaining that he supports disproportionate and unneeded regulation?

**Chris Williamson:** No, no, no—the hon. Gentleman is being as obtuse as the hon. Member for Birmingham, Yardley. If the hon. Member for North West Leicestershire had been in his place this morning, he would have heard me make the point that it is difficult to explain or clarify precisely what is meant by the clause that the Government want to foist on the country. It will be open to interpretation and will lead to a lawyers’ charter. My fear is that we will see companies bogged down in the law courts.

**Toby Perkins** (Chesterfield) (Lab): I know that we are all keen to get on, but we are wasting time on this. We propose to delete the second paragraph because it refers to the first paragraph. Once we proposed the changes to the first paragraph, it no longer made sense for the second to remain. That does not mean by definition, however, that we want regulatory action to be taken only in a disproportionate way. That is total nonsense and it is a waste of time to carry on debating that. We have made that point, so let us carry on with the debate.

**Chris Williamson:** I am grateful to my hon. Friend. If Government Members are to pursue that point, it is incumbent on them to point to any examples in which regulators are acting in a disproportionate way, but I do not think that any evidence suggests that.

When we look at Labour's record on regulation, we see that it is unparalleled and has been extremely beneficial. I think my hon. Friend the Member for Chesterfield said that Labour introduced the Better Regulation Commission. Our programmes simplified regulation and delivered £3 billion of savings. Let us take a look at some of the regulatory bodies that fall within the scope of the proposals and what the potential impact might be. I will not list them all because there are far too many, but a few leap out and strike me as curious. First, English Heritage. I do not know whether the hon. Member for North West Leicestershire is suggesting that English Heritage should argue to knock down our wonderful stately homes and heritage—the family silver—and perhaps build some housing estates. What could the clause possibly mean for that organisation?

**Andrew Bridgen:** Will the hon. Gentleman give way?

**Chris Williamson:** Let me just develop the point. Again, this comes down to interpretation, and that could create some difficulties. The Gangmasters Licensing Authority would also fall within the legislation's purview. We all remember the rogue gangmasters whose actions led to the deaths of the Chinese cockle pickers in Morecambe bay. Do we seriously suggest that we want to return to a time when cockle pickers are not subject to the protection that that authority affords them? Should we be less concerned about cockle pickers' health and safety and more interested in the profits of the unscrupulous companies who run some such operations?

Then there is the Human Tissue Authority. I find it difficult to think how it falls within the purview of the legislation. We have heard about desperate people in other parts of the world selling their organs, but surely the Government are not arguing that it should take that into account to promote economic growth.

I made the point at the outset that the Government are desperate, because they cannot get the economy to grow properly—the growth is built on sand. We had the reading from the book of Matthew from the Bible that talked about ensuring that houses are built on rock, not on sand, because otherwise they will get washed away. That is my fear about the growth that the Government are trumpeting, which is not built on exports or manufacturing; in fact, manufacturing output is decreasing.

**Chi Onwurah** (Newcastle upon Tyne Central) (Lab): My hon. Friend might not have heard that, from a sedentary position, the Parliamentary Secretary, Office of the Leader of the House of Commons, commented

that human tissue and organs would involve growth not in this country but in other countries. Does anything in the clause require the economic growth promoted to be in the UK? I cannot see the UK mentioned in the clause.

**Chris Williamson:** It will be interesting to hear how the Minister responds to that point. To give a few more, if I may, we have the Medicines and Healthcare products Regulatory Agency. In some terrible tragedies inadequate regulation has led to dreadful circumstances for families and individuals. For that agency, surely the overriding obligation must be the welfare of the recipients of health care products and medicines. Economic growth ought not to be, it seems to me anyway, at the forefront of its mind. One fears that the pharmaceutical giants might feel that the Medicines and Healthcare products Regulatory Agency has been unreasonably overburdensome and so challenge an attempt to provide proper regulation and safeguards for the general public, and then that might get mired in the law courts. That comes back to the point that I made about a lawyers' charter, and who knows? The pharmaceutical giants might prevail against the Medicines and Healthcare products Regulatory Agency, which could have devastating consequences further down the line.

One that I am absolutely flabbergasted by is the National Counter Terrorism Security Office; how on earth will the National Counter Terrorism Security Office contribute in this regard? Perhaps it is just me being thick. Being a humble, working class ex-bricklayer, perhaps I just do not understand it. I have not been to a public school like many of the Members on the Government Benches. Maybe they can enlighten me—I am a straightforward kind of guy—but it does not seem to be appropriate that we are asking the National Counter Terrorism Security Office to have this issue at the forefront of their duties.

The final one that I want to mention—there are many others, and my hon. Friend the Member for Chesterfield referred to one or two—is the Office for Fair Access. One wonders what the Government are thinking of by bringing that within the purview of this legislative change. I know that there are many blood sports fanatics on the Government Benches, and that they absolutely love to go round maiming, shooting and killing furry and feathered animals in our country. Perhaps the Office for Fair Access feels that it should restrict access to decent people who want to enjoy the countryside and enjoy our wildlife, instead giving preference to those with interests in blood sports, who like to blast animals out of the sky. We know that they import 40 million or 50 million pheasants every year. Maybe they want to import 100 million so that they can blast them out of the sky and sell some shooting days to merchant bankers from the City of London. That is great. Let us really see a big boom in the blood sports industry in our country to promote economic growth.

It is absolute nonsense in the end, is it not? It really is. Why on earth would the Government be resistant to a report on the impact on small and medium-sized enterprises and to setting out any complaints? Perhaps we could set out the complaints about the overburdensome role of the Office for Fair Access from these bloodsporting outfits. We could get it out. Let us have it out in the open. A lot of lobbying goes on behind the scenes—as

[Chris Williamson]

we know, from the Hunting legislation that they are looking to bring in by the back door. Let us get it out in the open. Let us see what those complaints are.

I thought that Government Members supported transparency. It seems to me that if they cannot support my hon. Friend's very reasonable amendment, we can draw our own conclusions. They are not interested in transparency. They are interested in vested interests only and not the interests of the general public and wider population who have to work for a living and who do not just make a living out of unearned income.

**Andrew Bridgen:** Surely economic growth is in everybody's interests. The hon. Gentleman must have heard the phrase, "A rising tide lifts all boats", as we are seeing now with the economy.

**Chris Williamson:** If only that were true. Of course, economic growth is important, but we have to ensure that we get the right kind of economic growth. If the hon. Gentleman had been in his place this morning, he would have heard me deal with that point.

**Toby Perkins:** The hon. Member for North West Leicestershire would indeed, and if he had been at the Labour party conference last September, he would have heard the leader of the Labour party note that they used to say a rising tide lifts all boats, but now it only lifts the yachts.

2.15 pm

**Chris Williamson:** That is a very good point indeed, and I am grateful to my hon. Friend for reminding me of that very apposite quotation from my right hon. Friend the Member for Doncaster—I am not sure which part of Doncaster his seat is in.

**Toby Perkins:** North.

**Chris Williamson:** The next Prime Minister, anyway, to save any confusion.

It is clear: the hon. Member for North West Leicestershire made the point about economic growth, which we all want—it is important, joking aside. The only thing is that the sort of economic growth that we want is growth that benefits everyone, not only the few at the top. If the hon. Gentleman had been in his place, he would have heard me quote from the Centre for Economic Performance:

"Between 1979 and 2007, the top decile increased their share of total income by 14 percentage points, from 28.4% to 42.6%. The top percentile accounted for fully two-thirds of these gains, seeing their share rise from 5.9% to 15.4%."

The fact is that in the 1960s and '70s, the percentage of national income that was enjoyed by ordinary workers—in other words, earned income, by people who do a decent day's work for a decent day's pay—was increasing as a percentage, while the amount enjoyed through unearned income was diminishing. That has gone in the opposite direction since.

**Gavin Barwell** (Croydon Central) (Con) *indicated dissent.*

**Chris Williamson:** It is no good the hon. Gentleman shaking his head; that is the absolute fact. He needs to look at the research from the Centre for Economic Performance and in many other learned documents, which will prove the point that I am making.

**Andrew Bridgen:** Is the hon. Gentleman aware of something that I need to point out? Under this Government, from 2010, the top 1% of earners in the country have gone from paying 26% of all income tax to paying 28% of all income tax.

**Chris Williamson:** Indeed, and so they should. We also know that people earning £1 million a year are getting a whopping £42,000 tax cut. How can that be justified?

**Toby Perkins:** The hon. Member for North West Leicestershire has just exposed absolutely what is happening in this economy. Of course the richest are paying more in income tax, in spite of the rate coming down; it is because they are getting incredibly wealthier. Of course the top 1% are paying more—because they are doing fantastically well, while those at the bottom are struggling massively and not paying so much tax. He is suggesting that we should be pleased with that.

**Chris Williamson:** That is absolutely right and, again, it brings into sharp relief the nonsense of the Government resisting the sensible amendment tabled by my hon. Friend.

There is not much more that I can say. The eloquent contribution that we heard this morning from my hon. Friend the Member for Chesterfield set out the case incredibly well. His argument was unanswerable, and I hope that, in my own humble way, I have reinforced his point. I look forward to the Government Members agreeing with this sensible amendment. If they will not, they should at least give some sort of cogent argument, which the wider general public can understand, why it is wrong that regulatory bodies should report on the impact of their activities on SMEs and why we should not know whether SMEs have complained about those bodies fulfilling their duties. With that, I conclude my remarks.

**John Hemming:** I am pleased to serve under your chairmanship, Mr Chope.

We have finally worked out that we are discussing amendment 27. The Opposition have shown their inability to draft clauses and amendments properly, because we have a simple and straightforward clause 61, which states that the duties of regulators should be performed such that

"regulatory action is taken only when it is needed, and...any action taken is proportionate."

In drafting their amendment, the Opposition managed to delete that obvious statement. It cannot be that difficult to understand that it is important that regulatory action does not occur when it is not needed.

**Chris Williamson:** I did challenge the Solicitor-General, but he failed to deliver the goods, so can the hon. Member for Birmingham, Yardley define "proportionate"?

**John Hemming:** Obviously, using a sledgehammer to crack a nut is not proportionate.

**Chris Williamson:** I am not asking the hon. Gentleman to say what is not proportionate; I am asking him to say what is proportionate.

**John Hemming:** We can define what is proportionate by virtue of the fact that it is not disproportionate. The hon. Member for Newcastle upon Tyne Central said, and rightly so, that within the Human Rights Act, for instance, there are requirements for actions taken by a public authority—

**Chi Onwurah:** I thank the hon. Gentleman for giving way. Defining “proportionate” by what is not proportionate is the definition of a circular argument.

**John Hemming:** I must admit that I am scientifically trained, having a degree in atomic theoretical and nuclear physics—the Minister also has a degree in physics—and if we have a set of cases, whatever they may be, and define them either as proportionate or disproportionate, by defining those that are disproportionate we can identify those that are proportionate.

**Toby Perkins:** I will try one more time. Clause 61(1) states:

“A person exercising a regulatory function to which this section applies must, in the exercise of the function, have regard to the desirability of promoting economic growth.”

