PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE (NO. 2) BILL

(Except clauses 1, 5 to 7, 11, 72 to 74, and 112, schedule 1, and certain new clauses and new schedules)

Fourth Sitting

Thursday 1 May 2014

(Afternoon)

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Monday 5 May 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: † Martin Caton, Mr Gary Streeter

† Burt, Lorely *(Solihull)* (LD)
† Dakin, Nic *(Scunthorpe)* (Lab)
† Dinenage, Caroline *(Gosport)* (Con)
Duddridge, James *(Rochford and Southend East)* (Con)
† Elphicke, Charlie *(Dover)* (Con)
† Evans, Chris *(Islwyn)* (Lab/Co-op)
† Fuller, Richard *(Bedford)* (Con)
† Garnier, Mark *(Wyre Forest)* (Con)
† Gauke, Mr David *(Exchequer Secretary to the Treasury)*
† Gilmore, Sheila *(Edinburgh East)* (Lab)
† Glindon, Mrs Mary *(North Tyneside)* (Lab)
Hames, Duncan *(Chippenham)* (LD)
† Heaton-Harris, Chris *(Daventry)* (Con)
† Jamieson, Cathy *(Kilmarnock and Loudoun)* (Lab/Co-op)
Kane, Mike *(Wythenshawe and Sale East)* (Lab)
† Kwarteng, Kwasi *(Spelthorne)* (Con)
Leadsom, Andrea *(Economic Secretary to the Treasury)*
† Leslie, Chris *(Nottingham East)* (Lab/Co-op)
Mahmood, Shabana *(Birmingham, Ladywood)* (Lab)
† McKenzie, Mr Iain *(Inverclyde)* (Lab)
McKinnell, Catherine *(Newcastle upon Tyne North)* (Lab)
† Mearns, Ian *(Gateshead)* (Lab)
† Menzies, Mark *(Fylde)* (Con)
† Morgan, Nicky *(Financial Secretary to the Treasury)*
† Pearce, Teresa *(Erith and Thamesmead)* (Lab)
† Pincher, Christopher *(Tamworth)* (Con)
† Rudd, Amber *(Hastings and Rye)* (Con)
† Rutley, David *(Macclesfield)* (Con)
† Shelbrooke, Alec *(Elmet and Rothwell)* (Con)
† Smith, Henry *(Crawley)* (Con)
† Swales, Ian *(Redcar)* (LD)
† Vaz, Valerie *(Walsall South)* (Lab)
† Wheeler, Heather *(South Derbyshire)* (Con)
† Williamson, Chris *(Derby North)* (Lab)
Wilson, Sammy *(East Antrim)* (DUP)

Matthew Hamlyn, Kate Emms, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 1 May 2014

(Afternoon)

[Martin Caton *in the Chair*]

Finance (No. 2) Bill

(Except clauses 1, 5 to 7, 11, 72 to 74 and 112, schedule 1, and certain new clauses and new schedules)

Clause 12

Recommended medical treatment

Amendment proposed (this day): 4, in clause 12, page 11, line 2, at end insert—

'(6) The Chancellor of the Exchequer shall, within six months of Royal Assent, publish and lay before the House of Commons a report setting out the impact of changes made to the Income Tax (Earnings and Pensions) Act 2003 by this section. The report must in particular set out—

(a) the expected beneficiaries; and

(b) a distributional analysis of the beneficiaries.'.—*(Cathy Jamieson.)*

2 pm

Question again proposed, That the amendment be made.

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

Chris Williamson (Derby North) (Lab): I rise to speak in support of my hon. Friend the Member for Kilmarnock and Loudoun.

I must say that, when I first looked at clause 12, I had to pinch myself, because I thought I was dreaming. I thought, "Here is an example of compassionate Conservatism." Then I realised that "compassionate Conservatism" is, of course, an oxymoron, and the clause is not quite what I thought it was. The important question to bear in mind when looking at the clause is: what is the rationale behind it? Why have the Government made the proposition? I will be interested to hear the Minister's explanation.

