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GENERAL COMMITTEES

Public Bill Committee

DEREGULATION BILL

Seventeenth Sitting

Tuesday 25 March 2014

(Morning)

CONTENTS

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Saturday 29 March 2014

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

The Committee consisted of the following Members:

Chairs: Mr Jim Hood, †Mr Christopher Chope

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

Fergus Reid, David Slater, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 25 March 2014

(Morning)

[Mr Christopher Chope *in the Chair*]

Deregulation Bill

Clause 68

Commencement

8.55 am

The Solicitor-General (Oliver Heald): I beg to move amendment 24, in clause 68, page 43, line 39, at end insert

'() section (Agricultural Holdings Act 1986: resolution of disputes by third party determination) and Schedule (Agricultural Holdings Act 1986: resolution of disputes by third party determination);'.

This amendment has the effect that the new clause and Schedule inserted by NC8 and NS1 will come into force 2 months after the Bill receives Royal Assent.

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

Government new clause 8—*Agricultural Holdings Act 1986: resolution of disputes by third party determination.*

Government new schedule 1—*Agricultural Holdings Act 1986: resolution of disputes by third party determination.*

The Solicitor-General: Amendment 24 has the effect that new clause 8 and schedule 1 will come into force two months after the Bill receives Royal Assent. New clause 8 introduces new schedule 1.

The Government wish to amend the Agricultural Holdings Act 1986 to allow third-party determination as an alternative method of dispute resolution to arbitration for certain agricultural tenancy disputes. The 1986 Act applies to agricultural holdings entered into before 1 September 1995 and to certain tenancies granted after that date. It governs the landlord and tenant relationship, as well as providing security of tenure and succession rights, regulating the terms of the tenancy and providing for compensation for the tenant or landlord in certain circumstances. These reforms will modernise dispute resolution mechanisms for existing agricultural tenancy agreements under the Act and bring them in line with the provisions afforded to new agricultural tenancies under the Agricultural Tenancies Act 1995.

Third-party determination provides disputing parties with access to a more flexible and streamlined dispute resolution mechanism, which may enable them to achieve a quick resolution while incurring minimum costs and lowering adverse impacts on their ongoing landlord-tenant relationship. Disputing parties will be able to choose the third party best suited to determine their dispute—it might be a local land surveyor or a structural engineer—and agree their time frames and process, and they will not be limited by the time limits applicable to arbitration under the 1986 Act. In effect, the amendment gives the parties autonomy as this alternative is not mandatory, but if they choose to pursue this alternative, they must agree jointly the appointment of the third party and the terms and conditions of that appointment.

Once appointed, the third party will proceed to determine the question. The agreement will be in writing and will appoint the expert. It should set out how the parties expect the expert to deal with the matter. That includes agreeing that the determination of the question by the jointly appointed third party will be final and binding on the parties and that it should have the same force as if it had been agreed between them. The third party will determine liability for the costs of referring the question to him, together with any interest he determines to be paid by the tenant or landlord, subject to the agreement. Third-party determination will apply to all disputes compulsorily referable to arbitration, other than those regarding notices to quit, which are concerned with the termination of tenancy agreements.

This reform has been requested by tenant farmers and is strongly supported by the Tenancy Reform Industry Group, the advisory group representing landlords and tenants of agricultural holdings in England and Wales. Third-party determination is considered by industry as a measure that will reduce the burden on landlords and tenants, with the associated benefit of lowering costs.

Thomas Docherty (Dunfermline and West Fife) (Lab): It is a pleasure to serve under your chairmanship once again, Mr Chope. Like many of us, I think the end is now in sight for this Bill Committee. It will be a shame no longer to serve under your chairmanship. There is a danger of last-day-at-school syndrome, and my slight critique at the start is that the Opposition were slightly disappointed that the Government—perhaps they are suffering from last-day-at-school syndrome—did not have the courtesy to write to let the relevant shadow Minister know when this amendment was tabled. We do not oppose these provisions, which came from the coalition's Macdonald review of ways to reduce bureaucracy and burdens, which I believe reported in May 2011. We have a few probing questions for the Solicitor-General, some of which I have, out of courtesy, notified him of in advance.

The Solicitor-General will not be surprised to know that we are interested in the costs to the parties involved. He has mentioned that one option will be to engage a local surveyor. Have the Government set out what scales they will regard as acceptable? What are the estimated savings from having fewer arbitration hearings? Does the Minister see those as savings to the farmers themselves or to central Government? Will there be any specific criteria defined, perhaps in secondary legislation, as to who is qualified to serve as an arbitrator in that process?

As the Minister has mentioned, the measure has support from within the industry. In particular, the shadow Minister, my hon. Friend the Member for Ogmore (Huw Irranca-Davies) has had discussions with the Tenant Farmers Association and it is supportive of the measure. Therefore, we shall not oppose it today, subject to receiving some clarification from the Law Officer.

The Solicitor-General: Arbitration, the procedure that is in place at the moment, costs, on average, £25,000 per case. It is thought there will be a saving of £10,000 per case if the determination is done under the new system. That is a considerable saving, which will go to the landlord and the tenant rather than the Government, and will therefore ease burdens on business.

I hope that, with those few remarks, the hon. Gentleman is satisfied. I commend the amendment to the Committee.

Thomas Docherty: I am sorry that the Law Officer has not provided answers to the other questions that I asked him. While he perhaps seeks inspiration, I will gently remind him of those key questions. What criteria, if any, do the Government intend to set out as to who would be qualified—I think that is the correct phrase—to be an arbitrator? Do the Government intend to lay any instruments to set out what a reasonable fee would be for the arbitrator, or does the Solicitor-General feel that that would be best done by the two parties involved?

The Solicitor-General: I am sorry; I perhaps rushed matters. The situation with the arbitrators is a quasi-judicial process governed by the Arbitration Act 1996. The process here of third-party determination is a simpler, more informal way of dealing with matters. The landlord and the tenant would agree on perhaps a well reputed local land agent—the sort of person who is widely respected in the farming industry—for this purpose and there would be a negotiation about the fee. However, because the official arbitration system is rather court-like and legal in its set-up, it is quite expensive. It is thought that having a local land agent or similar person making the determination more informally will be cheaper. They will, of course, make the determination not on the question of notice to quit and the ending of a tenancy, but on the other—I would not say less important—issues that come up in tenancies fairly regularly and need to be resolved. This is a choice; people do not have to do it.

With those few words, I hope that the hon. Gentleman will now feel I have answered his questions. He is right that there has been a full consultation about this issue. I apologise if I have not personally written to him about it, but I think he and his colleagues would have been well aware of the consultation and its outcome.

Amendment 24 agreed to.

The Solicitor-General: I beg to move amendment 25, in clause 68, page 43, line 42, at end insert—

'() section *(Optional building requirements)*;'.

This amendment has the effect that the new clause inserted by amendment NC12 will come into force 2 months after the Bill receives Royal Assent.

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

Government new clause 12—*Optional building requirements.*

Government new clause 13—*Amendment of Planning and Energy Act 2008.*

The Solicitor-General: The housing standards review in 2012 was designed to rationalise the proliferation of housing-related standards, guidance and codes that local planning authorities currently impose and that go beyond those required by the building regulations. Additional standards can bring unnecessary cost, complexity, bureaucracy and delay to the house building process. The aim was to see if it was possible to have a radical simplification of the necessary requirements for new homes. That will mean reducing 100 standards to fewer than 10.

The review considered that the best way forward would be to put all the necessary technical standards into the building regulations, including optional requirements for certain matters. The review also concluded that authorities should not set technical standards for new housing that go beyond those contained in the building regulations, but that the building regulations should be as challenging as necessary. Therefore, new clause 12 amends the Building Act 1984 to create new powers for the Secretary of State to include optional requirements in building regulations, and new clause 13 amends the Planning and Energy Act 2008 to ensure that local authorities do not stray beyond the building regulations in setting local energy efficiency standards.

With regard to new clause 12, a local planning authority will, in future, be able to decide where optional requirements are necessary and appropriate to apply, and this provides a mechanism for local discretion and increasing local control. It sets out clear and unambiguous parameters for the discretion, and the optional requirements will be subject to robust assessment and proper challenge. There are benefits to that. For example, in an area such as mine, water stress is a particular concern, and it will be possible for local councils to set a different water efficiency standard for such an area. Another example is that houses built for wheelchair users should have different standards from those designed for non-wheelchair users. It will be possible for that to be set out as an option in the building regulations. Setting technical requirements solely in building regulations will provide certainty, consistency and clarity about where to look.

Thomas Docherty: May I take the Solicitor-General back 30 seconds to his point on disability access? I apologise if I have misunderstood, but will he confirm that he is not suggesting that these provisions would somehow supersede the Disability Discrimination Acts, which say that new-build housing and public buildings have to be wheelchair accessible? Can he clarify what he meant about the options for disabled access?

The Solicitor-General: It is simply that it will be possible to set voluntary standards for a property used by a wheelchair user. I say voluntary, but the local authority will be able to say that if a particular kind of housing is built, it should have particular features. Equally, it will cover water stress, as I mentioned. However, there could well be other aspects.

New clause 13 amends the Planning and Energy Act 2008, which allows local planning inspectors to require that buildings meet higher energy efficiency standards than in building regulations. This change is needed because the Act has done its job, and the building regulations requirements for energy efficiency have been strengthened considerably since 2008. When the Act was introduced, energy efficiency requirements in new homes, such as fabric insulation and high-spec windows,

[The Solicitor-General]

were much lower than they are now. Local planning authorities wanted to go further, and the Act set out how they could.

However, in 2014, we are in a very different position. The Budget has reiterated that, from 2016, new homes will have to meet the zero-carbon homes standard. That means that carbon emissions from energy used to heat, light and power building services in a home will need to be mitigated. The Government have a clear approach to applying the zero-carbon homes policy, based on high standards of energy efficiency. Other on-site measures can include renewable energy technologies, such as solar panels, and also support for off-site measures, such as low-carbon district heating schemes, to mitigate the carbon, which is not technically feasible or cost-effective to deliver through on-site measures. National building regulations for energy efficiency for new homes have been strengthened by more than 30% since 2008, saving £200 from the average fuel bill.

Through the work of bodies such as the independent Zero Carbon Hub, we now have a much better idea of what is technically feasible and cost-effective to require from energy efficiency standards for new homes. We are more aware of the risks and unintended consequences of overheating. The Government therefore think it best for these issues to be dealt with coherently in the national framework of building regulations, based on the best evidence and analysis, rather than through independent local actions on an ad hoc basis, however well-meaning. The Government consulted on a proposal for a building regulations approach to delivering energy-efficient homes and there was broad support for that.

It may be worth mentioning a little more about the Planning and Energy Act 2008. My right hon. Friend the Member for Sevenoaks (Michael Fallon)—now the Minister of State, Department for Business, Innovation and Skills—was the promoter of that Act, which was introduced as a private Member's Bill. He has agreed the proposed amendment and supports the change. The amendment to the Act is about reflecting the progress made towards delivering zero-carbon homes from 2016. It allows developers to get on with the job of delivering energy-efficient homes, making sure they meet the strong requirements of the building regulations. New clause 13 will be commenced by order. The hon. Member for Dunfermline and West Fife mentioned the Disability Discrimination Act—the measure will help to deliver it. With those few remarks, I commend the two new clauses to the Committee.

Government amendment 24 has the effect that the new clause and schedule inserted by new clause 8 and new schedule 1 will come into force two months after the Bill receives Royal Assent.

Thomas Docherty: I shall make a few observations, if I may. As the Government have already indicated, this is part of a wider package—as the Government see it—to bring together various building regulations. Opposition Members are concerned, so perhaps the Solicitor-General can provide some reassurance.

Apart from a short written ministerial statement from the Government, we have not seen in any reasonable detail what the overall package of new regulations will look like. A slightly more churlish individual than me might suggest that the Government are putting their cart before their horse, and that it might be better to introduce the draft regulations for detailed consultation. The Select Committee on Communities and Local Government might want to bring in this month's Housing Minister for a discussion and to have a broader discussion with local authorities. Then we could have considered these new clauses.

If the Minister will be so generous, will he outline in slightly more detail the time line for those regulations to be introduced for parliamentary scrutiny? I risk sounding slightly churlish, but it appears that the Government are almost doing the enabling works without setting out what those works will look like and asking us to take them at face value. Will the Minister set out the time scale and perhaps put some flesh on those bones, if I may slightly mix my metaphors?

Opposition Members broadly welcome consolidation and simplification, but it is crucial that we do not have lower building standards as a result. On new clause 13, we welcome localism. This is one area where there has been a long-standing consensus about the need to give local authorities greater empowerment. As the Law Officer said, that process began under the previous Government.