The amendment would delete the words

“have regard to the desirability of promoting economic growth.”

After that has been deleted, there is no point in subsection (2), which is why we want to delete it as well.

**John Hemming:** I could quite readily sit down and draft an amendment in about 30 seconds that would leave in the bit about regulatory action being needed and being proportionate.

**David Rutley (Macclesfield) (Con):** The Opposition now have me even more confused. I thought that I heard the hon. Member for Chesterfield say a few minutes ago that he had no problem with the rest of it and just wanted to include his box-ticking exercise by requiring reports. What is the problem now?

**John Hemming:** I thank the hon. Gentleman for that. The difficulty is that the Opposition are just not very good—[*Laughter*]—at drafting amendments. They are not very good and they are not very good at drafting—[*Interruption.*]

**Chi Onwurah:** I will not be provoked, Mr Chope; I rise to try to explain to the hon. Gentleman, with his qualification in nuclear physics, that if we no longer ask regulators to have a duty to consider growth, it makes no sense to ask them to exercise that particular duty, which no longer exists, in a proportionate way. They must continue to exercise their other duties in a proportionate way.

**John Hemming:** I thank the hon. Lady for her irrelevant point. Subsection (2) indicates that the regulatory function should be performed in a particular way. That is what is being driven. The key is that things should not be disproportionate.

**Chris Williamson:** I am grateful to the hon. Gentleman for giving way. He is being generous with his time, as I was. Will he illuminate the Committee with examples of where regulatory bodies have been disproportionate in fulfilling their duties?

**John Hemming:** I will give an example of what I consider to be disproportionate. We have an individual named Hyosun. He is a PhD student in the UK—[*Interruption.*] Sorry, Hyosun is a lady; I am not very good at South Korean names. The gentleman is called Jeong Hugh and he is the PhD student living in the UK. They were arrested last night in Pembrokeshire while trying to get out of the country with their baby. No court orders were in place. I consider that to be disproportionate action by the regulators. It may result in an international incident, but it is a good example of disproportionate action.

**John Cryer (Leyton and Wanstead) (Lab):** That is not a particularly relevant example. The hon. Gentleman is presumably talking about police action, which is irrelevant to the Bill and to the amendment.

**John Hemming:** I was asked to give an example of something that was disproportionate. It happened to be something that I found—[*Interruption.*] It is a disproportionate act. I am coming back to the point about the Human Rights Act, which deals with the interpretation and enforcement of the European convention on human rights. On those points, proportionality is a key component, but only when the articles concerned are engaged. As for regulatory action, those articles may not be engaged and therefore that general duty would not apply. It essentially comes down to the point that we should be ensuring that regulators do not do unnecessary things. They must also do things in a proportionate manner, rather than using a sledgehammer to crack a nut. I could find other examples, but that was the one I found at lunchtime—

**Toby Perkins:** The hon. Gentleman could do us a favour by returning to the regulators in the Bill. If I leave the cap off the toothpaste, my wife acts in what I would consider to be a disproportionate way, but she will not be regulated by the Bill. Will he give us an example within the context of the Bill?

**John Hemming:** I was asked by the hon. Member for Derby North to give an indication of something disproportionate, so I thought I would pick something that was.

**Chris Williamson:** The point is, as my hon. Friend the Member for Chesterfield pointed out so eloquently and humorously, the example was irrelevant. [Interruption.] The hon. Member for Croydon Central is burying his head in his hands. It would be helpful if the hon. Member for Birmingham, Yardley could give an example

[Chris Williamson]

of a regulatory body that would be covered by the provisions we are discussing and that has acted disproportionately. We do not need examples like that of the wife of my hon. Friend the Member for Chesterfield acting disproportionately because he has left the cap off the toothpaste.

**John Hemming:** The difficulty is that of course I do not have specific examples—[HON. MEMBERS: “Ah!”] I personally do not have specific examples of the regulatory bodies in the Bill acting in a disproportionate manner.

**Andrew Bridgen:** I will try to help my hon. Friend. As a qualified transport manager, I have a lot of links with the UK transport industry. The people I know are regulated by the Vehicle and Operator Services Agency, which inspects vehicles on a regular basis, and maintain probably the highest levels of vehicle standards for HGVs in the whole country.

A couple of years ago we had a very hard winter and a lot of the motorways were closed. There was basically a suspension of rules on drivers' hours because vehicles were stranded all over the country. The transportation of essential food and medicines was being disrupted tremendously, yet VOSA was still at the side of the road carrying out spot checks on vehicles that were already running six, seven, eight, nine, 10, 12 or 24 hours late. There were considerable complaints from the industry that, given the extreme weather and road conditions, randomly pulling lorries off the road and delaying them for two or three hours for mandatory inspections was disproportionate. I supported that position.

**John Hemming:** I thank my hon. Friend for that.

**Chris Williamson:** That scenario would be covered by paragraph (b) of the amendment. Presumably the affected companies could complain, and paragraph (b) would require the regulatory body—VOSA in this case—to set out

“complaints received relating to the exercise of their functions and/or their engagement with their duties.”

Specific action could then be taken on an abuse, or an overzealous enforcement of a particular duty. Talk about using a sledgehammer to crack a nut! New legislation really would be using a sledgehammer to crack the nut described by the hon. Member for North West Leicestershire.

**John Hemming:** The hon. Gentleman misses the point. The requirement for proportionality would have an effect at the time that the decision and regulatory action were taken. It would not make it necessary for an annual report to be published perhaps 18 months later, or for such a report to contain information that would probably be available under freedom of information rules anyway, or for people to talk at length about whether something should be changed even later on.

**Chris Williamson** *rose*—

**The Parliamentary Secretary, Office of the Leader of the House of Commons (Tom Brake)** *rose*—

**John Hemming:** I will give way to my right hon. Friend first.

**Tom Brake:** I thank my hon. Friend for giving way. I thought it might be helpful to give him an example of disproportionate action on the part of the Food Standards Agency. The rigid application of the hazard analysis and critical control points system caused food Ministers to complain that food hygiene officers tended to favour that more burdensome and complicated system over more manageable, smaller-scale risk assessment processes. The Government view is that a growth duty would address such issues.

**John Hemming:** I thank my right hon. Friend for that helpful example. The examples I know of disproportionate action tend to be in the arena of child protection and family courts, because that is what people come to complain about to me. I therefore find out what is going on there. My hon. Friends have given very good examples of disproportionate actions.

**Chris Williamson:** I do not think that they have, actually. It would be a matter for interpretation. The hon. Gentleman seems to think that the example cited by the hon. Member for North West Leicestershire would simply not happen were the clause to be added to the Bill unamended. There is no evidence whatever for that. If that type of enforcement was conducted, the only place it could end up is with the law courts saying that they had acted disproportionately. Surely it would be better to agree the sensible amendment tabled by my hon. Friend the Member for Chesterfield, so that that could be reported. We should get that complaint on the record so that action can be taken, rather than leaving it to the law courts.

2.30 pm

**John Hemming:** I thank the hon. Gentleman for giving a substantial argument as to why we should have no laws. If we had no laws, nothing would end up in the courts and there would not be a legal profession. I tend to disagree with him. I think it is sensible to have laws and it is normally the case that people try to follow the law. If the clause was in place, the regulator would be inclined to follow the law in making changes.

I accept that the processes of judicial review could be involved in ensuring that public authorities follow the law, and that involves legal cost. Normally, the Opposition want to defend judicial review and say that the Government are opposed to it. On this occasion, the Opposition are arguing that we should not have judicial review or this legislative change. [Interruption.] Interestingly, the hon. Member for Derby North argues from a sedentary position that the clause is not needed. Our argument is that—we have good evidence and have cited two examples—it is needed, but that regulatory action that is not needed should not happen.

**Andrew Bridgen:** I would hope that, as a result of the clause, in circumstances of extreme weather conditions with roads shut and freight transport being disrupted across large swathes of the country, VOSA might think, bearing in mind economic growth, that it would not

wish to delay freight transport any further by having random checks, pulling whole swathes of lorries arbitrarily off the road in those conditions.

**John Hemming:** I agree with my hon. Friend. The clause moves away from the jobsworth mentality, where people enforce rules just because they can and not because there is a public interest in doing so. The clause is a proportionate and necessary act.

**Chi Onwurah:** I am sorry to disappoint the hon. Member for North West Leicestershire, but it is far less likely that the clause will have the impact he hopes, because of VOSA's understanding of the nature of growth. All organisations, however, know how to make a report, and if they had to make a report on complaints, that would concentrate their minds on avoiding them.

**John Hemming:** I thank the hon. Lady for that, but this is about whether something is needed and is proportionate. There is considerable jurisprudence on what is and what is not proportionate. We have given two very good examples of why the clause's approach is sensible.

**Karl Turner** (Kingston upon Hull East) (Lab): I am grateful to the hon. Gentleman for giving way. Does he not accept that whether something is proportionate is entirely for the court to decide when interpreting the legislation? The court decides what is proportionate, and that is always different, in my experience.

**John Hemming:** I thank the hon. Gentleman for that point. The phrase, "Using a sledgehammer to crack a nut" has been in existence for a long time, and it normally indicates something that is disproportionate. I do not think there is a difficulty with the general understanding of what is and what is not proportionate. *[Interruption.]*

**The Chair:** I call John Cryer.

**John Cryer:** I am sorry about the delay in standing up, Mr Chope; I was losing the will to live while listening to the hon. Member for Birmingham, Yardley. It is an honour to serve under your chairmanship. I am sorry that I was slightly late for the start of this morning's debate, but I was delayed by the tributes to Tony Benn in the main Chamber. I dragged myself away to the excitement of the Deregulation Bill Committee.

**James Duddridge** (Rochford and Southend East) (Con): Very sensible.

**John Cryer:** Indeed. I start by quoting the Local Government Association, which said in a submission some time ago that

"there is an irony that a deregulation Bill should introduce a new duty where one is not needed".

That sums up the Opposition's position on the clause.

My hon. Friends have pointed to various examples that are causing us concern. One that occurs to me is the Health and Safety Executive, which has been facing cuts for many years. It now has fewer inspectors and

fewer resources and its remit has been changed, so it is able to cover less ground. The Health and Safety Executive's inspectors will be more nervous about inspecting construction firms, mines, quarries and agricultural firms if they must fulfil a growth duty in addition to all their other duties. Small scaffolding companies or kitchen fitting companies, for example, are unlikely to take the HSE to judicial review, but big construction firms such as Balfour Beatty, McAlpine, Laing O'Rourke—I am not saying they do this—have the financial muscle to do so. That is likely to happen if an inspection is controversial—if, for instance, HSE wishes to stop work on a site because it is not safe. There are examples of when there have been critical arguments about work being stopped on a building site for that reason.

Another example is Her Majesty's Revenue and Customs, which has a reputation for doing deals with large companies and letting them off large amounts of tax. But suppose it grew a backbone—I know that is difficult to imagine—and decided to take on Vodafone or Starbucks. In the past, HMRC has done extremely controversial deals with those companies and let them off billions of pounds in tax. Will Vodafone, Starbucks or any other company be able to say to HMRC, "You have not done this before, and you are impeding our growth. Therefore, we are going to take action against you"? On that subject, HMRC has seen a steep drop in employer compliance inspections, which check on things such as how people are employed and how much tax is being paid.