I fear that the clause, as my hon. Friend has already pointed out, is yet another example of this Government's antipathy towards the national health service and of an attempt—albeit a relatively small one—to promote private health care. I would be interested to get the Minister's assurance that that is not the case, and to know what his explanation is for the clause.

The question I pose to the Minister is this: what is wrong with the NHS? Why is the clause necessary? If we had a properly functioning and funded NHS that was genuinely supported by the Government, there probably would not be a need for some ruse to benefit the private health care system yet again. We have already seen, with the Health and Social Care Act 2012 passed by this Government, how donors to the Conservative party have benefited from multi-million-pound health service contracts since its passage. It remains to be seen what the consequence will be of this particular little clause we are debating this afternoon.

It is important for us to understand who will benefit from the Government's proposition. My hon. Friend the shadow Minister posed a number of questions that need an answer from the Minister and my hon. Friend the Member for Inverclyde asked how small employers will be able to take advantage of the policy and whether they will be bypassed, as we often see with many other measures proposed by the Government in different areas.

I, too, want to ask a question, regarding the £500 benefit that the Government are proposing. Is £500 an adequate sum? I am not necessarily arguing that it should be higher; as I have already said, if we had a functioning and well-funded NHS, there would be no need for the proposal to encourage the private health care sector. But what happens to people with complex needs? Will £500 be adequate to assist individuals with such needs? As my hon. Friend the shadow Minister said, could it lead to people being forced back into employment when they are not fit to work? Let me make this point again: the NHS is there for a purpose. We all know that the Conservative party voted against it when the NHS was introduced all those years ago—

Alec Shelbrooke (Elmet and Rothwell) (Con): Even you were not born then.

Chris Williamson: That is true, but the philosophy that was espoused by the Conservative party at the time still obtains within the party today, contrary to the protestations we often hear from Conservative Members about how much they support the NHS. The reality—we see this from the measures that they introduce and from the way they vote—is that they speak with forked tongue.

This is a very sensible amendment because it is right and proper that Parliament and the wider general public know and understand. It will be there for all to see who is going to benefit from the proposed changes and what their impact will be. What is the point of introducing a measure if it is unlikely to have any significant impact, or if it is really there simply to benefit the private health care sector? We and the public deserve and have a right to know. We have seen previously that the Government like to introduce legislation in a policy vacuum, without any proper pre-legislative scrutiny, based on ideology rather than on common sense and what is in the best interests of the British people.

It remains to hear what the Minister says and whether he agrees with the proposal; he probably will not, though I think he should. It is a sensible amendment that asks for the impact of the changes and who the beneficiaries will be. Why would any Government Member object to that? What could the rationale be for objecting to identifying the beneficiaries and the impact? Maybe he can enlighten us, but I doubt he will be able to do that. That is why the amendment is before us.

I hope that the Minister can find it in his heart to recognise the common sense outlined by my hon. Friend the Member for Kilmarnock and Loudoun and support the amendment. It would show that there could be some cross-party agreement on this modest and sensible proposition. My hon. Friend made the point that she was not indulging in ideology. She said that some her hon. Friends might wish that she were, and I am probably one of those. She was trying to be helpful, and I hope

the Minister will see that in the spirit in which it was intended, and not base his response on what I have said. He should listen to the common sense of my hon. Friend and support the amendment.

Mr Iain McKenzie (Inverclyde) (Lab): It is a pleasure to serve under your chairmanship, Mr Caton. I have some experience of being offered private medical treatment by my previous employer. Naturally, being an avid supporter of the NHS, I declined. I am sure Government Members will identify with that.

That is why I will pick up some points made today. As my hon. Friend the Member for Derby North said, this is about the implications of encouraging participation in private medical treatment, regardless of a pretty low cap of £500 per annum. Just look at what that would buy you in rehabilitation treatment. I worked for a large employer who offered this and I found it became less and less relevant, because it needed to put in a rounded approach to reducing the sickness absence. That came with preventive measures as well; it was not only offering the treatment but pre-empting it by putting in preventive measures such as advice on nutrition, life changes such as reduction of alcohol, elimination of smoking and the benefits of regular exercise.