9.15 am

We are slightly concerned, however, about the unintended consequences in the current economic climate. As the Law Officer indicated, the good intention is to try to give local authorities the ability to raise standards in their area. As a Member of Parliament, you will know, Mr Chope, that there is a real tension in local authorities at the moment. When they seek to attract investment into their area, they do not want to appear to place additional requirements or burdens on potential investment companies wishing to bring jobs or homes to the area. There is perhaps a concern—I am looking for reassurance from the Solicitor-General on this—that making those things optional has the unintended consequence of creating a race to the bottom.

For example, some local authorities might say, "Actually, we're not going to have additional requirements on access or energy efficiency in new buildings" and go for what is, in effect, a lower-cost set of buildings. We need to be careful, given the ongoing fragility of the economy—if I can put it in a broadly non-political way—that good local authorities, that are keen to support their communities and share their aspiration to make buildings more energy-efficient, are not deterred by neighbouring local authorities that are, for whatever reason, not working to the same standard.

Will the Minister set out what the Government will do to encourage the high standards we all wish to see with regard to water stress, energy efficiency and disabled access? What resources do they believe local authorities will need to meet those aspirations? I would be grateful if the Law Officer could briefly respond to those points.

John Hemming (Birmingham, Yardley) (LD): Good morning, Mr Chope. It is a pleasure to serve under your chairmanship.

As the Minister says, the 2014 Red Book states on page 63 in paragraph 2.23, which is headed "Zero carbon homes":

"At Budget 2013 the Government committed to implement 'zero carbon homes' from 2016."

I understand the Government will shortly publish their response to last year's consultation. That is very welcome, but we could do with greater reassurance on new clause 13. It would be particularly helpful to have some clarity on what are and what are not allowable solutions, because those are a moveable feast, and there is not much clarity on them at the moment. That issue might give rise to something that could do with review on Report, and I therefore ask the Minister to give some clarity.

The Parliamentary Secretary, Office of the Leader of the House of Commons (Tom Brake): On allowable solutions, I want to reassure my hon. Friend that they are clearly part of the zero-carbon homes package and that the Government support the ability to offset outside an on-site environment.

John Hemming: That is very good, but we need greater clarity on allowable solutions because they can be a very small or very large element. I am interested in the Minister's response to those points.

The Solicitor-General: It is, of course, important that there is consultation at each stage, and there has been quite a considerable amount of consultation so far. The written ministerial statement set out the details of the proposed regulatory changes, dealing with issues such as access, security, water and the like. It stated that those will be published in draft this summer and brought into force by the turn of the year, so, as the hon. Gentleman would expect, there will be opportunities for further consultations on this.

It is important to stress that this is not about reducing safety standards, and the proposals will not amend safety standards in any way. However, it is necessary to have the powers to ensure it is possible to move forward with the housing standards review and take into account local housing plans and local energy efficiency policies. The powers will enable us to move forward with the overall approach, which has been consulted on. The Government expect to strengthen building regulations further, and any energy-efficiency standards included in the regulations will be subject to further consultation. However, the date for the consultation is 2016, so there is some time to go.

The hon. Member for Dunfermline and West Fife will appreciate that the building regulations and the changes that are being made are substantial, so it is necessary to take some time over them. However, I assure him that there will be consultation at every stage.

Thomas Docherty: I am most grateful to the Minister for giving way. We both agree that all houses need strong foundations. He is right to say that something like 100 regulations apply to new build houses, and the Government want to get rid of 90% or so. Given the timeline that the Minister outlined, why did the Government introduce the new clause in the Bill rather than table clauses or a stand-alone Bill after the substantive body of work is finished?

The Solicitor-General: The point I was trying to make is that a number of authorities are in the process of producing local plans. Clearly, the new approach needs to be taken into account. If councils take the powers, it will mean that they are clear about what policies they can and cannot have in their local plans. It will create more certainty.

On the question my hon. Friend the Member for Birmingham, Yardley asked about allowable solutions, the Government stated in Budget 2014 that we will publish our conclusions from the consultation on allowable solutions. He will not need to wait long to see the full detail of that. I want to assure the Committee that the Government are taking a measured approach and consulting at every stage. However, we want to take these powers so local council are not misled when they prepare local plans. We want to ensure that they do not produce plans that do not meet the requirements of the new policy.

Amendment 25 agreed to.

Amendment made: 26, in clause 68, page 44, line 9, after 'Schedule 17' insert

'other than paragraphs 23A, 23B and 26A of that Schedule'.—*(Oliver Heald.)*

This amendment has the effect that the provisions inserted into Schedule 17 by amendments 21 and 22 will come into force on a day appointed by the Secretary of State in a commencement order.

Clause 68, as amended, ordered to stand part of the Bill.

Clause 69 ordered to stand part of the Bill.

New Clause 8

AGRICULTURAL HOLDINGS ACT 1986: RESOLUTION OF DISPUTES BY THIRD PARTY DETERMINATION

'Schedule(Agricultural Holdings Act 1986: resolution of disputes by third party determination)amends the Agricultural Holdings Act 1986 to provide for certain matters arising under the Act to be capable of third party determination.'.—*(Oliver Heald.)*

This amendment inserts a new clause which introduces the new Schedule inserted by amendment NS1.

Brought up, read the First and Second time, and added to the Bill.

New Clause 9

PRIVATE HIRE VEHICLES: CIRCUMSTANCES IN WHICH DRIVER'S LICENCE REQUIRED

'(1) Section 46 of the Local Government (Miscellaneous Provisions) Act 1976 (vehicle, drivers' and operators' licences) is amended as follows.

(2) In subsection (1)(b), for "driver of any private hire vehicle" substitute "driver of any vehicle when it is in use as a private hire vehicle".

(3) After subsection (1) insert—

"(1A) For the purposes of this Act, a reference to a vehicle being in use as a private hire vehicle is a reference to a private hire vehicle which—

(a) is in use in connection with a hiring for the purpose of carrying passengers; or

(b) is immediately available to an operator to carry out a booking for a private hire vehicle."

(4) After subsection (2) insert—

"(3) If, in any proceedings for an offence under this section in which it is alleged that the defendant contravened subsection (1)(b), the prosecution prove that a private hire vehicle was at any time being used on a road to carry one or more passengers, it is

to be presumed, unless the contrary is shown, that the vehicle was, at that time, in use in connection with a hiring as mentioned in subsection (1A)(a).'".

This amendment inserts a new clause which allows people who do not hold a private hire vehicle driver's licence to drive a licensed private hire vehicle when the vehicle is not being used as a private hire vehicle (for example, a licensed private hire vehicle driver's partner could use the vehicle for a family outing).—(Tom Brake.)

Brought up, and read the First time.

Tom Brake: I beg to move, That the clause be read a Second time.

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

Government new clause 10—*Taxis and private hire vehicles: duration of licences.*

Government new clause 11—*Private hire vehicles: sub-contracting.*

Tom Brake: The purpose of the new clause is to free up many families from the need to run a second car by enabling people who do not hold a private hire vehicles driver's licence to drive licensed private hire vehicles when they are not being used commercially. One significant problem with the existing legislative framework governing private hire vehicles is that case law has thrown up some unexpected interpretations of the law. Before 1997, it was generally accepted in the private hire sector that a private hire vehicle could only be driven by a licensed private hire driver when it was being used as a private hire vehicle. A judgment in 1997 stated that the law prohibited a person without a private hire driver's licence from driving a licensed private hire vehicle at any time. At a stroke, that meant that thousands of families had to buy a second car, which is clearly a burden too far. We consider that burden ideal for reform under the Bill.

There is a precedent for the change we are introducing. Because the judgment was made in 1997, Parliament took account of it when framing the much newer legislation governing private hire vehicles in London. The Private Hire Vehicles (London) Act 1998 allows a person who does not hold a private hire driver's licence to drive a licensed private hire vehicle while it is off duty. The legislation we are amending applies in England outside London and Wales, but not in Plymouth, where different legislation governs private hire vehicles.

I recognise that some concerns have been expressed about the safety element and effective enforcement. That is why we have incorporated a reverse burden of proof in the clause. If a driver without a PHV driver's licence is caught driving a licensed PHV with a passenger on board, the clause places the onus on that person to show that the vehicle was not being used as a hire vehicle at the time. In most cases it will be abundantly clear in a matter of seconds that the passenger is in the vehicle as part of general domestic use to which the vehicle can now be put, such as a mother picking up her child from school. It will also quickly become apparent if the passenger's sole reason for being in the vehicle is to do with private hire work. In those cases it seems to be completely reasonable to put the burden of proof on the driver to show that they were not driving for private hire purposes, should they not be licensed to do so. That added safeguard should meet the concerns expressed about safety and enforcement.

New clause 10 allows private hire vehicle operators to subcontract to each other across licensing boundaries. That will allow private hire vehicle operators to work more flexibly and to grow their businesses. Passengers will be able to rely on their local operator, rather than being turned away when the operator cannot directly fulfil the booking. Under the triple licence requirement, private hire operators are licensed within a district and must use only vehicles and drivers licensed by the same local authority as granted their operator licence. It is important that that requirement remains in place for the moment, although we will revisit the whole issue when we consider the Law Commission's report.

Travel patterns, however, are not neatly aligned with district borders. That is why private hire operators are allowed to accept bookings for journeys which go beyond the district or which are wholly outside the district. It is currently prohibited for a licensed operator to subcontract a booking to an operator in a different district. An operator can only subcontract bookings to an operator licensed in the same district. That is clearly restrictive and the Government consider it ripe for reform. The clause will allow a private hire operator licensed outside London—although not based in Plymouth, because of the exception—to subcontract a booking to another operator in a different district or based in London or based in Scotland. That liberalising measure will enable the private hire trade to operate in the way it sees fit, not just in the way that the restrictive legislation dictates. Operators will be able to choose, on a commercial basis, whether to fulfil a particular journey by using their own vehicles and drivers or whether it would be preferable to subcontract the booking to another, more conveniently located operator. There will be positive consequences for the environment, as there will be less dead mileage.

The measure will also have considerable benefits for passengers, as they will no longer have to search for and approach an alternative operator at busy times. In particular, it will enable passengers with special needs to receive a better service. If an operator, for example, has no wheelchair-accessible vehicles in its pool of vehicles, it can none the less accept the booking and subcontract it, rather than simply turning away the passenger. I stress that the initial operator remains liable to the passenger who made the original booking, as the law deems the contract to continue between the original operator and the person who booked the journey, even if the service is subcontracted to another operator. As such, the original operator will not be able to absolve him or herself from all responsibility for the journey by passing it to another operator. The original operator will therefore have a direct interest in ensuring that the actual journey is successfully completed, so it should only subcontract to a trusted operator. The clause applies solely to private hire operators, because taxi operators are not subject to regulation.

9.30 am

I shall now discuss new clause 11. The legislation that covers taxi and private hire vehicle drivers and private hire vehicle operators in England and Wales outside London and Plymouth allows a licensing authority to grant—

James Duddridge (Rochford and Southend East) (Con): I apologise to the Minister for interrupting his flow. I am shortly due to go to Plymouth, Moor View to

campaign for Johnny Mercer, the Conservative candidate in that constituency. If I pick up a taxi there, I will wonder why it is licensed in a different way. Will taxis in Plymouth ultimately receive the same benefits as are to be brought to taxi drivers elsewhere by the amendments and new clauses to the Bill?

Tom Brake: Clearly, I will not wish the hon. Gentleman too much good luck in his campaigning for Johnny Mercer, but—

James Duddridge: It is a two-horse race.

Tom Brake: I am sure it is a two-horse race, and may the best horse win.

It is entirely up to the authorities in Plymouth whether they adopt the legislation. I hope that at some point they will, because for customers—passengers—it is of benefit. Clearly, that is a decision that they will have to take at an appropriate time.

Going back to new clause 11, the legislation I mentioned allows a licensing authority to grant a driver's licence for a maximum of three years and a private hire vehicle operator licence for a maximum of five years. The intention at the time was that licences should be for three years and for five years.

Toby Perkins (Chesterfield) (Lab): We are all interested in the exemptions for London and for Plymouth. Will the Minister explain a little more where the exemptions come from and, specifically, whether other cities in future may for other reasons apply for exemptions to the existing policy on private hire vehicles?

Tom Brake: London and Plymouth do not have exemptions as such. London has London-specific legislation on private hire vehicles and, as I stated earlier, that legislation is more up to date, because it was passed in connection with the Greater London authority. The situation in Plymouth dates back to the 1976 Act, which at the time Plymouth chose not to opt into, although it may choose to opt in at any point, in which case the provisions in the Bill, once passed, would apply in Plymouth as well. As I understand it, all that is required for Plymouth to opt in is a motion in the council calling for it to happen and, if a majority of the Plymouth councillors voted for the motion, this legislation would then apply.

Toby Perkins: I am grateful for the clarification. Does that mean that any local authority may opt out of the 1976 Act at any time to be in a similar position to Plymouth?

Tom Brake: I will seek guidance, but I assume not, on the basis that all local authorities opted into the 1976 Act, with the exception of Plymouth. It is also worth pointing out, however, that the Law Commission is doing some ongoing work on taxis. The expectation is that it will come up with a proposal for national legislation which, if adopted, would standardise the law throughout the country.