Another example is the water industry. The press have concentrated on the profits and the lack of investment in the energy industry, but the water industry's behaviour makes the energy industry look like Mother Theresa. *[Interruption.]* Does a Government Member want to intervene? No? I thought there might be an intervention. The water industry has paid out £40 billion in dividends to its shareholders and some of its executives now earn in excess of £1 million a year, yet investment has been falling since 2007. It has failed to address the leaks—one of the most controversial aspects of the industry—and charges have been increasing well ahead of inflation virtually since privatisation. If Ofwat grew a backbone, which it has not done so far, and intervened by saying that the industry could not introduce ahead-of-inflation rises, under the clause could the water companies say, "We are going to take you to judicial review because you are interfering with economic growth in this industry"?

My final example is the Gangmasters Licensing Authority—*[Interruption]*—which is on the list the hon. Member for Croydon Central is looking at. However, the list is not exhaustive, which is why I talked about the water industry. The GLA, like the HSE, is the kind of organisation that will say to employers, "You cannot do that because it's dangerous." Everybody in the room will remember that the GLA was created after a number of Chinese cockle pickers were killed in Morecambe bay. If the GLA had been around at that time, or if the HSE had been involved in that case, it is possible that those people's lives might have been spared. The Labour Government created the GLA as a direct result of that disaster.

The Transport and General Workers Union—an organisation I always like to mention—conducted a campaign in the years leading up to the Morecombe bay disaster to create the Gangmasters Licensing Authority. The disaster in Morecombe bay convinced the Labour

[John Cryer]

Government to create that body. There had already been meetings, rallies and so on, but it was the disaster that convinced the Labour Government.

Like the HSE, the GLA is losing funds and inspectors, and is having its remit changed slightly, so it will become less effective. In my view it will be increasingly nervous about intervening with certain gangmasters in the agricultural and food processing industry if there is the potential for a court case hanging over it because someone can say that by intervening in their business the GLA is interfering with economic growth.

My final point is that the clause will create a lawyers' charter. There is no definition of proportionate in the clause, so we do not know what its effects will be. The law of unintended consequences has been referred to again and again during the debate. An awful lot of lawyers will do very well out of the clause. I have nothing against lawyers making a decent living.

**Karl Turner:** Hear, hear.

**John Cryer:** I see my hon. Friend nodding in agreement. However, I object to manufacturing unnecessary cases.

**Tom Brake:** I must admit I had expected the Committee to struggle to spend today debating the growth duty. How wrong could I be? I had the impression that the speech by the hon. Member for Chesterfield was on a loop, but in his defence I did not find where the join in it was. I suppose it was extended by his helpful interventions setting out that in his household it is he who is the regulator of whether his wife applies the cap to the toothpaste tube.

The hon. Gentleman started his comments by expressing support for the clause—that was a brief section at the beginning of his speech.

**Toby Perkins:** Will the Minister give way?

**Tom Brake:** If I must.

**Toby Perkins:** It appears that the excitement of the debate has slightly got the better of the Minister. Just to clarify, we entirely understand what the Government were trying to achieve and support their aims, but we do not think the clause will deliver those aims.

**Tom Brake:** I thank the hon. Gentleman for that clarification. I will respond to that point and many others made by him and other hon. Members as we proceed.

I also welcome the fact that the hon. Gentleman highlighted a couple of areas of regulation that were set out in the Liberal Democrat manifesto and have been delivered, such as the groceries code adjudicator and regulation of CCTV. One interesting part of the Opposition's position is that with this amendment they would get rid of the growth duty, and they have deployed various arguments such as that there is no definition, that it is vague and that its impact is uncertain; but their next amendment talks of introducing a "sustainable" growth duty. Presumably all of the comments about the duty being vague and hard to define are points they will make in relation to their own amendment shortly.

**Chi Onwurah** rose—

**Tom Brake:** I give way to the hon. Lady so that she can do exactly that.

**Chi Onwurah:** Our amendment 28 would double the definition of and guidance as to what a growth duty involves, by adding that it should be sustainable. It is not the case at all that that would make it more vague; in fact, it would make it more precise.

**Tom Brake:** We will come on to that when we discuss the hon. Lady's amendment, but I think she will find it hard to argue that adding "sustainable" does not in fact make the duty much more complex.

I turn now to the various points made in the debate. The hon. Member for Chesterfield asked whether the duty is really deregulatory. Clearly, the Government's view is that it is. In considering how best to promote economic growth it is likely that regulators will carry out their regulatory activities in a way that is less burdensome for businesses. That is what deregulation is about. The clause will mean that the burden of regulation on business productivity will be kept to a minimum and that regulators will be proportionate in their decision making. That is the impact the clause will have on businesses. It is something that businesses will welcome, and is clearly a deregulatory measure.

2.45 pm

A number of Members, including the hon. Member for Chesterfield, suggested that the duty would lead to expensive litigation. A duty in primary legislation creates a means by which a business can challenge a regulator that has not had regard to growth in its decision making. The challenge can take three forms. I would argue that businesses will use not the last resort, which is judicial review, but the other options open to them—the regulator's internal appeals mechanisms, or the challenging of the enforcement decision at court.

Yes, in the last resort, perhaps a business will use judicial review, if the regulator has failed to apply the duty, or applied it in a way that is clearly unreasonable, but we recognise that judicial review can be a lengthy and resource-intensive way for businesses to challenge regulators' decisions. Our view is that because of the cost associated with it, very few businesses are likely to go down that route when they can instead rely on the regulator's internal appeals mechanisms. It would be difficult for a business to be successful at judicial review. The courts are generally unwilling to substitute their views for those of regulators unless the decision was blatantly unreasonable. I cannot believe that regulators will take decisions that are blatantly unreasonable.

The hon. Gentleman asked whether the duty would not frustrate the regulatory system if a business can overturn regulators' decisions. If a regulator has had regard to growth and can justify its decision, a business cannot expect to challenge the decision successfully. He expressed the rather bizarre worry—I do not think that it was his—that the Office for Nuclear Regulation would stop the development of nuclear power stations because it was worried that if the stations exploded, that would lead to less growth. I do not know whether he was

putting that forward as a sensible point for consideration; it is certainly the most bizarre scenario set out this afternoon.

It is worth dwelling on the point, because clearly the hon. Gentleman has concerns about it. The growth duty is broad, but it is accompanied by guidance that provides a steer and sets out ways in which regulators can have regard to growth without undermining protections—I repeat “without undermining protections”. Those ways include keeping the burden on business productivity to a minimum. In response to the growth duty, regulators such as the Office for Nuclear Regulation might seek to streamline application processes and minimise data requirements to keep transactional and administrative costs to a minimum.

Regulators might also have regard to growth by being proportionate in their decision making—a point that we dwelt on at some length. That means ensuring that interactions with business are necessary, and proportionate to the risks posed by non-compliance and the ability of the business to incorporate change. For example, when considering measures to remedy non-compliance, the ONR might consider the range of enforcement actions at its disposal, such as advisory or warning letters, remediation, or stop notices, and select the option that is most proportionate, balancing the risk and impact on the sector with the economic impact on the business in question. The hon. Gentleman had a concern about the definition of “proportionate”, and I have just given him one.

**Chris Williamson:** Will the Minister respond to the CBI, which believes that for certain regulators, a growth duty is

“unlikely to be relevant or helpful”?

If the CBI thinks that, what is the point of the duty? How would he answer its criticism?

**Tom Brake:** I will come to various comments that organisations have made about what we propose, but the Government’s position is that the growth duty will not undermine the ONR’s role in ensuring nuclear safety; clearly, we would not want that to happen.

The issue of the Groceries Code Adjudicator was raised. The hon. Member for Chesterfield may be aware that from April, it is anticipated that the GCA will be subject to the regulators code, which will publish details of the GCA’s performance against its service standards. The GCA was happy to sign up to those requirements, which balance its statutory functions against better regulation requirements. We consulted it on applying the duty to it, and no concerns were raised.

There is also the question of how the duty will be enforced. The Government do not propose that the growth duty imposes additional reporting and monitoring requirements on regulators. However, the draft guidance we have published states that regulators should be transparent about how they are complying with the growth duty. The Government will monitor the implementation of the growth duty through existing reporting mechanisms such as annual reports, published policies and service standards in the first instance. We have, of course, published an impact assessment alongside the Bill, which sets out a preliminary assessment of some of the anticipated economic benefits of the growth duty.

The Opposition say that the duty will have a minor effect, but the impact assessment says that the benefit to business will be of the order of £90 million a year—not an insubstantial benefit.

**Toby Perkins:** The Minister must realise that the assessment of £90 million of benefit to business is just a guess. No one knows exactly how the duty will change people’s behaviour. Will he be clear about the origin of the figure of £90 million? It cannot be based on any sort of evidence.

**Tom Brake:** It is an intermediate figure, based on a lower to higher range of what could be saved through this process. Detailed work has gone into that—it is not a case of, “Think of a figure and type it into the spreadsheet.” I am sure that the hon. Gentleman would not accuse those who complete the impact assessment of proceeding in that way.

**Chris Williamson:** The Minister did not really respond to the CBI’s criticisms. Will he now respond to the comments by the Minister of State, Department for Business, Innovation and Skills, the right hon. Member for Sevenoaks, who said that the duty would

“not solve the problem of growth but will make a difference perhaps at the margin”?

That is hardly a ringing endorsement.

**Tom Brake:** Personally, I think that if it has the effect that the impact assessment suggests it will—£90 million of benefit a year to business—it will be a prize worth having, and I am surprised the hon. Gentleman thinks that it would be insubstantial or inconsequential.

**Chi Onwurah:** Does the Minister agree that the reporting requirement in the amendment might have the same impact in terms of the £90 million figure that he has cited?

**Tom Brake:** I am not quite sure how the hon. Lady thinks that simply having a reporting requirement would magically produce £90 million of savings for business—

**Chi Onwurah:** Given the lack of transparency about the methodology used to calculate the figure of £90 million, I only suggest that it is possible that the same figure could be reached for the amendment that we have tabled.

**Tom Brake:** I am disappointed that the hon. Lady appears to be making a generalisation about all impact assessments. Is she suggesting that the detail and methodology of all of them should be challenged?

**Chi Onwurah:** As someone who has written impact assessments for Ofcom, I think that the methodology should always be challenged. It should always be open and transparent, and we should always be able to see how the conclusions are reached.

**Tom Brake:** We are getting closer to the truth. It would seem that when the hon. Lady was completing impact assessments for Ofcom, the analysis and methodology that went into them was not quite what it should have been—

**Chi Onwurah** indicated dissent.

**Tom Brake:** The hon. Lady shakes her head.

The growth duty is not designed to create significant costs for regulators. They must have regard to economic growth as one factor to take into account in the exercise of the functions they are already carrying out. There may be some costs associated with training, for instance, but those are identified in the impact assessment.