That package was put in place at the front end of the offer of medical treatment and the hope was to eliminate the need for that treatment. That is a large commitment for a small employer to put in place. I do not believe that we will see an uptake from small employers. That is why we have sensibly put forward amendments to gauge uptake and where in the country it might arise. What about severe and complex medical problems? Will this provision be offered to those types of employees? The one thing that the private sector does not like is risk and people with complex medical problems are a risk here. We would probably see them exempted. We need to see that this medical treatment is being offered across the board and not just to some employees who are considered low risk.

We have heard about the £500 cap. What does that buy in today's market? I do not say that trying to get someone rehabilitated back into the workplace is not welcome, but realistically it would probably pay for two or three visits to a physiotherapist. The problems that are increasingly seen in the workplace are predominantly back problems, and complex back problems. My area has seen a boom in private physiotherapy outlets. They are inundated with people coming to them with back problems from the workplace because we are now working in new environments where previously we had not spent such a length of time.

A point that has not been picked up on is that many people now work from home and are encouraged to do so by their employer. They may develop common or running problems and so need to visit a physiotherapist on numerous occasions. Those problems will probably continue for many years. Those people may never be cured and may never be seen wholly back in the workplace without repercussions.

What we are asking for is wholly sensible. It would be entirely sensible to adopt these amendments to gauge the beneficiaries, to ensure that the provision is being applied across the board and to look at the distribution analysis of the beneficiaries up and down the country. That would look at the take-up and the commitment of SMEs to this level of support for their employees and, indeed, at the exemption levels probably being too low for those with complex or long-term illness. I hope that the Minister can accept the amendment.

The Exchequer Secretary to the Treasury (Mr David Gauke): It is a great pleasure, Mr Caton, to welcome you back to the chair this afternoon and to respond to the debate on clause 12 which introduces a tax treatment for employers who fund recommended medical treatment for employees on sickness absence.

Allow me to explain these changes before turning to the Opposition amendment. Every year, 130 million working days are lost due to sickness absence and around a million people have a period of sickness absence lasting four to six weeks. Sickness absence leads to annual costs of £9 billion to employers, £4 billion of losses in individuals' earnings and £2 billion of costs to the taxpayer through health care, sick pay and taxes forgone. Indeed, 300,000 employees move from sickness absence on to benefits every year.

I am sure that hon. Members will be familiar with the November 2011 review into sickness absence by Dame Carol Black and David Frost. It recommended the creation of a new occupational health service that would conduct a health assessment when an individual had been absent from work on ill-health grounds for four weeks. It would then provide advice on how they could return to work. The Government accepted this recommendation and the new service, the Health and Work Service, is expected to commence in late 2014.

The 2011 report also recommended that expenditure by employers to help employees to return to work should attract tax relief. In response to this recommendation, the Government agreed to introduce a targeted tax exemption for employer expenditure up to an annual limit. The changes made by clause 12 will exempt from a charge to income tax expenditure by employers to help employees at risk of long-term sickness absence return to work. Without the exemption, such expenditure would be subject to income tax and national insurance contributions.

Evidence suggests there is an increased likelihood of employees moving on to benefits after an absence lasting four weeks or longer. The exemption will therefore be targeted at individuals who are expected to reach or who have already reached four weeks of sickness absence. The exemption will apply to expenditure by an employer on recommended medical treatment up to an annual cap of £500 per employee. Medical treatment must be recommended by either the Health and Work Service or by an occupational health service arranged or provided by an employer. The exemption will come into effect when the new health and work service is launched, which is expected to be in late 2014.

2.15 pm

Sheila Gilmore (Edinburgh East) (Lab): There may be confusion about cause and effect. The Minister stated that those who are off sick for four weeks are more likely to move on to benefits, but those four weeks of absence might signify that they have a grave illness. It is not necessarily the case that if everybody is back at work within four weeks, the problem will be resolved.