John Cryer (Leyton and Wanstead) (Lab): Why do we not simply wait until the Law Commission comes up with a comprehensive proposal, rather than pushing something through now without, from what I can gather, any consultation?

Tom Brake: The reason for coming forward with these limited proposals is that there is nothing wrong in principle with addressing some localised issues. I wait to hear what the Opposition Front-Bench team have to say, but I hope that they will be supportive of concise measures that affect a limited area of private hire vehicle activities while allowing the Law Commission to do more detailed work on a whole range of issues. I do not think that those two things cannot run in parallel, which is why we have identified the matter as something on which the Government can take action now and that has a significant positive deregulatory impact. It will assist the operators of private hire vehicles and their passengers, who will receive a better service.

Chi Onwurah (Newcastle upon Tyne Central) (Lab): I thank the Minister for giving way. I do not want to disappoint him in advance of the disappointment that he will experience when I stand up to make my speech, but we do not view the new clauses in the same way and, as my hon. Friend the Member for Leyton and Wanstead suggested, are concerned about the process.

Tom Brake: I thank the hon. Lady for that clarification. I am sure that she will go into more detail about the Opposition's concerns shortly.

New clause 11's purpose is to standardise at three years the duration of both taxi and private hire driver licences and at five years the licence for a private hire vehicle operator. Any shorter periods will be on account of the circumstances of any particular application, but the expectation is three years for drivers and five years for operators.

Caroline Nokes (Romsey and Southampton North) (Con): I want to draw to the Minister's attention a recent case in Southampton in which a group of taxi drivers were convicted for violent offences. Will the Minister reassure me that any changes to the licensing period will not in any way hamper local authorities from reconsidering licences at an earlier point?

Tom Brake: I can certainly give that assurance, because both under the new proposals and the current rules there is no change in terms of applying the Criminal Records Bureau test or the new Disclosure and Barring Service test.

The effect of standardising licence duration is that licence holders in areas where the licensing authority currently grants licences for shorter durations will no longer have routinely to apply for renewals of their licences at shorter frequencies than the three or five years' standard duration. Far too many licensing authorities have now adopted a policy of routinely granting driver and operator licences for a period much less than the maximum. The Department for Transport carries out a biennial survey of licensing authorities to understand the various licensing policies in place around the country and it was apparent from its 2013 survey that over half of licensing authorities grant taxi and private hire driver licences for less than three years. The survey also discovered that a substantial proportion of licensing authorities routinely granted private hire operator licences for less than five years. That amounts to a tremendous amount of unnecessary cost for licence holders and places far

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too great a burden on them in terms of going about the process of applying for renewals. The Government consider that that is one area of taxi legislation that would benefit from deregulation. By setting a standard duration of three years for taxi and private hire vehicle driver licences and five years for private hire vehicle operator licences, we will be making life a lot simpler and substantially cheaper for licence holders. We estimate that the measure will save drivers around £8 million a year and operators around £1 million a year.

I appreciate that some of those responsible for licensing have expressed fears about the possible adverse safety implications, as just raised by my hon. Friend the Member for Romsey and Southampton North, from allowing drivers to have a licence for three years. I understand the importance of safety, which is one of the principal reasons why we have a licensing system in the first place. The licensing system must, however, be proportionate and recognise that where there is a requirement there is a cost.

The element of the licensing process about which licensing authorities seem most concerned relates to driver suitability. It is the case now that licensing authorities—even those who grant annual licences—carry out criminal record checks only every three years, and they will continue to be able to carry out formal checks on drivers every three years. Moreover, the new Disclosure and Barring Service enables licence holders to sign up for an automatic update that provides a mechanism for licensing authorities to be alerted to any convictions during the currency of a licence. We are not entering uncharted territory. Taxi and private hire drivers in just under half of provincial licensing areas—and in the whole of London—are granted for three years.

Chi Onwurah: It is a great pleasure to serve under your chairmanship once again, Mr Chope, and the pleasure is increased by the knowledge that the Bill Committee is in its final day. As my hon. Friend the Member for Dunfermline and West Fife said, there would be a holiday atmosphere in the Bill Committee today were it not for the fact that the Government chose to table so many new clauses at the last moment.

The Solicitor-General: I do not know whether the hon. Lady has looked at the list, but an awful lot of them are not Government new clauses.

Chi Onwurah: I thank the Law Officer for his intervention, but the Government new clauses were tabled at the last minute and with a lack of notice. At the same time, a parallel process is under way, which causes us concern about the new clauses.

James Duddridge: Is it not correct that there are only three broad groupings of new clauses?

Chi Onwurah: I thank the hon. Gentleman for that intervention; that is correct. However, we had some warning about the other new clauses, so we anticipated and were able to discuss them, but these new clauses were tabled at short notice. I will discuss that when I explain the reasons for our concern.

The Solicitor-General: The hon. Lady is aware that the Sikh Council wants a change made to the requirement to wear helmets. Why should the Government not respond? My hon. Friend the Member for North West Leicestershire tabled an excellent new clause about the BBC, and we accepted it. Surely that is what a Bill is all about. The hon. Lady herself tabled eight new clauses.

Chi Onwurah: I thank the Law Officer for that intervention. As I will set out, the new clauses on private hire vehicles were tabled at the last moment and with minimal notice. We have repeatedly characterised the Bill as a rag-bag or a Christmas tree Bill, but these three new clauses are particularly poisonous and were tabled particularly hastily, so we are extremely concerned about them.

John Cryer: On new clauses 9, 10 and 11, the Law Commission is supposed to be coming forward with some sort of new Bill next month. From what I can gather, Ministers have been saying that they are not meeting with interested parties, but these proposals have been banged through at the last minute in a Bill that was completely unexpected.

Chi Onwurah: I thank my hon. Friend for clearly setting out our concerns, which I will explain in a bit more detail. Notwithstanding the Minister's interventions, the process by which we have come to be discussing the new clauses has, frankly, been utterly shambolic. It is no way to make changes to laws that will affect public safety.

As my hon. Friend indicated, the Government committed to reforming private hire vehicle regulation in 2011. The Department for Transport asked the Law Commission to undertake a comprehensive review of the legislation governing taxis and PHVs, with the aim of modernising and simplifying it. This is a complex area, and many of us have concerns about the effect of the law in our constituencies. It was therefore appropriate that a long-term review was undertaken by such an august body as the Law Commission.

In May 2012, the Law Commission launched a consultation on taxi deregulation. It included a number of proposals, including the three we are considering today. The final report and recommendations have been subject to continuous delays, and are currently expected at the end of April 2014—I do not know whether there will be an update on when they will be published. The industry has many stakeholders. It has been involved in an ongoing process for the past few years now. I therefore share my hon. Friend's surprise that, in parallel with their own review, the Government should launch another review with a 10-day informal consultation on the three measures.

9.45 am

Toby Perkins: My hon. Friend has laid out the length of time that this issue has been looked at and the background to the process, as it was understood. Does she have any suggestions as to why the Government did not put the measures in the Bill originally, but have now brought them forward at the last minute? Is it to minimise any opposition and any opportunity for scrutiny? Does she have any other ideas?

Chi Onwurah: I am afraid it is not within my means to explain the Government's actions on this matter, but the Committee would agree that any lack of scrutiny of the three new clauses as a result of their being tabled at the last minute would be a dereliction of our duty to taxi drivers and our constituents more generally, as they often use taxis as an important means of transport.

After that long process of consultation with the Law Commission, I understand that just over a week ago, at 4.40 pm on Friday 14 March, industry and union representatives were told that the proposals were being added to the Bill. That is unacceptable. Perhaps the Solicitor-General will clarify this point for us, but it is possible that the motivation for rushing to add the measures to the Bill with barely a week's notice was that Ministers realised that the delays to the Law Commission process meant that the proposals might not be brought forward before the election.

That point is further emphasised by the Cabinet Office guidance on consultations, which says:

"Timeframes for consultation should be proportionate and realistic to allow stakeholders sufficient time to provide a considered response".

It goes on:

"For a new and contentious policy"—

this policy is contentious—

"12 weeks or more may still be appropriate. When deciding on the timescale for a given consultation the capacity of the groups being consulted to respond should be taken into consideration."

Where in that guidance do we see reflected a situation in which a disparate industry with many different stakeholders and interested parties is given only 10 days' notice of proposals?

The proposals before us have not been properly deliberated by the trade and the time scale has not allowed for any consultation to help to form a considered and reasoned response. All stakeholders who have contacted me have stated that the informal consultation on the measures has been completely inadequate. Their inclusion in the Bill in such a manner will threaten safety and could increase litigation.

Will the Minister tell us what will now happen to the long-running work of the Law Commission? The Government have spent, we assume, a considerable amount of money commissioning the Law Commission to carry out a survey of and consultation on all taxi and private hire laws, not just the three measures put forward today. Does he accept that the new clauses would undermine that work if it is to continue, and is he confident that 10 days of consultation is adequate?

Let me briefly quote from some contributions I have received. Given that these provisions were not in the Bill when we took evidence, it is important that we hear evidence from the trade. The GMB professional drivers section says that

"this microscopic consultation is a short cut to removing the high standards that exist in local authorities for drivers and licensed vehicles which ensure that every licensed driver and vehicle can deliver a safe and professional service to the public."

Tom Brake: The hon. Lady referred to the short consultation. I thought it might be helpful for her to know that the Law Commission carried out four months of comprehensive consultation between May and September 2012, which included these three specific measures.

Chi Onwurah: I thank the Minister for his contribution, but I said that the Law Commission's long and forward-looking consultation included these three proposals. I see difficulties if they are picked out of an ongoing consultation and rushed through when, as we have seen with many other aspects of this Bill, the overall impact of the regulation is such a concern. For example, with the planning regulation changes, it was the full package that made them acceptable to the Committee. Here we have three clauses picked out without the full package.

Does the Minister agree with Brighton and Hove Streamline taxis, which operates a mixed fleet of some 350 taxis and private hire vehicles, all licensed by Brighton and Hove city council? It said:

"'Consultation' was offered to a select few bodies in January, but with only a ten day response time allowed. A further 'consultation' has been offered now but not widely promoted, again with a tight deadline and then only in respect of possibly onerous licensing conditions."

Does the Solicitor-General agree that the Government's behaviour in starting one consultation with the Law Commission and picking out amendments and putting them in a separate Bill with minimal consultation brings the consultation process into disrepute?

New clause 9 allows people who do not hold a private hire vehicle licence to drive it when it is not being used as a PHV. The Parliamentary Secretary indicated that London was a precedent for the change. London has one of the largest taxi markets in the world and it is a global city. As we saw with the exceptions for investment in transport and regulation of local transport, it is not appropriate to say that that is a precedent for transport throughout the rest of the country. Under the new clause, family members may use a PHV as long as they do not use it as a PHV. The Minister suggested that that was totally straightforward, but the proposal is potentially dangerous and deserves full consultation and consideration. He said that if a family member is caught driving the PHV with someone else in the car, the real circumstances would be obvious. What evidence does he have that that would be obvious, and how are they likely to be caught? On what basis would the police stop PHVs to determine whether a family member or licensed driver was driving it?

Industry and unions are seriously concerned about the new clause. The National Private Hire Association and the Institute of Licensing are seriously concerned about the safety implications. Minicabs are working vehicles that require licensed drivers. The Minister recognised to a certain extent that the measure carried with it at least the possibility of undermining public safety.

Enforcement against the illegal use of licensed vehicles would, I believe, be almost impossible. The industry has said that there would have to be a provision for an indicator that a vehicle was off duty or a restriction such as spouses only, with a wedding certificate required as proof. That opens up all kinds of possibilities for confusion and strange altercations on the roadside if the drivers of such vehicles are asked for wedding certificates. Unite and the GMB, which between them represent thousands of taxi drivers, have stated that the proposals will endanger the safety of the travelling public. The safety of the travelling public must be our prime concern in this legislation; I am sure that it is. I have been pleased to see campaigns in London, for

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example, that ask the public to pay particular attention to the nature of the private hire vehicles they use, to ensure that they do not use rogue vehicles.

Tom Brake: The hon. Lady has made lots of references to serious safety concerns, but she has not set out what those are. I hope she is going to do so.

Chi Onwurah: I think I have indicated that having someone who is not licensed driving a private hire vehicle with the intention of taking passengers is a serious safety concern, and I hope the Minister would agree that it is.

Tom Brake: Is that not an issue now? Someone can do that now.

Chi Onwurah: It certainly is an issue now. That is one of the reasons for campaigns such as the one I just referred to, which alert the public to the issues and make people—particularly young women travelling at night—more aware of the possibility of rogue drivers. My concern, and the key concern of those I have mentioned, is that the new clause makes that possibility more likely and more difficult to police. It will increase the number of unlicensed people who can drive a PHV and, therefore, the potential for rogue drivers and rogue vehicles. It will make identifying them more difficult, so the problem will be harder to police. As the Committee will no doubt have gathered, we oppose new clause 9 and will scrutinise it further on Report should it become part of the Bill.