I have already highlighted the fact that the impact assessment shows that the duty could deliver a net benefit in the order of some £90 million for businesses each year in the form of reduced administrative burdens, inspection costs, duplication of information and inspections, and reliance on external contractors. The hon. Member for Chesterfield suggested that the duty was vague, but the duty makes it clear that regulators should consider economic growth. The draft guidance, which has been published, sets out the principles for how regulators may have regard to growth as appropriate in the circumstances, including reducing burdens, proportionate decisions, understanding and helping businesses to comply.

There were a couple of specific questions about the Civil Aviation Authority, its economic functions and why those were different. They are different because there are usually concerns about market failure of a natural monopoly. There are bodies that undertake both economic and non-economic regulatory functions, the CAA being one. The Government's approach is to carve out the economic functions, and that is the approach that we have taken with the regulators' code. It should be remembered that the list of regulators in scope is simply an indicative list, and that the functions in scope will be specified in an order subject to the affirmative procedure and therefore subject to a full debate at a later stage.

**Toby Perkins:** I thank the Minister for coming back on the CAA. Given what he has just said about the carve-out of financial functions, will he take us through what that means for the Treasury and HMRC, which is in there but does not seem to have a carve-out? Will he explain how that carve-out will work with HMRC?

**Tom Brake:** We have set out clearly the principle that the measure applies to non-economic regulators; economic regulators will not be covered by what the Government have proposed. If there are functions within an economic regulator that touch on non-economic matters, those could be included.

**Toby Perkins:** I am grateful as far as the Minister has gone, but will he be a bit more specific? HMRC is listed, so it is not exempted. What are the functions that are non-economic that HMRC will now be expected to pursue?

**Tom Brake:** I thank the hon. Gentleman for his intervention. I hope to be able to respond to his point shortly.

The hon. Gentleman also raised the Animals in Science Regulation Unit exemption. We propose an exemption in relation to the unit's project licensing decisions because the animal research industry said that it did not want the measure to apply there. The industry said that it

would be sufficient to include all the unit's other regulatory functions, so we are responding to the request of the regulator.

The hon. Gentleman also asked why the growth duty is needed when we already have the regulators' code. The code is a code of practice for good regulatory delivery that enables regulators to assist those they are regulating. The provisions in the code that relate to growth, however, are fairly light touch. The requirements of the code rank below regulators' other statutory duties because the code has a broad application, so we felt that there was a need for the growth duty.

On HMRC, the matters covered are the national minimum wage and money laundering regulations, not tax, as has been assumed. I was asked who has requested the growth duty. Those that have done so include the Food Standards Agency—I referred earlier to an example it put forward—and the Health and Safety Executive. During discussions about the focus on enforcement reviews, the HSE said that a growth duty would ensure that all regulatory staff gave due regard to growth. Natural England during those discussions, such as those on coastal developments, said that it would find a growth duty helpful, as it considers its mandate and duties too narrow to allow it to provide assistance to industry. I hope that I have dealt with all the questions asked by the hon. Member for Chesterfield but, if I have not, I am sure that he will come back to me shortly.

3 pm

The hon. Member for Newcastle upon Tyne Central made a point about whether the duty will help only large businesses. Clearly that is not the Government's view; the duty will help small businesses as well, which is why, as she will be aware, the Federation of Small Businesses supports it. The FSB said in evidence:

"For us it is about the culture change and making sure that regulators...think about this as part of their everyday decision-making process at a macro level and a micro level, so you know how they do their policy, but also the way in which they do implementation. There are loads of good examples of ways in which they can do that and ways in which the FSB could advise them on what we think would help in terms of training and so on. We hope that that would be the outcome."—[*Official Report, Deregulation Public Bill Committee*, 25 February 2014; c. 75, Q197.]

The federation therefore took a very supportive position.

My hon. Friend the Member for Macclesfield made a pithy, refreshing speech. We were on the subject of puddings at the time, and perhaps, in pudding terms, his speech was a sorbet, compared with the more stodgy, suety contribution from the hon. Member for Chesterfield.

The hon. Member for Derby North started his speech by saying that the economy was flatlining, but then had to do a U-turn in the middle of his contribution. He referred to the construction industry, and it is worth putting on record that construction output is up 3.4% this year compared with last year.

**Chris Williamson:** I must set the Minister straight. I did not really do a U-turn—a U-turn is when one goes back on what was previously said. It was a clarification. I acknowledged that, throughout most of the Parliament, the economy has been flatlining. There is now modest growth, but the economy is still below its position pre-crash, and I am fearful that that growth is built on sand. I cited a biblical quotation to reinforce my point.

**Tom Brake:** I thank the hon. Gentleman for that clarification. He went on to ask a rhetorical question in his speech about whether people thought he was talking gibberish. I do not know whether he has seen on YouTube the young Finnish woman who can speak gibberish in many languages, but he might want to make contact with her because I think that they have something in common. He spent some time reminiscing about his days as a bricklayer and referred to a number of hypothetical situations that were the creation of his rather frenzied and frantic mind. I do not know whether that is as a result of him inhaling too much cement on the building site when he was a bricklayer, but clearly something has had an effect on him.

The hon. Gentleman made two points to which I should respond, however. He asked about the regulation of the Health and Safety Executive under the growth duty and what impact that would have. As I stated, the duty does not cut across regulatory protections. The Government have worked closely with the HSE to develop the guidance and it is clear that the regulation does not remove any safety requirements. The duty adds a factor to take into account in the delivery of safety and protection, and we would expect the regulator to ensure that the appropriate priority was given to issues such as health and safety. He also said that the growth duty will cause confusion. It has clearly confused him, but I do not think it has confused Government Members.

**Chris Williamson:** The difference between me and the Minister is that I represent ordinary people. As I said, I come from a humble background, and if something is confusing me, it is likely to be confusing people outside the House. Our duty is to speak to people outside this place, not to occupy the Westminster bubble and convince our colleagues in that bubble.

**Tom Brake:** If we took the hon. Gentleman's comments at face value, Government Members might be offended by his suggestion that we do not represent ordinary people as well.

In relation to the growth duty causing confusion, regulators and businesses called for guidance during the consultation. We published draft guidance alongside the Bill to provide detail about how the growth duty is intended to operate and to inform parliamentary debate. The draft guidance was developed through engagement and consultation with regulators and businesses. For instance, clause 63 requires the Government to consult those who will be subject to the duty about the draft guidance. In line with that requirement, we have continued to gather feedback on the guidance throughout the Bill process. When the Bill is enacted, the guidance will be subject to the affirmative procedure before it comes into force, and it will help to ensure that regulators have a consistent approach.

Mark Hammond, the chief executive of the Equality and Human Rights Commission, said:

"We have certainly looked at the guidance in detail, and we are grateful for the clarification of intent which comes through in the guidance fairly clearly. What is intended is to add to, not subtract from, the role of regulators."—[*Official Report, Deregulation Public Bill Committee*, 25 February 2014; c. 21, Q180.]

That is the Government's position. We will not subtract from the regulators' role and we expect them to continue to prioritise things as they see fit.

The hon. Member for Derby North referred to the risk of judicial review and quoted the Gambling Commission. The Government asked regulators to provide evidence of existing statutory duties leading to unmeritorious challenges, but we have not seen evidence of a significant risk. Businesses told us that they were unlikely to mount judicial reviews except in extreme circumstances. As we all know, judicial reviews are very costly.

I want to put on record a helpful explanation of proportionality, which was the subject of a major exchange with my hon. Friend the Member for Birmingham, Yardley, who entertained us with his laser-like focus, which all physics graduates acquire, on the Opposition's inability to draft the simplest of amendments and provide explanatory notes. We would appreciate it if the Opposition joined in the spirit of things. I hesitate to suggest that they did not provide explanatory notes for their amendments because they did not know what they were intended to do. I shall not go there, but I thank my hon. Friend for highlighting the weaknesses in what the Opposition put forward.

In the draft guidance, we set out that we expect regulators to be

"proportionate in their decision making".

They must ensure

"that interactions with businesses are necessary and proportionate to the risks posed by non-compliance and ability of the business to incorporate change."

That applies to the provision of advice, guidance and enforcement action. I hope it is clear that proportionality means that regulatory action should be taken only when it is needed.

**Karl Turner:** Does the Minister accept that it is for the court to decide whether something is proportionate and that that should be determined on the facts of the case?

**Tom Brake:** Clearly that is true for matters that end up in court. However, as I said earlier, most businesses will rely on the regulators' internal processes. Very few businesses want to go down a route that ends in court. We do not have evidence that unmeritorious claims have been made against the existing statutory requirements that are placed on regulators.

The hon. Member for Derby North asked whether the CBI supports the proposal. It said in its consultation response that it is not opposed to it. It said:

"A regulator's primary duty of protection is not incompatible with the aim"

of reducing burdens and considering the economic impact of their actions, and that the measure will

"ensure that regulators strike a balance between these two with the aim of preventing sub-optimal regulatory decisions...that hamper economic growth."

I hope the hon. Gentleman would agree that the CBI was much more positive about the Government's proposals than he indicated.

The hon. Member for Leyton and Wanstead opened his contribution by saying that he was losing the will to live. I am sorry that the speeches of the hon. Member for Chesterfield have that effect on him, but we share his pain in that respect. He touched on the issue of judicial review, to which I have already given a response, and the definition of what is or is not proportionate.

[Tom Brake]

I am afraid that all I have done so far is to respond to hon. Members, so I want now to put on record some more general points about the clause. Non-economic regulators are industry-facing and are, with their combined annual budget of around £2 billion for regulatory activity, a considerable resource that can and should be brought to bear in support of growth. However, the Government's post-implementation review of the regulators' compliance code found that regulators had a tendency to regard the promotion of economic growth as subsidiary to their statutory duties. The duty in the clause rectifies that by giving those exercising regulatory functions a statutory duty to have regard to the desirability of promoting economic growth when exercising those functions. The effect of the duty will therefore be to enable regulators to exercise their functions in a way that promotes growth.

The Government recognise that regulators have a primary purpose to protect, whether that is the environment, the health and safety of employees or road users. The economic growth duty complements those existing duties to protect and will not override or cut across powers of protection. Instead the duty will require regulators to consider how they can best carry out their protection functions in a way that will promote growth. They can do that in a number of ways, depending on the circumstances in question.

The clause makes it clear that regulators can promote growth by taking only that regulatory action that is needed and ensuring that any action that is taken is proportionate. That will lead to less burdensome regulation for business in the future. Regulators might also choose to promote growth in other ways, such as by producing guidance to help businesses to comply.

We have chosen not to define growth further in the Bill so as to give regulators wide discretion to take into account short and long-term growth, depending on what is appropriate. Similarly, they will have the discretion to have regard to the growth of an individual business or growth across the sector as they deem relevant. The duty does not mean that regulators should turn a blind eye to non-compliance. Instead, it requires them to consider how they can ensure compliance in a way that best promotes growth.

As the Committee heard in our evidence sessions on 25 February, there is broad support for the growth duty among business groups. They are keen for regulators to understand the business environment better and to consider the economic impact of their actions as they carry out their regulatory activities. The growth duty will play a key role in creating a business environment, of which the non-economic regulators are a part, that is as conducive as possible to supporting the economic recovery. The duty was welcomed by the Joint Committee on the draft Deregulation Bill.