New clause 10 sets a standard duration of three years for taxi and minicab drivers' licences, and a standard duration of five years for minicab operators' licences. Industry and unions have expressed concern during the limited time available. The National Private Hire Association and the Institute of Licensing have said that the clause would remove flexibility from councils, and there are already concerns about how effectively drivers are scrutinised. The Minister made some reference to that. There are also concerns that the ring-fenced income from renewing licences would have to be replaced from elsewhere and that, as a consequence, councils may be less likely to obtain information material to each individual licence.

Finally, I turn to new clause 11, which is heralded as a liberalising measure because it would allow minicab operators to subcontract a minicab booking to another operator licensed in a different licensing district. The Minister referred to that as a liberalising measure. He also gave the impression that, by enabling their local providers to subcontract, it would give passengers more choice, because they could then use their local provider. However, that would mean lengthening the supply chain. Indeed, passengers would not be using their local provider; they would be using a subcontractor. Even if responsibility lay with the local provider, as the Minister set out, the subcontractor would be driving and operating the vehicle.

10 am

Tom Brake: Does the hon. Lady not accept that without these changes, the passenger, having made a phone call to their local operator, will be told, "I'm afraid I can't help you," and will then have to make another phone call—possibly a series of phone calls—to identify an operator who can help?

Chi Onwurah: I thank the Minister for that intervention. Clearly we are not saying that the current licensing regime is beyond improvement—indeed, we hope the Law Commission will identify improvements in its work—and there certainly needs to be better provision for flexibility. However, rushing through the new clauses in this way, outside the full context of the Law Commission's ongoing work, risks raising concerns that will not necessarily be addressed by that review, particularly as we have not had the final report.

When I book a minicab, I expect to get a car from the company I booked with. Allowing operators to subcontract bookings to cabs licensed in other districts breaks that link. I know from many of the submissions made to me and from talking to other hon. Members that there is a real concern that this will precipitate a race to the bottom in licensing. Specifically, the new clause risks creating minicab flags of convenience. It effectively allows minicab operators to get around local licensing conditions and would also make effective enforcement of local licensing by licensing authorities impossible, thereby further driving down standards. Brighton and Hove Streamline argues that

> "By sub-contracting a booking an operator devalues the customer's right of choice. In a competitive market, the customer will select the preferred supplier and there may be particular reasons why the customer has a particular bias against the sub-contracted operating company or driver(s). It may be argued that the customer can refuse the pick-up but, again, this is a diminution of service."

I have been impressed by the work of Northumbria police with Vera Baird, our police and crime commissioner, to ensure that taxis and drivers of passenger-carrying vehicles are sensitised to the dangers that women in particular may face late at night when seeking to return home in a potentially inebriated state. The terrible and tragic case of a young woman who was raped twice after a taxi driver refused to take her because she appeared unsteady on her feet has emphasised the importance of that work in Northumbria and Newcastle and inspired us to continue doing it.

As well as decreasing customer choice, the new clause could undermine licensing and enforcement by local authorities, as it undermines their ability to control standards in their areas and could therefore put passengers at risk. As Unite said in its submission:

> "Many authorities have policies governing the appearance of both taxis and PHVs to ensure that they are distinctive to the public"—

that is the case in Newcastle.

> "This proposal will make members of the public vulnerable to illegal pickups when the (licensed) vehicle is being driven by an unlicensed driver."

We strongly oppose the clause for those reasons.

We oppose the Government's piecemeal changes to the regulation of private hire vehicles, which are completely inappropriate in the context of the comprehensive reforms proposed by the Law Commission. Interestingly, as a consequence of the precipitate nature of the clauses that are being appended, trade unions, industry bodies and a wide range of others have expressed their criticisms to me and many other Members. Unite's submission states:

"These proposals/amendments are a last minute attempt by the DfT to get something on the statute books with no proper full consultation with stakeholders having…taken place and without waiting for the Law Commission's draft Bill."

As I know from my attempts to study it, taxi and minicab regulation is complex. Ministers should be working collaboratively with the industry, drivers and passenger groups, rather than rushing contentious clauses through Parliament—I hope I have shown that the clauses are contentious—in this manner, with barely a week's notice. The consultation on the new clauses has been completely inadequate. There has not been time properly to consider their consequences, and I urge the Committee to reject them.

John Hemming: Although I agree with the shadow Minister that the Minister's speech on new clause 10 was about new clause 11 and vice versa, from a procedural perspective saying that the new clauses were tabled at the last minute is a mistake because this is not the last minute—this is the end of the Bill Committee. The Bill will be considered on Report, and it will then go to the House of Lords. The Bill will potentially come back to the House of Commons. It does not help to exaggerate the situation. I think it is very good that the Government have tabled these new clauses in Committee, rather than on Report.

Thomas Docherty: The hon. Gentleman, like me, serves on the Procedure Committee. Has he forgotten the Committee's report, to which we both signed up, that said that the problem is that the Government table far too many new clauses on Report that we do not have adequate time to consider? My hon. Friend the Member for Newcastle upon Tyne Central is entirely right to say that if we want decent scrutiny, Committee is the only opportunity to have it.

John Hemming: I thank the hon. Gentleman, who is also a member of the Procedure Committee. The Bill is in Committee, not on Report. The Procedure Committee's criticism was about tabling new clauses on Report, and we are not on Report. We are in Committee.

John Cryer: The point is that the proposals were going to be in a draft taxi, minicab and private hire Bill due to be published next month. All of a sudden—and this is unexpected, however the hon. Gentleman wants to dress it up—the proposals have been thrown into this Bill, which by any stretch of the imagination is a dog's breakfast, to be banged through quickly.

John Hemming: I agree with the hon. Gentleman that this is a Christmas tree Bill with lots of baubles, but this is not the last minute. For people to argue that this is the last minute is procedurally wrong.

John Cryer: I am sorry, but I was looking forward to a three-hour peroration by the hon. Gentleman. New clauses 9, 10 and 11 are grouped together, and I emphasise that the industry and the relevant trade unions were expecting a draft Bill to be published next month. I declare an interest because I am a proud member of Unite, the union of Ernie Bevin, Jack Jones and various other luminaries.

Chi Onwurah: I thank my hon. Friend for reminding me that I should have declared an interest: I am also a proud member of Unite.

John Cryer: I am told by Unite that Baroness Kramer, the Minister in the other place, was asked for a meeting next month on what would be the draft Bill, and what perhaps still will be the draft Bill. I am not impugning her motives, but she said that she would not have a meeting until the draft Bill was published. Unite members and others active in the industry—members of trade unions, and people who are not members—now find that these three new clauses seem to have been added at the last minute and to be being rushed through by the Government.

There does not seem to be a clear reason why. Perhaps there is some incentive to Ministers from the DFT to get something on the statute book by the time of the next election, because at the moment there might not be anything. Perhaps that is why they are not waiting for the draft Bill: it is a bit late in the day. Nevertheless, these three new clauses should be in the draft Bill.

To follow on from what my hon. Friend the Member for Newcastle upon Tyne Central was discussing, when the public lose their right to choose the provider of their lift home, often late and night and while they are travelling alone—I am talking mainly about women passengers—there is the potential for a dangerous situation. When somebody rings a particular provider, it is often because they have faith and trust in that provider. When a different provider turns up, that provider might not be trustworthy, and they will certainly not be known to the passenger.

Toby Perkins: Let me bring to bear an example that might reinforce my hon. Friend's point. I got a taxi home with my wife from an event a few years ago. About a minute after we got out, my wife realised that she had left her handbag in the taxi. We phoned the taxi company instantly to get the taxi driver, who was heading to his next fare, to look for the handbag. To cut a long story short, it never appeared. The more complicated that relationship is, the more difficult it is to trace who has the handbag, for example, and the more difficult it is for the police to investigate the theft.

John Cryer: I am grateful to my hon. Friend for that worthwhile example. The other point that I want to address—again, my hon. Friend the Member for Newcastle upon Tyne Central has already made it—is that allowing people with ordinary licences to drive private hire vehicles could create situations in which people are vulnerable to illegal pick-ups.

Tom Brake: May I bring the hon. Gentleman back to the issue that he raised about contacting a preferred private hire vehicle operator? This is about scenarios in which people contact their preferred private hire vehicle operator but are told, "We do not have a cab available and cannot help you"—end of conversation. They put the phone down, and they then have to make a call to a completely different private hire vehicle operator. In the scenario that we are discussing, they will make the call to their preferred private hire vehicle operator, which will then subcontract the job to another firm, which must comply with all the licensing requirements.

John Cryer: Well, I would have thought that the Liberal Democrats were in favour of consumer choice; that is what they are always telling us. They are in favour of everything at one time or another, but I would have thought that they were in favour of that. The scenario that the Minister described does not normally happen. What normally happens is that the private hire operator says, "We haven't got a cab available, but we recommend this company," but it is up to the passenger to make that decision, not the provider of the service. It is a matter of consumer choice. I sometimes have my suspicions when it comes to consumer choice, because at times I am accused of being old Labour. However, in this case, I am all in favour of it.

Tom Brake: The hon. Gentleman has just said that the person has called their preferred private hire vehicle operator. Is he now saying that their preferred private hire vehicle operator is not capable of identifying a subcontractor who is a responsible party?

John Cryer: This is like angels dancing on the head of a pin. What I am saying is that the passenger, not the provider, should have the choice. The Minister is saying that the provider should have the choice.

Toby Perkins: May I give an example that might help the Minister understand what sort of situation we are talking about? Let us say that the customer had a former husband who was a taxi driver for a certain company, and the customer decided that they never wanted to use that company again because the relationship had ended in an unfortunate fashion. They phone a different taxi company because they want to use it, and that company subcontracts the job to the company that the customer never wanted to use again.

John Cryer: That is a good example; I wish I had thought of it.

Toby Perkins: Maybe that is why some of us are on the Front Bench and some are not.

Hon. Members: Ooh!

John Cryer: I give way to my hon. Friend the Member for Newcastle upon Tyne Central.

Chi Onwurah: Perhaps my hon. Friend can help me. Inasmuch as I understood the Minister, he seemed to be saying that the job would be subcontracted only if the minicab company that had been called had no cars available. Do you see where it says that in the text?

10.15 am

The Chair: Order. It is for the hon. Member for Leyton and Wanstead to answer, rather than me.

John Cryer: The answer is no, Mr Chope. I should have said at the beginning that it is a pleasure to serve under your chairmanship again.

Moving on to the final point, which I have been trying to make for the last few minutes, as my hon. Friend mentioned, many authorities have a distinctive livery sported by their private hire vehicles. If people with an ordinary licence are allowed to drive a private hire vehicle with livery, it makes people more vulnerable to illegal pick-ups.

Going back to my first point, the three new clauses have been introduced unexpectedly—the industry did not expect it to happen—and I hope that the Government might, even now, say that they will defer them until the publication of the draft Bill next month.

Kelvin Hopkins (Luton North) (Lab): It is a pleasure to serve under you chairmanship, Mr Chope. I apologise for having been absent for a period; I was in another Committee and it was unavoidable.

I support strongly what my hon. Friends have said. To declare an interest, I am a member of the GMB union, which represents many thousands of taxi and cab drivers. I am also a regular user of cabs and taxis in my town and jurisdiction of Luton, especially since I have had a certain indisposition.

I strongly support what my hon. Friends said about locality, local control, people knowing who they are engaging and so on. Indeed, passengers' safety must be the first priority. Having the cabs and taxis in good mechanical order is also important, as is looking after the livelihoods of taxi drivers, who are represented by unions that lobbied us and spoke to us, making strong points. We ought to retain strong licensing control by local authorities and not liberalise in any way from where we are now. Indeed, it is possible that stronger legislation to regulate in future, rather than liberalisation, would be helpful.

One has to talk about particular jurisdictions. Luton, which I have the honour to represent, is a contained area and one tends to get to know the cab drivers and cab companies—many cab drivers are personal friends of mine—so I am familiar with what goes on. We are comfortable about that kind of relationship with one or another of the particular companies in our jurisdictions. Anything that goes beyond the boundaries of the local authority is not sensible. For example, I would be uneasy about people taking cabs from another jurisdiction in their own area.

That is the situation in Luton, but in some areas, such as London, which is much larger, the trade is much more anonymous than in many of our constituencies. In such areas in particular, regulation should be tight, because problems of abuse of passengers by unregulated minicab drivers have been particularly prevalent in the big cities such as London, because they are much more anonymous and people do not know who they are talking to.

Anything that increases familiarity, local control and proper democratic regulation by the local authority is the way to go. Deregulation is not the way to go. I am happy to support my hon. Friends in opposing the Government's three new clauses and hope that the Minister withdraws them as common sense prevails.

Tom Brake: First, I shall respond to the points made by the hon. Member for Newcastle upon Tyne Central in her opening remarks. She highlighted the fact that there were a large number of new clauses at the end of the Bill, but omitted to confirm that eight of them were hers, so if there are a large number, it is not as a result of the Government's tabling them, but of the Opposition's providing them for us to debate.

Chi Onwurah: Does the Minister think that the Opposition have the same duty to give a notice period in consultation as the Government, who have the entire civil service at their disposal?

Tom Brake: I think that the hon. Lady needs to make decisions about what standards she thinks are applicable to the new clauses that she is putting forward, but certainly, as I have mentioned before, I think that it would be appropriate for the Opposition to provide explanatory notes for the measures that they propose.

The Solicitor-General: Does my right hon. Friend agree that if, by some unlikely chance, the Government were to accept one of the Opposition's new clauses, we would not hear a squeak about procedural irregularities or difficulties?

Tom Brake: Indeed. I am sure that the Opposition would welcome the Government's willingness to take on board their proposals. Often, the Opposition concentrate on the process. I understand why they do that, but often it is at the expense of the substance of what the Government are proposing.

Toby Perkins: The right hon. Gentleman is making a very odd point. This is a Government Bill. Inevitably, we will want to make amendments and to apply new clauses at the end of the Bill. We are not in a position, in opposition, to bring in our own Bill, so of course we will table new clauses. The Government have the time to decide what will go in it. That is why it is important that there is time to consult properly on these measures.

Tom Brake: The hon. Gentleman has made my point for me, in that he wants to concentrate on the process as opposed to what the Government are actually proposing. The first line of attack from the Opposition was that there was not enough consultation. I pointed out that the Law Commission consulted on this for a total of four months. That included the three measures that we are talking about. These are very specific, discrete measures. I did not hear from the Opposition an explanation as to why they felt—despite the discrete nature of the measures, the consultation that had been carried out through the Law Commission and the further consultation with eight bodies, which the hon. Member for Newcastle upon Tyne Central mentioned, over 10 days in January 2014—that these discrete measures were such a risk to the public.

Chi Onwurah: The Minister seems to believe that by calling these "discrete" measures, he makes them discrete, but it is certainly the case that, for example, the licence period and the ability to subcontract vehicles have implications both within and outside a licensing authority, so I do not understand how the measures can be called discrete.

Tom Brake: The hon. Lady has highlighted the risks associated with the measures, which implies that they are not discrete in the way that the Government are saying. But let us consider what we have in London, for instance; the hon. Lady referred to the biggest market anywhere. Many of these proposals have been tried and tested and work effectively in what is the largest market for taxis. That is why I think that her concerns about safety are not justified.

Let us come to the substance of what the Government propose. Once the Law Commission has finished its review, which we expect to happen in April, we will of course listen to stakeholders' views.

John Hemming: On new clause 9, would the Minister consider, as the Bill goes through Report stage and through the House of Lords, whether it would be useful to have some sort of visual representation that a vehicle is not being used for private hire at a time when there is a non-licensed driver, just to improve the safety position?

Tom Brake: I thank my hon. Friend for that suggestion. However, I think that what is fundamental about this is the enforcement aspect—ensuring that vehicles are checked—because of course even if there was a means of showing that a vehicle was or was not in use, that could still be turned on and off erroneously or illegally by someone who was not actually able to operate the vehicle, who was not licensed to operate the vehicle.

Why are the Government doing this now? Apart from the fact that they are discrete measures, the Government do not intend to introduce a dedicated taxi Bill in the final parliamentary Session, so there is only this opportunity to ensure that we put in place some of the measures that we think will make a substantial contribution to reducing burdens on the industry and improving facilities for passengers. This is the opportunity that we have; we do not have another opportunity in this Parliament.

Chi Onwurah: Could the Minister elaborate? Is he saying that there is not an opportunity in this Parliament to bring forward measures about taxi and private hire vehicles?

Tom Brake: What I am saying is that there is not an opportunity to bring forward a dedicated taxi Bill that would sweep up all the proposals from the Law Commission that the Government wanted to proceed with. Contrary to what the Opposition claim, this Government are running flat out and the Labour party will have the opportunity to scrutinise many challenging Bills after the Queen's Speech. There will be no down time in Parliament so there is no slack that would allow us to provide an opportunity for a dedicated taxi Bill.

John Cryer: Is the Minister saying that the notion that there was a plan to bring forward a draft Bill next month is not the case; or was there a plan to bring forward a draft Bill next month but he does not think there is time? After all, we have timetabling. Personally, I am opposed to timetabling, but we have got it.

Tom Brake: The Law Commission will come forward with its proposals in April, but I am saying that there is not a chance to bring a Bill forward. There is no parliamentary legislative slot available for a dedicated taxi Bill in the last Session.

To continue focusing on why we are taking these matters forward notwithstanding the Law Commission review process, we identified these changes and think they will have a beneficial impact on business. We have assessed the savings that will be derived from them and

[Tom Brake]

are satisfied that there will be benefits achieved by making these changes now. We do not think that the decision to proceed with them in any way undermines what the Law Commission review will come forward with.

Safety has been a focus of the debate and I reassure all members of the Committee that local authorities have powers to suspend or revoke driver licences. They have those powers to do it with immediate effect in cases where there are serious safety implications. Nothing we are doing in this Bill changes that. As I stated earlier, it is the case now, and continues to be, that they can check the records of drivers every three years with the CRB or the barring service. We have also added a new process, a helpful development, where drivers opt to sign up for the disclosure and barring system update service, and then the licensing authority will be alerted to any new convictions during the currency of a licence. This is an additional safety measure that the Government have put forward.

A lot of time was spent saying that subcontractors would in some way be a risk to passengers. Of course, the subcontractors have to comply with exactly the same requirements as the main contractor. So there is no issue that is exacerbated by safety because they comply with the same requirements as the contractor. On choice, we think that if passengers ring their preferred private hire vehicle operator asking for a journey to be undertaken and it has to be passed on to a subcontractor, perhaps because a vehicle is unavailable or the journey is a fair distance away from where the operator is, people should be allowed to make a choice. Labour Members seem to think that the choice is to call the preferred private hire vehicle operator, be told that, sorry, they cannot help, and then have them put the phone down. Clearly that is not much of a choice.

The hon. Member for Leyton and Wanstead said that helpful contractors will say: "I cannot help you, but here is the name of another firm that might be able to." Perhaps some of them do that, but it still requires the passenger to undertake a further phone call, as opposed to being able to complete that journey with their preferred operator who will, I am sure, have ensured that they entered into subcontracting arrangements only with responsible subcontractors. The respectability of the preferred contractors will of course depend on their employing or working with subcontractors that are also good operators.

10.30 am

I hope that I have addressed all the points made. The measures are discrete, sensible and a way of ensuring, first, that there is deregulation, leading to significant savings in the private hire vehicle industry, and secondly, that although there are no safety implications, from a passenger perspective there is a greater degree of certainty about people being able to ring an operator and get the service delivered to them there and then, as opposed to being passed off with another phone number that they will need to call. I commend the new clauses to the Committee.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 11, Noes 5.

Division No. 12]

AYES

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

NOES

Cryer, John	Onwurah, Chi
Docherty, Thomas	
Hopkins, Kelvin	Perkins, Toby

Question accordingly agreed to.

New clause 9 read a Second time, and added to the Bill.

New Clause 10

TAXIS AND PRIVATE HIRE VEHICLES: DURATION OF LICENCES

'(1) The Local Government (Miscellaneous Provisions) Act 1976 is amended as follows.

(2) In section 53 (drivers' licences for hackney carriages and private hire vehicles)—

(a) in subsection (1)(a), for "for such lesser period as the district council may specify in such licence" substitute "for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case";

(b) in subsection (1)(b), for "for such lesser period as they may specify in such licence" substitute "for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case".

(3) In section 55 (licensing of operators of private hire vehicles), for subsection (2) substitute—

"(2) Every licence granted under this section shall remain in force for five years or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case." '.—*(Oliver Heald.)*

This amendment inserts a new clause which sets a standard duration of three years for a taxi and private hire vehicle driver's licence and a standard duration of five years for a private hire vehicle operator's licence. A lesser period may be specified only if appropriate in a particular case. At present, licensing authorities could have a general policy of specifying a lesser period.

Brought up, read the First and Second time, and added to the Bill.

New Clause 11

PRIVATE HIRE VEHICLES: SUB-CONTRACTING

'In the Local Government (Miscellaneous Provisions) Act 1976, after section 55 insert—

"55A Sub-contracting by operators

(1) A person licensed under section 55 who has in a controlled district accepted a booking for a private hire vehicle may arrange for another person to provide a vehicle to carry out the booking if—

(a) the other person is licensed under section 55 in respect of the same controlled district and the sub-contracted booking is accepted in that district;

(b) the other person is licensed under section 55 in respect of another controlled district and the sub-contracted booking is accepted in that district;

(c) the other person is a London PHV operator and the sub-contracted booking is accepted at an operating centre in London; or

(d) the other person accepts the sub-contracted booking in Scotland.

(2) It is immaterial for the purposes of subsection (1) whether or not sub-contracting is permitted by the contract between the person licensed under section 55 who accepted the booking and the person who made the booking.

(3) Where a person licensed under section 55 in respect of a controlled district is also licensed under that section in respect of another controlled district, subsection (1) (so far as relating to paragraph (b) of that subsection) and section 55B(1) and (2) apply as if each licence were held by a separate person.

(4) Where a person licensed under section 55 in respect of a controlled district is also a London PHV operator, subsection (1) (so far as relating to paragraph (c) of that subsection) and section 55B(1) and (2) apply as if the person holding the licence under section 55 and the London PHV operator were separate persons.

(5) Where a person licensed under section 55 in respect of a controlled district also makes provision in the course of a business for the invitation or acceptance of bookings for a private hire car or taxi in Scotland, subsection (1) (so far as relating to paragraph (d) of that subsection) and section 55B(1) and (2) apply as if the person holding the licence under section 55 and the person making the provision in Scotland were separate persons.

In this subsection, "private hire car" and "taxi" have the same meaning as in sections 10 to 22 of the Civic Government (Scotland) Act 1982.

(6) In this section, "London PHV operator" and "operating centre" have the same meaning as in the Private Hire Vehicles (London) Act 1998.

"55B Sub-contracting by operators: criminal liability

(1) In this section—

"the first operator" means a person licensed under section 55 who has in a controlled district accepted a booking for a private hire vehicle and then made arrangements for another person to provide a vehicle to carry out the booking in accordance with section 55A(1);

"the second operator" means the person with whom the first operator made the arrangements (and, accordingly, the person who accepted the sub-contracted booking).

(2) The first operator is not to be treated for the purposes of section 46(1)(e) as operating a private hire vehicle by virtue of having invited or accepted the booking.

(3) The first operator is guilty of an offence if—

(a) the second operator is a person mentioned in section 55A(1)(a) or (b),

(b) the second operator contravenes section 46(1)(e) in respect of the sub-contracted booking, and

(c) the first operator knew that the second operator would contravene section 46(1)(e) in respect of the booking." '.—*(Oliver Heald.)*

This amendment inserts a new clause which allows a private hire vehicle operator to sub-contract a private hire vehicle booking to another operator who is licensed in a different licensing district outside London or based in London or in Scotland.

Brought up, read the First and Second time, and added to the Bill.

New Clause 12

Optional building requirements

'After section 2A of the Building Act 1984 insert—

"2B Optional requirements

(1) Building regulations made by the Secretary of State may include requirements that apply only if a local planning authority in England decide that they apply in respect of a particular development or class of development in the authority's area.

(2) In the following provisions of this section, a requirement included in building regulations by virtue of subsection (1) is referred to as an "optional requirement".

(3) Building regulations may specify that an optional requirement is capable of applying only in respect of development of a kind described in the regulations.

(4) Building regulations may specify conditions that must be satisfied before a local planning authority may decide that an optional requirement is to apply.

(5) Building regulations may specify the steps that a local planning authority must take to inform a person subject to an optional requirement of the requirement.

(6) Where building regulations include an optional requirement that would (to any extent) be inconsistent with another requirement imposed by the regulations, the building regulations must provide—

(a) that the other requirement does not apply in any case where the optional requirement applies, or

(b) that the other requirement applies in any such case with modifications specified in the regulations.

(7) In this section —

"development" has the same meaning as in the Town and Country Planning Act 1990 (see section 55 of that Act);

"local planning authority" has the same meaning as in Part 2 of the Planning and Compulsory Purchase Act 2004 (see section 37 of that Act)." '.—*(Oliver Heald.)*

This amendment inserts a new clause which amends the Building Act 1984 to confer powers to include provisions in building regulations that become requirements only where a local planning authority so determines.

Brought up, read the First and Second time, and added to the Bill.

New Clause 13

Amendment of Planning and Energy Act 2008

'In the Planning and Energy Act 2008, in section 1 (energy policies), after subsection (1) insert—

"(1A) Subsection (1)(c) does not apply to development in England that consists of the construction or adaptation of buildings to provide dwellings or the carrying out of any work on dwellings." '.—*(Oliver Heald.)*

Section 1(1)(c) of the Planning and Energy Act 2008 allows local planning authorities to require that buildings meet higher energy performance standards than those set out in building regulations. The new clause inserted by this amendment disapplies this for dwellings in England, as Government policy is that all such requirements should be set out in building regulations.