I will now say a few words about the amendment—we are nearly there, Mr Hope. It would remove the duty for regulators to have regard to economic growth and replace it with a reporting requirement on the non-economic regulators. The Government do not believe that such a requirement would be beneficial, as a reporting duty would simply not have the same effect as the growth duty.

The Government are bringing forward the growth duty as regulators have felt unable to consider economic consequences in the absence of a statutory requirement

to do so. The duty will make it clear that one of the objectives of regulation is economic growth. It will enable regulators to exercise their functions in a way that promotes growth. The focus on growth will lead to less burdensome regulation for business, including SMEs.

A requirement on regulators to report annually on how they have considered the needs of SMEs will not engender the change that the growth duty is designed to deliver. The duty puts it beyond doubt that economic growth is a factor for regulators to take into account when they make decisions. At the moment, regulators are not obliged to think about the economic consequences of their actions beyond the requirement to do so in the regulators' code, which is not binding on their operational decision making. As a result, undue burdens remain, as is shown in the focus on enforcement reviews. Regulators themselves have cited the lack of a statutory duty to consider growth as a barrier to them doing so.

3.15 pm

A reporting requirement alone would not make it clear that economic growth is a clear and explicit objective that regulators should consider as they carry out their functions. As the Committee heard in evidence on 25 February, there is broad support for the growth duty among business groups, many of whom represent small and medium-sized businesses. They are keen for regulators better to understand the business environment and to consider the economic impact of their actions as they carry out their regulatory activities.

We have set out in the draft guidance some of the practical ways in which a regulator can promote economic growth, but it might be helpful if I cite a few examples to show that the growth duty goes further than the requirements suggested by the amendment. The guidance provides that regulators can have regard to growth: by keeping the burden of regulation on business productivity to a minimum, such as by streamlining data requirements or co-ordinating inspection activity; by being proportionate in their decision making—that has been stated a couple of times—such as by ensuring that interactions with businesses are necessary and proportionate to the risk posed and the cost incurred by business; and by understanding the business environment and tailoring regulatory activities accordingly, such as by providing tailored compliance advice to businesses to assist them as they enter new markets, or at start-up.

Finally, the guidance sets out the expectation that regulators should be transparent through existing reporting mechanisms about how they implement the growth duty. That is a proportionate approach. Taken together, the duty and the guidance, including the transparency requirement, are a comprehensive enabling package, which is something that a simple reporting requirement alone is not.

The amendment specifically raises the issue of small and medium-sized businesses. I hope that we can all agree that the Government need to do all they can to help and encourage those firms to grow. We cannot afford to hold back small businesses with unnecessary rules and regulations, which is why the Government have introduced various measures, such as the accountability for regulator impact scheme and the small and micro-business assessment, which speak directly to those types of businesses. The growth duty is a further measure that should be seen as part of this broader better regulation

package. The non-economic regulators interact with a huge number of businesses from a wide variety of sectors, all of whom will benefit from the changes that the growth duty will stimulate. I therefore urge the hon. Member for Chesterfield to withdraw his amendment.

**Toby Perkins:** Our debate has been in some ways helpful, although I was slightly disappointed by the tone of the Minister's response. I do not know why he felt the need to be quite so condescending, especially towards my hon. Friend the Member for Derby North. We are well used to Liberal Democrats playing the man and not the ball. It is why some of us particularly enjoy beating them. My hon. Friend is a notable example, as he had the rare honour of beating someone who came third in a two-horse race.

Notwithstanding the tone of what the Minister said, the content of his speech was important, so I shall respond to some of his points. He spoke about the response of the Federation of Small Businesses. First, the FSB said that the growth duty was deregulatory for business, if it worked. We all accept that if the clause delivers what the Minister intends, it will be helpful to business, but we lack evidence that that will be the only outcome. While some regulators will perform their duties in a more helpful way—that is to be welcomed—our amendment would achieve the benefits that the Minister wants without some of the downsides. In its evidence to the Committee, the FSB said:

“We recognise that some regulators may need to be out of the growth duty. If there is a clear reason for that, we will understand”.—*[Official Report, Deregulation Public Bill Committee, 25 February 2014; c. 77, Q201.]*

That is precisely our point. We want to understand how the growth duty will operate while examining whether there is a better way of doing things.

**Tom Brake:** If the hon. Gentleman has doubts about whether the growth duty will deliver what the Government intend—we do not have any doubts about that—why does he think that publishing a report will have any effect?

**Toby Perkins:** Precisely what it would do is ensure that the Government have another tool at their disposal to influence the way that regulators carry out their functions. It would enable the Government to hold regulators to account for precisely what they are attempting to deliver, but without going down the route of encountering many of the problems that I have highlighted—for the benefit of the Committee, I will not repeat them—about the way that the relationship between regulators and the regulated might alter as a result of this change. As the Minister said, judicial review is there and is a possibility.

I am not saying in this contribution—nor was I in my previous contribution—that we will see a huge raft of judicial reviews and that judicial review will be the usual outcome of this change. I am saying that the Minister is opening up the possibility that that will happen. He also opens up the possibility that the relationship between the regulator and the regulated will change, because the regulator will know that judicial review is a potential outcome. That is what I am saying.

The Minister says, “Well, hang on, there is an internal appeals mechanism and that will probably get more of these cases.” Of course, it will get more cases, but we could have had an internal appeals mechanism on the

basis of the regulatory code anyway. The fact that in many of these cases there will be some positive outcomes and some cases that go to the internal appeals mechanism does not in any way undermine our central point.

The Minister referred to the comment that I read out about the Office for Nuclear Regulation; he described it as bizarre. I confess that I agree with him; it was an odd contribution. However, I was simply reflecting that it was a contribution made to the Committee. It was actually made by the hon. Member for North West Leicestershire—that was where it came from. My point was that two different people had two very different interpretations of what exactly the ONR was going to do.

The Minister made a key point. It was really illuminating—to some extent, it was the moment when the scales fell from my eyes. It was when he said that the impact assessment showed that this change was likely to generate £90 million worth of growth. It is very clear from the way that the Bill is drafted that it is impossible to know whether the amount of growth that is generated will be twice that sum, or nothing. Any figure is literally a guess. If the figures that the Government are citing about what the Bill will achieve are on as arbitrary a basis as this figure of £90 million that the Minister claims will be delivered to British businesses as a result of the measure, that really calls into question the entire basis of the Bill. All these different regulators are performing all these different functions in a variety of different ways, some of which will have many methods of potentially delivering growth; they may be delivering some of them anyway. There are other regulators to whom it is very difficult to see what difference the Bill is going to make. The Government lump all that together and say, “Yeah, yeah, we'll call it £90 million.” I have had quotes for my windows to be cleaned that were made on a more scientific basis than that. It really calls into question the basis on which we are being asked to support all these measures.

The Minister was kind enough to respond to my question about HMRC. He will interrupt me if I am misquoting him, but I believe that he said that it will not be the economic functions but things such as the national minimum wage for which there will be a growth duty. The Government already have an appalling record on pursuing national minimum wage cases and now they are specifically saying, “Think about the growth duty when it comes to enforcing the national minimum wage.” There are two different ways that we could look at that. We could say, “Actually, paying the national minimum wage is good for growth, because people have more money in their pockets, and they're more likely to be more confident and they will go out and spend.” That is the way that I would look at it. I suspect that this Government, on the basis of everything else I have heard from them, will look at it in the opposite way.

What does that tell us about what the Government now want to happen? They already have an appalling record, and suddenly the Chancellor appears to have found the minimum wage in recent weeks and has tried to talk it up a little bit. Actually, under the radar, they are going to HMRC and saying, “Think about your growth duty when it comes to enforcing the national minimum wage.” That is interesting.

HMRC has to consider the impact of growth when they investigate money laundering. What message does that send? We heard yesterday, at some length, the

Chancellor trying to talk the talk when it came to tax evasion and suchlike, but in fact the Government are actually saying to HMRC, “When it comes to money laundering, think before you do anything. Think about growth. Think about the impact of your investigations into money laundering on growth.” That is quite revealing about the Government’s mindset.

The hon. Member for Birmingham, Yardley built an entire army of straw men in order to try to dismiss them. His entire contribution seemed to be based on claiming that we had said something that we had not—something ludicrous—and then explaining why that ludicrous thing was ludicrous. It really did not take us forward at all, but he said something that was worthy of a response. He felt—to an extent he is right—that the measure might have an impact on regulators who have a jobsworth mentality and enforce their regulatory function in a restrictive way. As I said previously, there will be some positive outcomes from the regulation, but the hon. Gentleman might be right.

The question—and the reason we ended up with our amendment—is about how we can try to deliver the principles that the hon. Gentleman outlined, without going down the route of judicial reviews or queering the pitch between the regulators and the regulated.

My hon. Friend the Member for Newcastle upon Tyne Central posed a question to which the Minister did not get a chance to respond: there is no mention of whether the intended growth is purely UK based, or whether any growth would be relevant. Perhaps the Minister will respond to that point in this debate or the next.

My hon. Friend the Member for Leyton and Wanstead made an important point about the remit of regulators changing owing to the growth duty. It brought to mind the contribution from Wendy Hewitt, the acting legal director at the Equality and Human Rights Commission. At the evidence session, she said:

“certain human rights are not subject to and cannot be dictated to by economic circumstances, such as the right to life, the freedom from inhumane and degrading treatment, and not to be subject to forced labour. There are human rights that we do have to promote and encourage public authorities to comply with. In that sense, it would be intrinsically incompatible for us at that point to pay due regard to economic growth.”—[*Official Report, Deregulation Public Bill Committee, 25 February 2014; c. 67, Q175.*]

In that session, my hon. Friend the Member for Newcastle upon Tyne Central made the point that it could be argued that forced labour was good for growth, but clearly it would be against other rules, and a regulator said they would be confused by what was expected in terms of their functions if the legislation was enacted.

I enjoyed tremendously the contribution of my hon. Friend the Member for Derby North. He brought the Bible to us, which is never a bad thing. His contribution was incredibly important and wide ranging. Some of the issues he raised spoke to very much the same concerns as the comment from Wendy Hewitt.

We will press our amendment to a vote. I hope the Minister thinks carefully about what we are attempting to do, which is to be helpful. We recognise that there is a requirement for regulation, and we recognise the desire in the Government to ensure that we have the best regulatory principles in place and that we strengthen regulatory activity so that regulated companies are supported, but in a way that does not alter the regulatory

relationship. We are trying to be helpful; the Minister should recognise that and support us. We have the regulators’ code, which we have supported the Government in changing. We have a record there to be proud of. We want to be helpful on regulation, but we do not want the positive impacts that the Minister is setting out to be undermined by the negative ones that we have exposed today. I commend our amendment to the Committee.