Brought up, read the First and Second time, and added to the Bill.

New Clause 18

Requirements to wear safety helmets: exemption for Sikhs

'(1) Section 11 of the Employment Act 1989 (exemption of Sikhs from requirements as to wearing of safety helmets on construction sites) is amended in accordance with subsections (2) to (10).

(2) In subsection (1), for "on a construction site" substitute "at a workplace".

(3) In subsection (2), in paragraph (a), for "on a construction site" substitute "at a workplace".

(4) In subsection (5), in the opening words, for "on a construction site" substitute "at a workplace".

(5) After subsection (6) insert—

"(6A) This section does not apply to a Sikh who—

(a) works, or is training to work, in an occupation that involves (to any extent) providing an urgent response to fire, riot or other hazardous situations, and

(b) is at the workplace—

(i) to provide such a response in circumstances where the wearing of a safety helmet is necessary to protect the Sikh from a risk of injury, or

(ii) to receive training in how to provide such a response in circumstances of that kind.

(6B) This section also does not apply to a Sikh who—

(a) is a member of Her Majesty's forces or a person providing support to Her Majesty's forces, and

(b) is at the workplace—

(i) to take part in a military operation in circumstances where the wearing of a safety helmet is necessary to protect the Sikh from a risk of injury, or

(ii) to receive training in how to take part in such an operation in circumstances of that kind."

(6) In subsection (7)—

(a) omit the definitions of "building operations", "works of engineering construction" and "construction site";

(b) before the definition of "injury", insert—

""Her Majesty's forces" has the same meaning as in the Armed Forces Act 2006;";

(c) at the end insert—

""workplace" means any premises where work is being undertaken, including premises occupied or normally occupied as a private dwelling; and "premises" includes any place and, in particular, includes—

(a) any vehicle, vessel, aircraft or hovercraft,

(b) any installation (including a floating installation or one resting on the seabed or its subsoil or on other land covered with water or its subsoil), and

(c) any tent or moveable structure."

(7) In subsection (8), in paragraph (b), for "on a construction site" substitute "at a workplace".

(8) In subsection (9)—

(a) for "relevant construction site" substitute "relevant workplace";

(b) for "construction site" (in the second place where it occurs) substitute "workplace".

(9) In subsection (10), for the words from ""relevant construction site" to the end of the subsection substitute ""relevant workplace" means any workplace where work is being undertaken if the premises and the activities being undertaken there are premises and activities to which the Health and Safety at Work etc. Act 1974 applies by virtue of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2013."

(10) In the sidenote, for "on construction sites" substitute "at workplaces".

(11) Section 12 of that Act (protection of Sikhs from racial discrimination in connection with requirements as to wearing of safety helmets) is amended as follows.

(12) In subsection (1)—

(a) in paragraph (a), for "on a construction site" substitute "at a workplace";

(b) in paragraph (b), for "on such a site" substitute "at such a workplace".

(13) In subsection (3), for "Subsections (7) to (10)" substitute "Subsections (6A) to (10).".'.—*(Oliver Heald.)*

This new clause extends the scope of the exemption under section 11 of the Employment Act 1989, currently limited to construction sites, so that turban-wearing Sikhs will be exempt from legal requirements to wear a safety helmet in a workplace of any kind (subject to exceptions set out in section 11(6A) and (6B) as amended).

Brought up, and read the First time.

The Solicitor-General: I beg to move, That the clause be read a Second time.

The effect of the new clause is that turban-wearing Sikhs will be exempt from legal requirements to wear a safety helmet in all workplaces, subject to certain exclusions, and not only on a construction site. It also extends the limited liability provisions of the exemption to those persons, such as employers, who hold a legal requirement in respect of the wearing, provision or maintenance of safety helmets by the exempt Sikh individual.

As I previously mentioned, the new clause is the result of representations by the Sikh Council UK.

Toby Perkins: The Labour party strongly supports and welcomes the new clause. We are pleased that the Government have listened to the representations of the Sikh Council and from the Sikh community, allowing Sikhs to wear turbans instead of head protection in all workplaces.

There is an existing exemption under section 11 of the Employment Act 1989, allowing Sikhs to wear turbans in place of hard hats on building sites. As we would all recognise that building sites are among the most dangerous working environments in the country, it is an anomaly that the exemption is not already in place for other workplaces and industries. Sikh organisations say that the exception has led to problems for turban-wearing Sikhs in other areas where the risk from failing objects is likely to be lower than in construction. Likewise, rule 83, which is under the "Rules for motorcyclists" section of The Highway Code, clearly exempts

"a follower of the Sikh religion while wearing a turban"

from helmet rules.

There is a clear precedent for further deregulation and a clear incentive to act. Members of the Sikh community have faced disciplinary hearings and dismissal for refusing to wear head protection and others are unable to follow their chosen professions because of the insistence on the need to wear head protection. That is arguably discriminatory.

Before we move on, I want to reflect the representations I have had from the Sikh Council UK and members of the Sikh community on the importance of the turban within their faith and say a few words about the role that Sikhs have played in British history over the past couple of centuries. The turban is a hugely important part of a Sikh's faith, and as a tolerant and open country our laws should reflect and promote that. To many Sikhs, the turban is the most important identification of their faith. By having a distinct appearance, Sikhs become accountable for their actions and representations made it clear that the turban makes them think more about their conduct, its reflection on wider society and what it says about their faith. It also makes them reflect on the teachings of the Sri Guru Granth Sahib. That is why the Sikh Council UK has long campaigned for the change and broadly welcomes the new clause.

Turban-wearing Sikhs have been a part of the British landscape for at least two centuries, and nowhere is that better seen than in our armed forces, which represent the ultimate dangerous occupation. In 2012, Guardsman Jatenderpal Bhullar became the first turban wearer on guard duty outside Buckingham palace. That was an incredibly important moment, with a turban-wearing Sikh at the heart of the British establishment. We all know that Sikhs have been an integral part of our services for a long time. Rattray's Sikhs was a famous regiment of the Army renowned for its martial prowess and never-say-die attitude. A young Winston Churchill nearly lost his life rescuing a wounded Sikh when he fought in the Malakand campaign of 1897. Twenty-one Sikhs from the Indian army's Sikh regiment won awards for gallantry at the battle of Saragarhi. Sikhs are very much a part of our island story and we want that contribution to be visibly demonstrated in workplaces across the country. The clause represents an opportunity to do that.

We would, however, like to ask the Minister a few questions, to clarify anomalies and ambiguities in the clause. Will he clarify the territorial extent of the clause? Many of the other new clauses clearly specify where they apply, whether that is to England, to England and Wales, to Great Britain or to the whole United Kingdom. The new clause is not clear on that. For example, will Sikhs working in Northern Ireland be covered by the new clause? Will he clarify exactly what is meant by "workplace"? Will the clause apply to workers on call or those working as contractors, either from their home or other people's homes? Will he inform us whether further amendments will require primary legislation or statutory instrument?

We recognise, as do community organisations like the Sikh Council UK, that in extreme cases—for example, our emergency services and armed forces, and in particular those serving on the front line—there might have to be some exemptions from this deregulation. It is important that we have clarity on the law. No one wants to see people in any workplace put into a position of unnecessary danger. With technological changes happening more quickly than ever before, it is important to keep the option of making such amendments as flexible and responsive as possible. I therefore hope that a Minister would always make such decisions as a last resort, on a case-by-case basis. Does the Minister agree that making future amendments by statutory instrument rather than primary legislation would be an important and worthwhile deregulatory measure?

What representations has the Minister received regarding section 12 of the Employment Act 1989, as amended by schedule 26 to the Equality Act 2010? It has been brought to our attention that that section could be interpreted as permitting an employer to use the defence of having a legitimate aim when forcing a Sikh employee to wear a safety helmet in the workplace. Since that could undermine the intention of the new clause, has such an interpretation been considered in its drafting, alongside any other representations? Do further steps need to be taken to correct the ambiguity?

As we expect to hear clarification from the Minister on those points, we look forward to supporting him on such an important piece of deregulation that will mean a lot to many people in our country.

Kelvin Hopkins: I strongly support the new clause. I represent a community—Luton North—with a considerable number of Sikhs. Last Sunday, I attended a local Sikh temple for a celebration. I have been there many times, and was actually present at that temple's opening 32 years ago, which was a great pleasure.

I also have an interest in health and safety. Many years ago, I worked at the TUC, where I was responsible for establishing its construction committee, one of the main considerations of which was site safety. Some years later, I attended a meeting of that committee as a representative of the National and Local Government Officers' Association. Together with Frank Chapple, who was then the general secretary of the Electrical, Electronic, Telecommunications and Plumbing Union, I argued strongly that wearing safety helmets on site should be compulsory and a matter for the law, because many site workers would not wear a hard hat unless required to do so.

That was important, but, of course, I entirely understand and support the exception for Sikhs. Nevertheless, these days many Sikhs choose not to wear the turban—they pursue their faith in other ways. One assumes that Sikhs who do not wear the turban and who are working on sites will be covered by the same rules as all the other people on site—namely, they will be required to wear a hard hat.

Sadly, I have seen the staff of some small companies at small sites, doing work on homes or whatever, not wearing hard hats, and I worry about them. I would not be so patronising as to suggest that they put their hard hat on, but in reality a bolt from a bit of scaffolding falling 20 or 30 feet on to the skull of a human being can cause severe damage, possibly fracturing the skull. It is therefore absolute common sense to wear hard hats, and although the turban would give a bit of protection in such cases, I hope that those Sikhs who do not wear one will be required to wear hard hats.

I would like to see the law strengthened so that small groups of people working in the road or a small building firm working on houses would be required to wear hard hats on site because of the potential danger. I do not have any figures on skull fractures and the injuries caused to people by their not wearing hard hats, but I suspect that they are significant even now, although much better than in the days when wearing a hard hat was unusual.

It is particularly in the nature of males that we do not want to appear to be feeble by taking safety measures. There was a time when we did not wear seat belts in cars. It was only when they became compulsory that we accepted them, because we had to, although I was one of those who wore a seat belt before they were compulsory. Taking proper safety precautions on building sites, in factories and in other areas where there are dangers requires a degree of compulsion in law or many will not bother; many will take chances and cause injury as a result.

10.45 am

Chi Onwurah: My hon. Friend makes a good point about the contribution of culture to the encouragement or promotion of the wearing of hard hats. Does he think that the culture has changed over the time he has been involved? Have the unions played a part in promoting that change?

Kelvin Hopkins: Indeed. I was working at the TUC when the Health and Safety at Work, etc. Act 1974 was introduced. It was a tremendous step in the right direction, a tremendous advance, and we must always be careful, but I have to say that even in the past week I saw some men working on a damaged drain cover outside my home, using diamond-edge stone cutters with no hard hats, no ear defenders and no goggles. I think they were in danger of injury. We have to pay careful attention to health and safety measures of that kind, for the people involved, primarily, but there are also costs to the health service and to the economy of injuries and deaths at work. Health and safety, particularly in these dangerous areas, is of primary importance and I am very happy to support new clause 18.

The Solicitor-General: We have had an interesting debate. On the point raised by the hon. Member for Chesterfield about the meaning of "workplace", the definition is sufficiently broad to cover a situation in which a Sikh is a visitor at a workplace other than his own, or in which a Sikh is driving or travelling in a vehicle or on a motorcycle. It is a wide definition.

On the point about a statutory instrument being necessary in respect of the exclusion for emergency response services and the armed forces, those exclusions only apply in hazardous operational situations by institutions such as the emergency services. That means that all other possible means of protecting the Sikh individual must be considered and rejected in accordance with existing legislation before they can be required to wear specialist head protection. Such a requirement will therefore only be made when it is absolutely in the best interests of that Sikh individual's health, safety and welfare.

Toby Perkins: I am grateful for that, as far as it goes, but will the Solicitor-General clarify, in the event of exemptions, which may be in situations such as the examples he has raised, or may be for new industries that we do not even know exist yet but for which, as they come forward, it would be considered helpful to have an exemption, what would be the process for enforcing that change?

The Solicitor-General: By using the word "necessary" for the exclusions to apply, this will remain appropriate whatever advances take place in technology and the like.

On the question of territorial extent, this covers the UK excluding Northern Ireland at the moment, but Northern Ireland is currently conducting a consultation on the proposal and, subject to ministerial agreement in Northern Ireland and the need to obtain a legislative consent motion, it is intended that these amendments to Northern Ireland legislation will also be tabled in the Bill in due course: we wait to hear about that. As regards section 12 of the Employment Act 1989 and any issue of ambiguity, section 12 provides that the application of a legal requirement to wear a safety helmet on a construction site which is imposed on a turban-wearing Sikh by an employer would not be a proportionate means of achieving a legitimate aim such as to avoid indirectly discriminating against the Sikh individual under the Equality Act 2010. In other words, if an employer attempts to enforce such a requirement on a turban-wearing Sikh, he runs the risk of indirect discrimination against that person.