3.30 pm

*Question put, That the amendment be made.*

*The Committee divided: Ayes 5, Noes 9.*

#### Division No. 11]

#### AYES

Cryer, John	Turner, Karl
Onwurah, Chi	
Perkins, Toby	Williamson, Chris

#### NOES

Barwell, Gavin	Heald, Oliver
Bingham, Andrew	Hemming, John
Brake, rh Tom	Nokes, Caroline
Bridgen, Andrew	Rutley, David
Duddridge, James	

*Question accordingly negatived.*

**Chi Onwurah:** I beg to move amendment 28, in clause 61, page 40, line 35, after ‘promoting’, insert ‘sustainable’.

**The Chair:** With this it will be convenient to discuss amendment 29, in clause 61, page 40, line 38, after ‘promotion of’, insert ‘sustainable’.

*This makes consequential changes as a result of Amendment 28.*

**Toby Perkins:** On a point of order, Mr Chope. I hope that you can clarify something for me: should we have had a vote on clause stand part just now?

**The Chair:** No. I can assure you that we do not decide on clause stand part until we have discussed all aspects of the clause, and we are now discussing two amendments to it.

**Chi Onwurah:** Thank you, Mr Chope, for your clarification. I rise to speak to the two amendments, which are in my name and those of my hon. Friends the Members for Chesterfield and for Dunfermline and West Fife. The amendments are about growth; the Government, having inherited a growing economy, presided over three years of stagnation and an unprecedented cost-of-living crisis.

**David Rutley (Macclesfield) (Con):** Will the hon. Lady say whether the growth that was inherited was built on rock or sand?

**Chi Onwurah:** I thank the hon. Gentleman for his intervention. The longest period of growth since the world war was built on rock. The new schools and hospitals, and the investment in my constituency, demonstrate that.

**David Rutley:** And the deficit?

**Chi Onwurah:** It is unfortunate that the roulette-playing, casino financial system undermined much of that growth. Remember that the financial crisis started in the housing market in the USA; that undermined the good growth that happened under Labour.

To return to our amendments, working people are now on average £1,600 a year worse off. Most working people are not feeling the effects of any recovery at all. Even the beer and bingo that the Tories are generously allowing the “hard-working people” to have more of is not enough to disguise the fact that in 44 of the 45 months of David Cameron’s premiership, wages have not kept pace with inflation. I hope that the Solicitor-General will remind his party that it is not for the Government to patronise the people of Britain by telling them what activities they can or should enjoy. It is for Government to ensure that people have a better standard of living and more money in their pocket; they can then choose how to enjoy themselves. I notice that the millionaires at the top—

**The Chair:** Order. I have been waiting with anticipation for the hon. Lady to use the word “sustainable” because this is a narrow debate about two amendments that try to introduce it into the clause. I therefore hope that she will concentrate her remarks on that.

**Chi Onwurah:** I thank you for that direction, Mr Chope. My remarks are exactly concerned with sustainability because the disparity in the experience of growth is not sustainable. When there is a system whereby a small proportion at the top feels the benefits of growth and the many do not, Labour Members would argue strongly that such growth is unsustainable. I want to highlight that distinction. There seems to be one rule for the rich and another for the poor, and that is not a sustainable state of affairs. In the real world, people on middle and low incomes still do not feel the benefits of the return to growth.

An independent forecast today showed that people will still be worse off at next year’s election than they were in 2010. Is that the kind of growth that the duty is intended to promote? The growth duty was conceived during the long period of stagnation that followed the coalition’s entry into government. Ministers were desperate and that was their solution, but has the Minister truly considered what sort of growth the clause intends to create?

**James Duddridge:** I served on the Joint Committee and we discussed sustainability in great detail. We rejected the word specifically because it is so difficult to define. At no stage was I aware of a definition of sustainability that was in any way similar to the hon. Lady’s. People were mainly considering environmental issues, but the word was rejected because, without clarification, it is ambiguous.

**Chi Onwurah:** I thank the hon. Gentleman for that helpful intervention. I am well aware that the Joint Committee discussed sustainability. Indeed, I have it in my notes that witnesses, including the Federation of Small Businesses, suggested that the duty for economic

growth should include the notion of sustainable economic growth. The Royal Society for the Protection of Birds thought it would be more reasonable for the duty to specify the promotion of sustainable development. The TUC, the Equality and Human Rights Commission—

**James Duddridge:** The hon. Lady will correct me if I am wrong, but I think that was the initial evidence that those organisations gave as opposed to subsequent evidence. We inquired of similar people, and I think that the FSB was an example of an organisation that had advocated the use of the word “sustainable” but, having heard about our discussions, felt that it should be removed.

**Chi Onwurah:** Many organisations advocated using the word “sustainable”. There were some difficulties in defining it, but I would argue that they are no greater than those in defining growth, which I will consider.

**Tom Brake:** The hon. Lady is trying not just to define growth, which she said was difficult, but sustainable growth. Surely that is more complex than simply defining growth.

**Chi Onwurah:** I am sure that the Minister agrees that adjectives can clarify the objective of a noun. “Sustainable growth” makes the type of growth clearer. I will give examples of the way in which using “sustainable” makes the objective of the clause more likely to be achieved, and makes it much clearer to regulators what we, as legislators, expect them to do.

It is important to recognise that we have a duty to provide clarity to regulators. As I have said, I spent six years working for the regulator Ofcom. Members may be surprised to learn that during that time I had the Communications Act 2003 on my desk for easy access at every moment. I went a fair way to knowing chunks of the Act by heart, which one might think was good training for a Bill Committee. Using the guidance in that legislation to influence our everyday activities was an important part of our work. I urge the Committee to think carefully about giving guidance in the legislation rather than having this broad duty to support growth.

The Minister spoke earlier of the assessment that the benefit to businesses would be £90 million, but how will he define whether the clause has been a success? Does he even know what exactly we are trying to achieve? What is his notion of economic growth? Has he considered how the proposal will be evaluated—something we have debated at length today already?

**The Chair:** Order. I hesitate to interrupt the hon. Lady but her amendments deal with adding the one word “sustainable”. I hope that we will hear what she thinks that will add, in terms of its definition and how sustainable growth is different from growth without the adjective in front of it. If she could address her remarks to that issue, it may help us focus meaningfully on the amendment.

**Chi Onwurah:** Thank you for that direction, Mr Chope. I am seeking to understand what the Minister means by “economic growth” so that the Committee can better understand the impact of adding the word “sustainable”.

For example, Ofcom oversaw a huge growth in the communications markets from 2004 to 2010. Ofcom was a light-touch regulator that sought to deliver a functioning market and then get out of the way. In the discussions about how best to support growth in the telecommunications market, there were some who argued that enabling the incumbent, BT, to have an effective monopoly over next-generation access would ensure the speedy implementation of that technology, with greater investment and therefore greater growth in broadband and broadband-based markets. As you can imagine, Mr Chope, that was a question that needed significant analysis, because supporting growth in the markets was clearly one of Ofcom's duties. At the same time, we needed to understand what kind of growth that would be and whether it would be sustainable. Over time, we concluded that concentrating growth in the hands of one primary player rather than supporting a more competitive market, would lead to growth that would not be sustainable because, in the longer term, one player would not seek to grow the market but to take profits out of the market as it existed.

3.45 pm

That was a complex argument about the kind of growth that was best for the people of the United Kingdom in one specific market, the telecommunications market, with which obviously I am particularly familiar and Ofcom is particularly concerned. It is an important market, which supports the digital economy. There was a complex debate about whether it was better to go for short-term growth through a one-player market, or to ensure a range of players in the market, giving rise to longer-term growth which would be more sustainable. The Government, by not supporting competition in next-generation access, seem to have decided to go with shorter-term growth. At that time and in those circumstances, Ofcom decided to support longer-term growth.

My concern, as someone who worked for Ofcom, was that there was a large group of lawyers, a large group of economists and—in my view, as an engineer—quite a small group of engineers. I felt that there should be more, and I suppose I still do.

**James Duddridge:** Perhaps saying an “unsustainable” number of engineers would bring the hon. Lady into order, although I cannot possibly say that she is out of order, because Mr Chope would have alerted her. That might help her to stray back in the right direction.

**Chi Onwurah:** I thank the hon. Gentleman for his intervention, but my point is—he need not anticipate me in the matter—that the number of economists it took to identify what the right kind of growth was took significant economic understanding and training to do so. My question to the Minister is, what economic understanding does he therefore feel is necessary to define the right kind of growth? Would not adding “sustainable” make it clearer that the kind of growth that I assume he is looking for—I am happy for him to intervene if not—is long term and not short term? But he does not want to intervene. Given that there are distinctions between different types of growth, as I hope the Minister acknowledges, does he not consider that adding “sustainable”, which is what we intend with our amendment, clarifies the kind of growth that regulators should be aiming to promote?

**Tom Brake:** I am rather hoping that in the course of the hon. Lady's contribution she will explain to Government Members what her definition of sustainable growth is, because that is the purpose of her amendment.

**Chi Onwurah:** I thank the Minister for his intervention. My remarks are indeed aimed at illustrating what sustainable growth is. I have already given one illustration: growth that lasts over the longer term is more sustainable by its very nature—that is clearly sustainable growth—but short-term growth is not sustainable, because it is short term. Short-term growth is not sustainable growth. That is one clear example.

**James Duddridge:** Again, the Joint Committee considered this. The proposition that we looked at was not whether it should be short or long term, because long-term sustainable growth is clearly preferable to short-term non-sustainable growth. However, short-term growth that is discrete—for example, 1,000 new jobs in a certain sector that will last two years before moving to China or to another sector, or another sector taking over—is good growth. That would be non-sustainable growth by the definitions that we are all using, but it is still good growth.

**Chi Onwurah:** The hon. Gentleman makes a good point, but why should those jobs move to China or somewhere else? Should not the regulator or whoever else is concerned be focused on ensuring that the jobs stay in this country and are sustainable?

**Chris Williamson:** The hon. Member for Rochford and Southend East has let the cat out of the bag about this Government's position on standing up for British workers and British interests. His definition of good growth is to export jobs to China. Should we not be trying to bring jobs back from China? That was what the Prime Minister said the Government were going to do, but the hon. Member for Rochford and Southend East has let the cat out of the bag. I despair.

**Chi Onwurah:** My hon. Friend makes an excellent point that speaks somewhat about this Government's lack of vision. We should not only be protecting jobs here from going abroad, but also bringing jobs back here from abroad for sustainable growth in this country.

**James Duddridge:** One of the examples that we discussed in detail is when jobs went elsewhere. The other is when jobs simply did not exist because there was no longer demand for a specific product, whether a food type or type of car, as opposed to demand being supplied from elsewhere. Notwithstanding the points about retaining jobs, there was an underlying issue of positive short-term, unsustainable growth in a sector that may no longer exist or in one that we might predict will no longer exist.

**Chi Onwurah:** I think I understand what the hon. Gentleman is trying to say, but workers in short-term jobs in a sector that will not exist for much longer should be given the right training and support so that they get the right skills and can contribute towards

sustainable growth. There is always a way of making growth more sustainable, which is what the amendment seeks to ensure is the clause's focus.