Finally, I agree with what the hon. Member for Chesterfield said about the Sikhs. They are a fantastic group who have added so much to this country and their history is, as he outlined, a very important part of our cultural background as a country. The amendments will be widely welcomed in the Sikh community, which includes the Sikhs of Hertfordshire and the gurdwaras of Hitchin and Letchworth Garden City.

Question put and agreed to.

New clause 18 accordingly read a Second time, and added to the Bill.

New Clause 19

TV LICENSING: DUTY TO REVIEW SANCTIONS

'(1) The Secretary of State must carry out a review of the sanctions that are appropriate in respect of contraventions of section 363 of the Communications Act 2003 (licence required for installation or use of television recording).

(2) A review under subsection (1) must—

(a) examine proposals for decriminalisation of offences under section 363 of the Communications Act 2003;

(b) begin before the end of a period of three months from the day on which this Act is passed;

(c) be completed no later than 12 months after the day on which it begins; and

(d) be laid before both Houses of Parliament by the Secretary of State on completion and be presented to the BBC Trust.'.—*(Andrew Bridgen.)*

The Clause provides for a review of the sanctions that may be imposed for non-payment of the television licence fee, including proposals for decriminalisation.

Brought up, and read the First time.

Andrew Bridgen (North West Leicestershire) (Con): I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss the following: New clause 20—*TV licensing: alternatives to criminal sanctions.*

New clause 1—*TV licence fee non-payment: de-criminalisation*—

'(1) Section 363 (licence required for use of TV receiver) of the Communications Act 2003 is amended as follows.

(2) In subsections (2) and (3), for "guilty of an offence" substitute "liable to a civil penalty".

(3) Leave out subsection (4) and insert—

"(4) The Secretary of State shall specify by regulations the level of penalty to be imposed under this section.

(4A) Regulations under subsection (4) shall be made by statutory instrument.

(4B) A statutory instrument under subsection (4A) shall not be made unless a draft has been laid before and approved by both Houses of Parliament.".'.

Andrew Bridgen: It is always a pleasure to serve under your able chairmanship, Mr Chope. The amendments concern the uncontentious issue of making non-payment of TV licence fees a civil rather than a criminal offence. New clause 19 was tabled by me and the Attorney-General, as was new clause 20. New clause 21 stands in my name and those of 148 right hon. and hon. Members from across the House.

The aim of new clause 1, which was tabled some weeks ago, is twofold: first, to test the sentiment of the House and its appetite for decriminalising non-payment of the TV licence fee; and secondly, to start a debate about the wider issues and with the stakeholders. I think colleagues will agree that those aims have been achieved. I am told that it is unprecedented in recent years for there to be 149 supporters of an amendment to a Bill. The new clause has created a broad coalition—a rainbow coalition—from across the political spectrum.

I shall mention a few of the names: my right hon. Friends the Members for Wokingham (Mr Redwood) and for Haltemprice and Howden (Mr Davis) and the hon. Members for Hayes and Harlington (John McDonnell) and for Islington North (Jeremy Corbyn). They are at the extremes of the political spectrum and not normally bedfellows. In the middle, there is my right hon. and learned Friend the Member for North East Fife (Sir Menzies Campbell), the right hon. Member for Belfast North (Mr Dodds) and the hon. Members for Brighton, Pavilion (Caroline Lucas) and for Bradford West (George Galloway). We also have support from members of the SNP and Plaid Cymru.

Toby Perkins: I suspect the hon. Gentleman has created a precedent. It is the first time in the history of Parliament that the hon. Member for Bradford West (George Galloway) has been described as being in the middle.

Andrew Bridgen: The hon. Member for Bradford West signed only last Thursday, so he is a late arrival to the bandwagon.

Why do we need to change the law in this way? Imagine the condemnation if the BBC had learned of a banana republic introducing a poll tax on its citizens, irrespective of income, for them to be able to have access to television. Imagine also that that poll tax was enforced by the threat of prison sentences that disproportionately saw women with children detained by the state. Well, there is no need to imagine that scenario, because that is exactly the position in this country.

Thomas Docherty: At the risk of touching on your former role, Mr Chope, that is exactly what the previous Conservative Government did in Scotland. They introduced a poll tax that disproportionately hit women and children, and lots of people who could not pay ended up in prison.

Andrew Bridgen: I presume the hon. Gentleman will remember how popular that was. Perhaps that might be why there is so much support—

Chi Onwurah: Will the hon. Gentleman give way?

Andrew Bridgen: Will the hon. Lady let me finish before jumping in?

Chi Onwurah: I thank the hon. Gentleman for giving way. I was keen to say that the poll tax also applied in England, particularly in my own constituency of Newcastle.

Andrew Bridgen: Yes, and we all remember how unpopular the poll tax was and how quickly it was removed. The television licence fee has a history rather longer than that.

Toby Perkins: I think the hon. Gentleman just said that women and children were being locked up. Can he take me through examples of children being locked up as a result of the non-payment of a television licence?

Andrew Bridgen: I said "women with children." If the hon. Gentleman will bear with me, I have been sent some reports from magistrates that validate that claim.

The television licence fee dates back to 1946 and before that was the radio licence, which originated in the 1920s. The TV licence has been classified as a tax since 2006 by the Office for National Statistics, which stated that

"in line with the definition of a tax, the Licence fee is a compulsory payment which is not paid solely for access to BBC services. A licence is required to receive ITV, Channel 4, Channels, satellite and cable".

It is probably the most regressive tax in the UK today.

Since 1946, little has changed in how the licence fee is calculated and collected, aside from the change to colour television. During that time, satellite, cable and the internet have all emerged as information and entertainment gateways and all without the backing of legislation to collect their payments. While gas, electricity, water, telephone and pay TV suppliers have to use the civil system to recover their funds, we continue to let the BBC enjoy the luxury of having the state act as its debt collector. That special status only serves to fuel an arrogance and sense of entitlement at the BBC and distances the corporation from the very people it is there to serve.

Kelvin Hopkins: It is one thing to be concerned about poor people being compelled to pay, but it is another thing to criticise the BBC. As a strong supporter of the BBC and the principle of the licence fee, I do not support the hon. Gentleman's view.

Andrew Bridgen: The hon. Gentleman is right to make his opinion heard. We will perhaps have a wider debate about the future of the BBC at some point, but he is right that we are here to discuss decriminalising non-payment of the TV licence. However, the BBC itself has somewhat widened the debate.

Gareth Johnson (Dartford) (Con): I am grateful to my hon. Friend for giving way and I commend his tenacity on this issue. We all have strong opinions on the funding of the BBC, but does he agree that the best approach when discussing such matters is a totality approach, rather than looking at any one individual aspect of the BBC's funding in isolation?

Andrew Bridgen: I agree. New clause 19 suggests having a review, and it is important that we do not prejudice the outcome of any such review, which should be as wide-ranging as possible.

David Rutley (Macclesfield) (Con): In my hon. Friend's extensive studies, has he come across any other country that has a similar approach to the UK's? If so, does it have the power to use criminal sanctions to collect licence fees?

Andrew Bridgen: Some other countries do; most do not. Even where they do, the level of the licence fee is considerably lower than in the UK and puts far less of a burden on the lowest paid.

Chi Onwurah: Will the hon. Gentleman give way?

Andrew Bridgen: I would like to make a little progress as I have not even reached my second page yet. There will be plenty of opportunities for further interventions.

I received information yesterday from Saga, a group that represents the over-50s. Members may have heard of it. I am not quite in their target group yet, but I am getting close. The research calculated that more than 50% of over-50s are in favour of decriminalisation, with 23% of the sample being in favour of the status quo. The number polled was 10,000, so it is significant. Paul Green, Saga's director of communications, commented:

"Many of our customers are clearly concerned that time and money is wasted annually prosecuting people who haven't paid their licence fee.

To those who want to see change, it would be far more sensible to make non-payment a civil matter, bringing all the consequences of not paying with it."

Andrew Bingham (High Peak) (Con): Despite my youthful demeanour, I fall into the 50-plus group, although I have not made use of Saga just yet. Does my hon. Friend agree that decriminalisation will alleviate the blocking up of magistrates courts with the pursuance of non-payment cases?

11 am

Andrew Bridgen: Without jumping ahead in my speech, I should say that my hon. Friend is completely right. That is well publicised. According to the latest figures, which are for 2012, there were 182,000 such cases, making up approximately one in nine of all magistrates' cases.

Paul Green from Saga said:

"Chasing this number of errant licence fee payers sounds like a scene straight out of comedy series WlA and shouldn't really be a part of modern Britain."

Although the BBC is trying to downplay the impact on the courts system of prosecuting for non-payment of the TV licence, there is no doubt that the impact is considerable. For 20 years, the Magistrates' Association has been calling for this change. It believes compliance could be improved without recourse to court.

Toby Perkins: The hon. Gentleman seems to oppose the licence fee itself; he has talked about it being a regressive tax. I am not sure whether he is suggesting that those who earn more should pay more for their licences or whether he is making some other case. Is he against the licence fee in principle or is the amendment about what the penalty for non-payment should be?

Andrew Bridgen: The legislation is very clear. It is about the penalty for non-payment and making it a civil rather than a criminal offence. We are coming up to charter review and the charter periods are considerable lengths of time—10 years potentially. Technology has moved on enormously. We did not have smart phones 10 years ago. We did not have iPads. The BBC will need to have a wider debate about its funding mechanism because it needs to move with technology or it will be left behind.

Thomas Docherty *rose—*

Andrew Bridgen: Perhaps the hon. Gentleman will let me finish with the last intervention before he intervenes.

Thomas Docherty: I am trying to be helpful, as I think my hon. Friend the Member for Chesterfield was. The hon. Gentleman is doing it again: he is widening the debate. He is talking about the length of the review and the technology platform. The reality is that many Members on both sides of the Committee do not support his view but support decriminalisation. If he wants to maintain the good will of both sides of the Committee, he needs to knock it off and get back to the decriminalisation issues.

Andrew Bridgen: I take the hon. Gentleman's warning. However, it is difficult to look at one part of the Bill without looking at the whole issue. It will have to be addressed in the near future, but I take on board what he is saying.

I come back to the point. For 20 years the Magistrates Association, representing the people who deal at the sharp end with non-payment of the TV licence fee, has been calling for decriminalisation. It believes that compliance, which is currently very high at 94.5%, could be improved without recourse to the courts. Indeed, the Magistrates' Association contacted me only last week to reiterate its continued support for decriminalisation.

Take, for instance, the comments made to me in an e-mail by John Kiddey, a magistrate in Torquay:

"JPs attend a special briefing by TV Licensing and, in my briefing, we were told that TV Licensing has almost as much power as HM Revenue and Customs in terms of what they can do. The very fact that they were able to lay on a presentation with videos, speakers etc makes me question why the BBC has this special deal on fraud/deception/theft which is not enjoyed by any other public or private company."

Although the BBC appears to be trying to gloss over the amount of court time spent on collecting its debts, the facts speak for themselves. In 2012, as I mentioned, more than 180,000 cases were brought in front of magistrates for non-payment of the TV licence fee, making up one in nine of their cases. The BBC has been briefing that

"they do not want people to go to prison".

Well, in 2012, 51 people were imprisoned for failing to pay fines associated with not having a TV Licence, an increase from 48 the previous year. The BBC has labelled this in its e-mails

"A very small number of individuals",

but another e-mail I have received from a barrister states:

"During my time in Court I was struck by the number of poor people up before the bench who were receiving a criminal conviction for not paying their television licence. Most of them were guilty only because they were very poor. They did not seem to be feckless people, just people who were down on their luck. Prosecuting them was (and is) shameful and remains a blot on our legal system."

Toby Perkins: I imagine that many magistrates will be making exactly the same points about the bedroom tax. Will the hon. Gentleman tell us whether the measures are part of a wider programme of not wanting to see people prosecuted whose only crime is not being wealthy enough to pay their bills and obligations to society, or whether he thinks there should be decriminalisation purely on the issue of the licence fee?

Andrew Bridgen: The hon. Gentleman has to acknowledge that the BBC is the biggest criminaliser of the public on a regular basis in the UK—responsible for one in nine of all magistrates' cases. As we are discussing a Deregulation Bill, now is the right time to put the legislation through. As I understand it, his party is now supporting moves to decriminalise. He should be applauding.

The Solicitor-General: Does my hon. Friend agree that there is a difference between civil proceedings for arrears of rent and the peculiarly strong effect of attending a criminal court? As a barrister, I have attended court and seen the queue of poor people with their children in tow having to make their explanations of the loss of a job, illness or whatever, to get mercy from magistrates. As a barrister, I endorse the comments from another barrister that my hon. Friend has reported.