**Chris Williamson:** I remind my hon. Friend of the point she made in an intervention on me about there being no reference to UK growth. It seems that the hon. Member for Rochford and Southend East is quite happy for growth to be generated in other countries. We saw that when, just two months after the Chancellor's march of the makers speech, the makers were marching to Germany after the £1.4 billion Thameslink trains contract was awarded to Siemens to make trains in Germany rather than in Derby.

**Chi Onwurah:** My hon. Friend makes a good point. I hope that the Minister will clarify that the lack of reference to the UK was by accident and not design. This country should certainly be the focus of growth.

**Toby Perkins:** Yesterday, we saw the advertisement from the Conservative party saying that working people liked beer and bingo. Perhaps the third part of the triumvirate will be the Chinese takeaway, but we did not realise that the Chinese takeaway in mind was the Chinese coming and taking away all our jobs.

**Chi Onwurah:** I thank my hon. Friend for that contribution.

**Tom Brake:** I would like to put it on the record—it should be obvious—that the measure is intended to affect UK growth by impacting on the actions of UK regulators.

**Chi Onwurah:** I thank the Minister for that comment, but UK regulators can have an impact on global growth, whether positive or negative. He says, "It should be obvious", but we are seeking to emphasise the importance of the text for regulators as it would not necessarily be obvious to a regulator looking for guidance.

**Toby Perkins:** My hon. Friend is absolutely right. We received criticism from Government Members earlier about how we drafted our amendment, but we now have the full power of the Government saying, "It doesn't say UK growth, but of course we thought you'd know that," even though regulators have a duty to regulate people providing services here whether that means British companies and British jobs or not. Maybe an amendment to the clause should be considered for the further stages of the Bill.

**Chi Onwurah:** I thank my hon. Friend for that intervention. The Office for Nuclear Regulation could focus its growth duty on the UK or it could support growth more widely in the nuclear industry, as we have discussed. Those are relevant points, and show the difference in vision between the Opposition, who are always looking for long-term, sustainable growth in a high-productivity, highly skilled and innovation-led economy, and the Government, who seem to believe that the Government have no role in promoting growth apart from adding duties to regulators. They do not have an active industrial strategy.

That is why amendments 28 and 29 would change the proposed growth duties so that regulators would have to have regard to sustainable economic growth. They are probing amendments designed to get at exactly what results the Government expect from the clause. We recognise that regulators can have immense influence for good, but they can also influence for ill. I hope I am in order, Mr Choqe, if I refer to the Leader of the Opposition's speech on public service reform. He said that the role of the public sector, which applies as much to regulators as it does to the NHS, can cause great frustration. Public sector bodies can be seen as unaccountable powers, with the individual left powerless.

**The Chair:** Order. I am going to interrupt the hon. Lady again. She has just said that the purpose of her amendment is probing to try to find out what the Government mean by the content of the clause. We have already had the clause stand part debate, which went on for about three hours. That was the occasion on which to probe the Government on the meaning of the clause. The hon. Lady has tabled an amendment specifically seeking to add the word "sustainable" to the word "growth". Therefore, it is incumbent upon her to put forward what she thinks that would add to "growth" in terms of the definitions within the Bill.

**Chi Onwurah:** Thank you, Mr Choqe. That is what I am seeking to do. I am considering the duty of public sector regulators to have regard to the needs of small businesses and businesses in general, which is what the Government's proposal seeks to reflect. Adding the word "sustainable" should ensure that, rather than growth at any cost, regulators seek to promote long-term growth.

For instance, the growth of payday lending companies might add to economic growth in the short term, but we would argue that that is not sustainable growth, because it leads only to misery and more personal debt in the longer term. Therefore, adding the term "sustainable" would enable regulators to differentiate the short-term growth that is attributable to increases in the activity and growth of payday lenders. Equally, the current housing boom-fuelled growth is not sustainable in the longer term. Including the term "sustainable" in the clause would ensure that regulators differentiate short-term growth such as that fuelled by the housing boom. That is relevant to regulators on the list such as Natural England, which might find that it has a choice between promoting the housing boom within the south-east and promoting the longer-term sustainable requirements of the environment.

4 pm

On another dimension of sustainability, I do not know whether the Committee is familiar with the television programme "Mind the Gap: London v the Rest", which was on BBC2 a few weeks ago. I and many of my colleagues have highlighted the growing north-south divide. London is at least the size of the six next biggest urban areas combined, and I would argue that it is not healthy for the country to have such a divide. Having growth focused primarily in the south-east of the country does not make for long-term sustainable growth for the economy as a whole.

I am told by colleagues who have worked in the Treasury that because the measurement for return on investment looks at the increments for that return,

investments in the south-east, where the economy is larger, are always likely to provide a bigger return than investments in the north-east. The amendment seeks to ensure that rather than such considerations playing a part, regulators should look specifically at the long-term, sustainable nature of the growth that they will be asked to promote, and to recognise that sustainable growth is growth that is for the long-term benefit of the country as a whole. I hope that helps to clarify further the nature of sustainable growth.

If the Minister proposes not to accept the amendments, can he explain how, without the use of the word “sustainable”, he intends to ensure that the duty—

**David Rutley:** I know that the hon. Lady is trying her best on this subject, but can she clarify what she means by “sustainable”? Would such growth be environmental, regional or have an impact on diversity? I am not clear on that.

**Chi Onwurah:** I am sorry that the hon. Gentleman is confused. On this side of the Committee, we are greatly confused about the objective of the growth duty. He seems to imply that “sustainable” must mean either environmental or long-term, and that there is a contradiction between those factors. It means long term, and it means for the country as a whole, because that is how we are most sustainable—as a nation, rather than as one area that is growing economically with several satellites around it.

**David Rutley:** I am just as unclear as I was before.

**Chi Onwurah:** I hope that the hon. Gentleman is at least better informed, even if that has not led to any clarity on his part.

**Tom Brake:** If that is the hon. Lady’s definition of sustainable growth, does she agree that it would lead to frequent judicial review, as it seems to be rather vague?

**Chi Onwurah:** That is an interesting point. Does the Minister think that “growth” on its own is clearer than “sustainable growth”?

**Tom Brake** *indicated assent.*

**Chi Onwurah:** Therefore, he is happy to have short-term, unsustainable growth, which does not contribute to the country as a whole, as part of the objectives for regulators—

**Tom Brake:** The lack of clarity of the word “sustainable” is not my view. The hon. Lady may be interested in what English Heritage had to say in pre-legislative scrutiny. Michael Harlow told the Joint Committee:

“The problem is the word ‘sustainable.’ You immediately reach for the definition within the planning system, which of course is quite a sophisticated and long fought-over definition of what ‘sustainable development’ is at least.”

That is English Heritage’s view.

**Chi Onwurah:** A number of other organisations, such as EDF, referred to the Regulatory Reform (Scotland) Bill, which included a duty in respect of sustainable economic growth. As that challenge seems to have been overcome in other legislation—

**Andrew Bridgen:** The issue was the cause of much debate in the Joint Committee on the Draft Deregulation Bill. We came to the conclusion that, with technological advances, who is to judge at this or any point in time what growth is sustainable? We do not know what technological advances will come in the future that may make certain areas of growth that seem sustainable at the moment unsustainable.

**Chi Onwurah:** I think the hon. Gentleman’s intervention reflects his party’s view that, as we are unable to predict the future, we should not try to do anything about it. The Opposition believe that it is possible to put in place measures that would at least be as supportive as possible of the kind of growth that we wish to see, which is long-term, sustainable growth.

Mr Choqe, you have made it clear that you feel that the debate on the measures as a whole is taking up some time; we certainly did not expect it to take up so much time. I will draw my remarks a close.

The point about the nature of growth that we ask regulators to be concerned about is important. We are experiencing the slowest recovery for 100 years. Businesses are experiencing significant cost pressures. We heard from an economist who gave evidence to the Committee that it was important for regulation to be counter-cyclical and not to look for short-term growth during a recession or in times of difficulty, but to look at the longer term. How, then, can the Minister explain why he feels that sustainable growth is not something to be desired more than simply economic growth? Does the clause as it stands not encourage regulators to regulate to cost—as Professor Black suggested in her evidence—rather than to the best standard? Does that not encourage short-termism over long-termism?

We understand that the clause is trying to make regulators more effective and less of an unnecessary burden. As my colleagues have said, we support that aim. However, as we have discussed at some length, there are potential unintended consequences. Is it therefore not the case that, to minimise the prospect of those unintended consequences, adding the word “sustainable”, to ensure that regulators look to the longer term and to the interests of the country as a whole, rather than to the short term and to localised interests, would make succeeding in the aim more likely?

**Chris Williamson:** I will not detain the Committee for more than about half or three quarters of an hour.

Many Government Members have had the benefit of a very expensive education, and they seem to have lots of facts and figures stuffed into their minds. However, they seem to be lacking in any common sense. I do not think that they are being deliberately obtuse, but it is fairly obvious what we mean by sustainable development. If they want some idea of what unsustainable growth is, I would recommend that they read, “End This Depression Now!”, a book by Paul Krugman, an excellent, Nobel prize-winning economist.

My hon. Friend the Member for Newcastle upon Tyne Central has made the point clearly that the current situation is far from perfect. We know that ordinary British people are £1,600 per year, on average, worse off because we have not got sustainable economic growth. But what do we mean by “sustainable economic growth”?

Look no further than the Oxford English dictionary. The definition is fairly clear; I was looking at it while she was speaking. The definition of “sustainable”, for those Committee members who have had expensive educations but do not seem to have been able to do much with them, is that it is able to be

“maintained...at a certain rate or level.”

Do we not want economic growth that is maintained at a certain rate or level? We do not want an economy that is flat-lining, as it has been for the best part of this Parliament. This Government inherited a growing economy and then, because of their misguided austerity measures, the economy went into recession and then flat-lined and, recently, there has been growth built on sand rather than rock.

The other Oxford English dictionary definition of “sustainable” is conserving an ecological balance

“by avoiding the...depletion of natural resources”.

Again, do we not want to try to achieve that? Those two things are not contradictory in any way. We want economic growth that can be maintained at a certain rate or level. We also want to make sure, as far as we possibly can, that growth conserves ecological balance by avoiding depletion of our natural resources. We know that we are suffering from the consequences of climate change in our country; we saw that with the terrible storms and appalling floods in the winter. We need to take that on board.

Let me give some examples of what we mean by “sustainable development”. Tackling fuel poverty would be one way of doing it; that would be good growth and would generate more than 100,000 jobs by making people’s homes better insulated, thereby reducing their fuel bills. That should be done, rather than giving tax breaks to oil companies and fracking enterprises. Perhaps we could support carbon capture and storage with a bit more gusto and support the renewable energy industry. We could also support high-skilled manufacturing jobs, rather than financial services or low-skilled jobs. It is also important to recognise the interrelationship between the public and private sectors in securing sustainable economic growth, because the two rely on one another.

I emphasise the point made by my hon. Friend the Member for Newcastle upon Tyne Central about the importance of ensuring that economic growth is spread around the country. Surely, it is not sustainable to have economic growth focused almost exclusively on London and the south-east. We need to make sure that we all benefit from the fruits of growth in our country. The hon. Member for High Peak does not represent a south-eastern or London constituency, so it is in his interests to ensure that we get economic growth that is geographically evenly spread around the country. It is sensible to include the amendment in the Bill. We should all aspire to sustainable economic growth. I cannot understand why the Government are so resistant to it.

**Tom Brake:** First, I shall respond to points made during the debate and then make more general points about the amendments.

In relation to the position of organisations and their view about whether the Government should have adopted sustainable growth, as opposed to a growth duty, I have already quoted English Heritage, but it is also worth stating, for instance, that as Committee members heard

during the evidence session on 25 February, business group representatives, including the Federation of Small Businesses, agreed with the Government’s reasons for not having a sustainable growth duty. When organisations spanning from English Heritage to the FSB agree, that demonstrates that the Government were right to adopt the approach they did.

4.15 pm

There was also a concern that by not having a sustainable growth duty that regulators would always promote short-term growth at the expense of long-term economic well-being. It is worth pointing out that the duty absolutely does not compel regulators to promote short-term at the expense of long-term growth. The duty, as drafted, gives the regulator the discretion to take into account both short-term and long-term growth, depending on what is appropriate in the circumstances. For example, when a regulator is considering specific enforcement action, it might be appropriate to consider the impact on short-term growth. When devising its enforcement policy, it might be more appropriate to consider impacts on long-term growth.

The hon. Member for Newcastle upon Tyne Central asked how we will know whether growth has been achieved. The duty requires regulators to consider the impact on growth as they exercise their functions. It does not require regulators to achieve GDP growth in the economy; rather it requires them to create a regulatory environment conducive to growth. We will be able to measure this by repeating the business surveys that we have done. I think 600 businesses were involved previously. We will do them again in future to detect reductions in burdens and improvements to the business experience of regulation. At one point, she sought to pray in aid payday lenders as an issue in relation to the growth duty, but they are not covered by this.

It is worth coming back to the issue of whether this applies to the UK, to underline the fact that this is about UK reserve regulatory functions. The intention behind statutory functions is to be of benefit to the UK public or the environment. Therefore, it is very much UK-focused. Finally, on the contribution of the hon. Member for Derby North, it is clearly a matter of great regret to him that he did not have an expensive private education, given the number of times he mentioned that during exchanges across the Committee. I did not benefit from one either, just in case he was wondering.

**Andrew Bingham (High Peak) (Con):** I thank my right hon. Friend for giving way. The hon. Member for Derby North did not want to give way to me, which was his right, obviously. For the record, I did not have an expensive education, either. I went to my local comprehensive school, for the information of the hon. Member for Derby North. [*Interruption.*]

**Tom Brake:** I thank my hon. Friend for that clarification of his previous schooling experiences. Would he like to add anything?

**Andrew Bingham:** In response to the sedentary remark of the hon. Member for Derby North about what I am doing in the Tory party, I will tell him. I am helping to rescue this country from the mess that his lot left it in.

**Tom Brake:** That is a very good point on which to nearly finish. The hon. Member for Derby North expected the Committee to believe that simply pulling the Oxford English dictionary off the shelf and looking at the definitions of “sustainable” and “growth” would provide the answer that we were expecting from the hon. Lady about convincing the Committee that there was an easily interpreted definition of sustainable growth. I am afraid she failed in that respect.

Amendments 28 and 29 add the descriptor “sustainable”. In the Government’s view, this would not give sufficient clarity or flexibility for regulators to implement it appropriately in every different set of circumstances. “Sustainable” is a term used in specific contexts where it has a specific meaning. In the planning context, for instance, it relates to the balance between economic, social and environmental factors. In the financial services context, “sustainable growth” is usually understood to mean long-term attainable growth. Applying a definition of “sustainable” would therefore insert additional factors that would dilute the fundamental purpose of the duty, which is to give clarity to regulators that they can, and should, factor economic consequences into their decision making.

It would not be proportionate to expect regulators to undertake the sort of economic analysis that would be required to understand their impact on sustainable growth. Their influence on economic growth, on the other hand, is simpler to discern, as they can consider their impact on economic indicators such as the ability of a business to enter new markets, or take on additional employees. The Joint Committee on the draft Deregulation Bill welcomed the Government’s view that the duty should be a broad duty to economic growth, and that it should not be narrowed to “sustainable” economic growth. I therefore urge hon. Members to withdraw their amendment.

**Chi Onwurah:** This debate has been shorter than the previous one, but it has been interesting. Government Members seem not to be content with just disowning the Etonians; they are now disowning all private education. I am pleased with the short, succinct contribution of my hon. Friend the Member for Derby North, which I do not feel the Minister valued at its worth. One would hope that the Oxford English dictionary is always an aid to clarity.

The basis of the Minister’s argument is that economic growth is simple and easy for any regulator to understand, whether it is a nuclear regulator or a health and safety regulator, without any economic training but that sustainable economic growth is not easy to understand. I find that unconvincing, but I do not wish to detain the Committee.

I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

*Clause 61 ordered to stand part of the Bill.*

## Clause 62

### FUNCTIONS TO WHICH SECTION 61 APPLIES

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

**Tom Brake:** The clause enables a Minister of the Crown to specify, by order, the regulatory functions that will be subject to the growth duty. The ability to exercise that power in secondary legislation allows flexibility to add or remove functions when a new regulator or new regulatory function is created.

In the Government’s response to the consultation on the growth duty, we provided an indicative list of more than 50 non-economic regulators that we believe should be in the duty’s scope. In producing that list, we extensively consulted the regulators and we will continue to work with the regulators during the parliamentary passage of the Bill to evaluate and refine the list further. Indeed, the clause provides a statutory requirement for the Minister to consult those persons whose regulatory functions are to be specified in the order, and others as he considers appropriate.

Our intention is to cover all non-economic regulatory functions that affect business, but we also intend to avoid the risk of disproportionate and unintended consequences. The business groups that gave evidence to the Committee supported the Government’s intention that the duty should apply as broadly as possible to all non-economic regulators. The Government noted the observations of the Joint Committee that was convened to scrutinise the draft Bill on the inclusion of the Equality and Human Rights Commission and the need to avoid inadvertently jeopardising its international standing. The Government recognise that and are working closely with the EHRC before finalising the list of regulatory functions.

The clause provides that an order must be laid in both Houses of Parliament and be subject to the affirmative procedure. That will provide Parliament with an opportunity to debate and approve the particular regulatory functions that will be subject to the growth duty in due course. The clause therefore provides flexibility to specify regulatory functions by secondary legislation, but the power is subject to significant procedural safeguards to allow proper scrutiny from regulators and Parliament.

**Chi Onwurah:** I will not detain the Committee on this clause, which is a consequence of clause 61, but I have a couple of questions. I am pleased to hear that the EHRC’s concerns have been taken on board and are the subject of ongoing discussions. As we have heard, there are a number of regulators on the list for which the growth duty seems to be particularly inappropriate. I am under the impression that the Health and Safety Executive has a similar requirement under EU law to operate at arm’s length from Government in the exercise of some of its statutory functions. Am I to understand that there are similar discussions with the EHRC? The Government have said that the duty will not override the primary functions of any regulator. That is not mentioned in the clause, so will it be included on Report?

**Tom Brake:** I welcome the hon. Lady’s comments. On the EHRC, she is right that there are still ongoing discussions, and it is appropriate that they should take place. The duty can apply to an independent regulator such as the HSE, but if there are any further considerations of which I am not aware, I will certainly ensure that she is informed. On the primary duty and whether it will appear in the Bill, I cannot immediately tell her whether

there is a specific reference to the growth duty not being allowed to trump other functions that the regulator may have. However, it has been placed on record many times in this debate that while that is a factor that the regulators have to take into account, it is very clear that it does not trump other functions that regulators may have in relation to matters such as the environment. With those clarifications, I commend the clause to the Committee.

*Question put and agreed to.*

*Clause 62 accordingly ordered to stand part of the Bill.*

### Clause 63

#### GUIDANCE ON DUTY UNDER SECTION 61

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

**Tom Brake:** The clause provides a Minister of the Crown with a power to issue guidance on the ways in which regulatory functions may be exercised so as to promote economic growth and the ways in which regulators might demonstrate that they are complying with the duty. The guidance will provide regulators with practical assistance as to how they might implement the duty. There was a consensus across regulators and businesses responding to the Government's consultation that such guidance would be helpful.

The guidance will not undermine the independence of regulators because it will not mandate ways in which the duty should be exercised. Regulators will be free to decide how best to incorporate the duty into their decision making and the growth duty will not affect their independence. The Government have now published the guidance in draft in order to support the parliamentary debate and to provide clarity on how the duty might work in practice. In addition, the guidance will be subject to statutory consultation requirements and must be debated in both Houses of Parliament before it can be issued by the Minister. The power is subject to significant procedural safeguards to allow proper scrutiny from regulators and Parliament. That will ensure that the guidance provides assistance to regulators while affording them appropriate latitude to determine how best to implement the duty themselves. I commend the clause to the Committee.

**Chi Onwurah:** We do not oppose the clause. As we have heard several times during our debates, there is real concern about the interpretation that will be placed upon the duties set out in the clause. It is reasonable and desirable that the Minister set out guidance on the duty, particularly as we have also heard that many regulators may not have the resources to take on what could be a significant burden. The guidance should be as helpful as possible, and particularly aimed at smaller regulators that do not have extensive economic resources. Where

regulators are under-resourced, it can lead to an increased burden on businesses, as they cannot properly undertake their duties to engage with them. We would not want this provision to add to that problem. The guidance is not necessarily the solution to all our concerns, but we feel that it is helpful and we will support it.

*Question put and agreed to.*

*Clause 63 accordingly ordered to stand part of the Bill.*

### Clause 64

#### SECTIONS 61 TO 63: INTERPRETATION

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

**Tom Brake:** Clause 64 is straightforward. It establishes the definitions of terms used in clauses 61 to 63.

*Question put and agreed to.*

*Clause 64 accordingly ordered to stand part of the Bill.*

### Clause 65

#### CONSEQUENTIAL AMENDMENTS, REPEALS AND REVOCATIONS

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

**The Solicitor-General:** The purpose of the general provisions is to help users understand the legislation. Clause 65 says how the Secretary of State may make consequential amendments, clause 66 talks about the need for a money resolution, which has already been passed, and clause 67 deals with the territorial extent of the Bill.

*Question put and agreed to.*

*Clause 65 accordingly ordered to stand part of the Bill.*

*Clause 66 ordered to stand part of the Bill.*

### Clause 67

#### EXTENT

*Amendment made:* 23, in clause 67, page 43, line 30, after 'paragraphs' insert '23A, 23B, 26A,'.—(*James Duddridge.*) *This amendment has the effect that the repeals and other amendments inserted by amendments 21 and 22 will extend only to England and Wales. The Acts being amended extend to England and Wales and Scotland.*

*Clause 67, as amended, ordered to stand part of the Bill.*

*Ordered,* That further consideration be now adjourned.—(*James Duddridge.*)

4.32 pm

*Adjourned till Tuesday 25 March at five minutes to Nine o'clock.*

**Written evidence reported to the House**

DB 15 The Advertising Association

DB 16 Newspaper Society