Andrew Bridgen: The Solicitor-General is absolutely right. There is a huge difference between the threat of criminality and a civil offence. I am not suggesting for one minute that people should find excuses not to pay their dues. Indeed, I will present further evidence to the Committee to back that up.

I move on to another comment from the judiciary. Another magistrate, Joan Horton, commented in a letter to *The Times* back in 2003:

"As a JP, I have for 20 years had the difficult task of sentencing TV licence defaulters, followed some months later by the often hopeless task of fine enforcement. Unlike other offenders, TV licence evaders are predominantly female, many of them benefit recipients with children. The majority are single, struggling to keep their families financially afloat. Food and electricity tokens often take priority over a weekly TV licence payment. If still without a licence, offenders can be re-prosecuted almost immediately unless they dispose of their TVs."

The average cost of keeping a prisoner in prison is about £1,000 a week. Many of those prosecuted are single mothers. Retention of the law comes, then, at a substantial human and financial cost.

I also want to share a story I have been told about what it is like to be pursued by the BBC for non-payment. The person who told me this story wishes to emphasise that she knows that what she did was wrong, but it was not done to try to deprive the BBC of revenue or avoid paying her dues. She says:

"I lost my first reminder and when the second one came in, I walked down to the local post office. I lived in a small village and the local post office didn't offer the service. I had two toddlers and was pregnant and in poor health. I didn't drive and public transport wasn't accessible for my double buggy. I had no internet access and it wasn't possible to pay over the phone.

I will never forget the day that a man came to my door and read me my rights. I felt sick, guilty and worried about what would happen. I remember being so distressed but not being able to turn to anyone as that would mean telling them what I had done. I was too scared to tell my husband and wrote to the courts explaining my circumstances. A couple of days before the case was heard, I was admitted to hospital as I was suffering from pre-eclampsia. I was still in hospital when my husband brought in the judgment. I was found guilty and fined. When I applied for my first job, I declared the conviction and was asked about it at the interview. I felt so humiliated but was offered the job."

That is the harrowing experience suffered by someone who works in the Palace of Westminster; hon. Members probably meet her on a regular basis. She asked to remain anonymous because she has never told her children that she has a criminal conviction, and is so ashamed of it. That is the effect that process has had on that individual: it is something she says she will carry with her for the rest of her life.

The BBC has responded to the proposal by stating that if decriminalisation meant the loss of just 1% of licence income, that would be the equivalent of 10 local radio stations.

James Duddridge: At a number of points my hon. Friend has mentioned briefing by the BBC. Is he concerned about the amount of money the BBC has spent opposing these very sensible changes, with MPs being harangued by lobbyists from the BBC, some of whom are being paid more than £300,000? It seems completely disproportionate to have that type of response to what is quite a sensible move.

Andrew Bridgen: My hon. Friend is absolutely right. Indeed, the effort that the senior BBC executives are putting into persuading and coercing signatories to the amendment to withdraw them, with some success in some cases, so that they can continue to use the law to criminalise the most vulnerable customers, displays a questionable set of priorities, in my view.

So the BBC has been saying, in very emotive language, that even a 1% reduction in its income will result in the removal of 10 local radio stations. This was later ramped up to saying that the BBC might lose £200 million a year, leading to the axing of CBBC and CBeebies—clever media management from the BBC, using the most emotive channels and options, rather than, for instance, using the amount written off by the digital media initiative, when the BBC wrote off £100 million of taxpayers' money.

Oh dear, Mr Chope. Interwoven into the argument is, of course, the future of the licence fee. The BBC has brought it up and it seems determined to expand its fiefdom, with the Director-General, Tony Hall, saying recently that he wants the licence fee to be extended to include the estimated 500,000 UK homes where viewers do not have a TV set but watch corporation programmes on demand on iPlayer. I presume that, to accommodate that, enforcement officers would have to have the right to inspect a person's computer, tablet or phone to look for the iPlayer. That is potentially another huge and insidious invasion of privacy by the state.

Andrew Bingham: My hon. Friend is making a powerful case and I applaud his tenacity. Did he see the article in the newspapers last week that said that the actress Keira Knightley, who did not actually have a television, was hounded for the fee for watching iPlayer?

Andrew Bridgen: I did, and I think my hon. Friend was rather wishing she would come and give evidence to the Committee. I have spoken to colleagues—Ministers and ex-Ministers—who do not have, and never have had a television in their London flat, and they tell me that no matter how many letters they write to the BBC

[Andrew Bridgen]

saying, "I do not have a television in my small flat in London, but I do have one in my family home in my constituency and I pay for a TV licence there," they are getting threatening letters on a monthly basis and have being doing for a long time. I know people in my constituency who do not have a television but feel so intimidated by demands to pay for a licence that they pay for one even though they have no television. If the BBC wants to extend demands for TV licensing to people who do not have a television but view online, they will be seeking another extension of their powers.

Chi Onwurah: I have detected a number of contradictions in the hon. Gentleman's argument, but this one particularly. Earlier he was saying that we needed a review of the BBC's funding because of the incredible changes in technology over the last few decades, and now he is saying that that should not include the different ways in which people are watching the BBC, such as online.

Andrew Bridgen: The hon. Lady misunderstands my argument. I was saying that I would not want to see an invasion of people's privacy to enforce it. Perhaps a licence might be taken out, or the cost might be added to the price when an item is acquired, as in other countries. But I would not want to say what the review should and should not look at. It is a review into how the BBC is funded and the impact of decriminalisation, and needs to be as wide as possible. People could actually look to the future to see where technology is heading.

The comments of the BBC are, to me, symptomatic of an organisation that is showing no interest or desire to move away from the licence fee model backed up by law on criminalisation. I can understand that. I can understand that no organisation or private company that is having its income stream protected by the threat of criminalisation would ever want to give that up. Indeed, James Purnell, director of strategy and digital at the BBC—whatever that means—has gone on the record as saying that the current system of licence fee and enforcement and criminalisation, in his view, "works pretty well". Well, it may work pretty well for Mr Purnell, who is on £295,000 a year of taxpayers' money, and his chums, but I do not think it works pretty well for the 182,000 people who are dragged through the magistrates court, and it certainly does not work pretty well for the 51 people who went to prison.

11.15 am

I had a meeting with Mr Purnell on Thursday last week, where he actually claimed that the BBC did not want, and had never wanted criminalisation. I had not seen the press releases where he maintained this, but he said the BBC had been consistent; they did not want to put anybody in prison and they did not want to give anybody a criminal record. I assured him that I would endeavour to get the Committee to help relieve the BBC of that burden as soon as possible.

James Duddridge: I am just going over in my mind what my hon. Friend just said. Is he saying that Mr Purnell is paid £295,000 a year—double what the Prime Minister is paid? Can he check his figures, because that is just completely ludicrous?

Andrew Bridgen: I am afraid my hon. Friend heard me correctly. Mr Purnell is remunerated £295,000 a year as the director of strategy and digital. It is my belief that this protected and privileged status that the BBC has enjoyed for so long is not its saviour and salvation, but instead has allowed it to become distant and remote from, and in some cases despised by, the very people it is supposed to serve.

Decriminalisation of non-payment of the television licence fee will be a huge catalyst for change, and the way in which the BBC responds and evolves will decide that once great institution's future. As new clause 1 has been so well supported in the debate, I believe that we moved, as a House and as a Committee, from considering whether non-payment should be decriminalised to the matter of how and when. New clauses 19 and 20, in my name and that of the Solicitor-General, deal with that.

New clause 19 is very simple and would allow for a review, to start three months from the enactment of the Bill, which is likely to be in the autumn. The review would consider the impact on the BBC of alternatives to criminalisation for enforcement of its licence fee. I hope that it will examine wider issues for the future, as charter review is so near, and look into a sustainable future funding mechanism for the BBC. It should take no more than 12 months, and would report to both Houses of Parliament and the BBC Trust.

Under new clause 20 the Government would take powers to decriminalise non-payment of the TV licence by statutory instrument, without the requirement to return to either House. That would happen within 24 months of the enactment of the Bill.

Chi Onwurah: Did the hon. Gentleman just say that the statutory instrument by which powers to decriminalise would be taken under new clause 20 would not require going back to either House for its implementation—that it would not happen under the affirmative procedure?

Andrew Bridgen: I believe that I said that the Government would take the power to be able to decriminalise in the future by statutory instrument. I urge all members of the Committee to heed the amount of cross-party support for the proposal.

John Hemming: Having just read the new clause, I confirm that the statutory instrument would be under the affirmative procedure: it would require the authority of both Houses.

Andrew Bridgen: I am sorry; I thank the hon. Gentleman for that correction. I urge hon. Members to support the new clauses, to end the injustice.

The Solicitor-General: May I just confirm that my hon. Friend will not press new clause 1, but that he will press the other two new clauses?

Andrew Bridgen: I am sure that Front-Bench Members will be relieved to know that I am not going to press new clause 1 to a vote. However, new clauses 19 and 20 will set in train the process of ending a great injustice, under which millions of citizens have been criminalised and thousands placed in prison, for no conceivable social benefit, as far as I can discern.

Chi Onwurah: The hon. Gentleman says that we have seen thousands of our fellow citizens placed in prison: how many thousands?

Andrew Bridgen: If the hon. Lady works it out, the number is between 50 and 70 a year, and non-payment has been a criminal offence since 1946, so I suggest that thousands of people will have been placed in prison. If we look at the fact that 155,000 people got a criminal record in 2012, which is the latest year that we have figures available for, and extrapolate that, since 1946 millions of people would have got a criminal record for the offence of not paying their television licence fee.

Jim Shannon (Strangford) (DUP): I totally support new clauses 19 and 20. I put that on record. In my discussions with the BBC, it indicated that a loss of revenue might result from pursuing this policy. I know the hon. Gentleman himself had discussions with the BBC. What was the outcome of those discussions in relation to the loss of income?

Andrew Bridgen: What those at the BBC said to me was that they did not want to criminalise people. What they wanted was a mechanism for obtaining their income stream that worked. I think we can all agree on that, and that is why we are going to have the review. I appreciate that it is impossible to acquiesce to, perhaps, the views of many people in the House who would like immediate decriminalisation. This is a great injustice. However, that is impractical because the BBC has no mechanism in place tomorrow to collect in what it is owed. That is why we need the review. That is why we need new clauses 19 and 20.

I thank the hon. Gentleman, and many other colleagues, for their stalwart support of these amendments. It is worth pointing out that only four colleagues signed the amendment. They were, obviously, pressurised by the BBC's lobbying campaign—a £3.8 billion corporation pitted against a Back Bencher with his mobile phone—and I was disappointed that two of the colleagues who removed their names from the amendment are members of this Committee—the hon. Members for Derby North and for Luton North. I do hope that when they read the reasonable amendments that we have tabled—new clause 19 and new clause 20—they will see that we are accommodating the worst concerns of the BBC and giving it time to come to a new way of collecting in the licence fee or indeed of moving to a new funding mechanism altogether—a mechanism for the future.

Toby Perkins: Let me say on behalf of the hon. Member for Derby North, who is not here, that far from removing his name from the amendment, he was surprised to find that his name had ever been added to it. Let me get that on the record.

I agree with the position that the hon. Member for North West Leicestershire has taken to take forward new clauses 19 and 20 and not new clause 1; but for the sake of those watching this debate, would he explain why he has chosen not to take new clause 1 to a vote but to withdraw it?

Andrew Bridgen: As I set out in my speech, new clause 1 was tabled to test the sentiment of the House and its appetite for decriminalisation. I think it has achieved that across all parties; we have seen that. It was also there to get the debate going. I do not think the hon. Gentleman can disagree that we have had, over the past three weeks, a debate in the wider media about the licence fee and whether it should be a criminal or civil offence.

John Hemming: I congratulate the hon. Member on his tactics of getting Government support by tabling a probing new clause.

Andrew Bridgen: I am sure that my hon. Friend is an expert in all those tactics.

Kelvin Hopkins: The hon. Gentleman mentioned my name. I did remove my name from new clause 1. I did so in view of the fact that both Front Benches apparently have agreed to a review. I thought that was sufficient. I was also concerned—as he will remember from my intervention—about attacks on the BBC. The independence of the BBC is of fundamental importance, and how we finance it has quite a strong bearing on its independence. That is what concerned me. But I accept the decriminalisation point.

Andrew Bridgen: I thank the hon. Gentleman for that.

Decriminalisation—or a civil offence—has a huge effect on those the BBC serves and the perception of the BBC by the populace at large. I believe that the BBC needs to look at this as an opportunity, not a threat, and as a chance to reignite that linkage with the people it is there to serve, rather than subjugating them and forcing them to pay a tax. At its extreme—as the hon. Gentleman knows, and it is a persuasive argument—it is criminalising people simply for the crime of being poor and that should never be a crime. He will never agree with that.

The Solicitor-General: I thank my hon. Friend for his commitment not to press new clause 1. I am also grateful to him for bringing forward the two additional new clauses, which are a sensible way forward.

11.25 am

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

Adjourned till this day at Two o'clock.