Mr Gauke: The hon. Lady makes a reasonable point. It may not be the case in every circumstance, but I hope she shares the Government's objective in clause 12. If we can provide assistance, by using the tax system or through other means, to enable people to get back to work relatively quickly, that is an objective we should seek to meet. It is clearly in the interests of society, the taxpayer and the individuals concerned if we can provide support at an early stage.

The clause will support our objective to widen access to occupational health treatment and encourage employers to engage with the well-being of their employees. It will reduce the administrative burden for employers who pay for recommended medical treatment for their employees. If their expenditure per employee remains below the expenditure cap, employers will no longer have to report the relevant benefits to Her Majesty's Revenue and Customs. We expect around 10,000 businesses a year to benefit from the changes. Our estimates also show that around 140,000 employees will benefit from interventions qualifying for the exemption every year.

On the points raised during the debate, I will first address the administrative burden and how it will apply to small employers. The exemption applies to all employers, regardless of how many people they employ. There will be no need for an employer or employee to make any claim to HMRC. Employers will not need to notify HMRC of any funding up to the £500 annual limit for an employee. The administrative burdens will be minimal. We have ensured that the exemption is easy to understand and administer, and there will be no need to make any particular claim.

The hon. Member for Kilmarnock and Loudoun asked how the measure will work. There is flexibility. For example, an employee could spend his or her own money on occupational health services to help them get back to work and be reimbursed by the employer with no tax consequences. Alternatively, the employer could arrange the treatment. Either approach would work.

The £500 cap is in line with the estimated annual cost of the medical treatment that would typically be recommended to help employees return to work. The Department for Work and Pensions has estimated that the average cost of the medical treatment that is likely to be recommended will be from £150 to £250 per employee. The cap at £500 will enable employers and employees to benefit fully from the exemption where the employer funds two courses of recommended medical treatment for an employee in a year. Consultation responses indicated that the cap is in line with the average cost of the typical treatments likely to be recommended. Those typical treatments include physiotherapy and counselling. We expect most recommended medical treatments to be for musculoskeletal or common mental health conditions. I hope that is helpful to the hon. Members for Inverclyde and for Kilmarnock and Loudoun.

I am struck, in relation to the matter of the £500, by the intervention from the hon. Member for Derby North. He appeared to make the simultaneous arguments that it should not happen at all and that £500 was not generous enough. I hope I have explained the £500 to him. To explain why we are doing this, I recognise that the hon. Member for Kilmarnock and Loudoun's questions were more probing than ideological. The exemption in the Health and Work Service established by the Department for Work and Pensions is intended to be complementary to occupational health care that is already available. Ongoing clinical care will continue to be provided as now by the NHS or by private health care arrangements. Where we can encourage employers to take a close interest in the position of their employees and help them get back to work quickly, we believe that the most sensible and pragmatic response is to do so. This tax relief was recommended by Dame Carol Black and David Frost.

Amendment 4 varies from what we have seen before from the Opposition. By and large, they have presented new clauses calling for reviews. This is a radical departure in being an amendment calling for a review. It would require the Government to publish a report within six months of Royal Assent setting out the impact of the changes made by the clause and an analysis of who is expected to benefit. However, the exemption will not come into effect until late 2014 so any such report would be of limited value in understanding the impact of the clause. A tax information and impact note setting out the impacts on individuals, households and businesses has already been published. The Government keep all tax policies under review.

To conclude, the clause introduces a tax exemption for employers who fund medical treatment recommended for their employees. It will support employers' efforts to help their employees return to work after a period of absence due to illness or injury. I therefore hope that the clause may stand part of the Bill and that the amendment will be withdrawn.

Cathy Jamieson (Kilmarnock and Loudoun) (Lab/Co-op): It is a pleasure to have you in the chair this afternoon, Mr Caton. We have had an interesting, relatively short but thorough debate, not least with the contribution from my hon. Friend the Member for Derby North, who I think may be going soft—not in his old age as he is not as old as the health service, as we discovered—because he at least recognised that the Minister had a heart. That is something that my hon. Friend the Member for Bassetlaw (John Mann) might not have conceded had he been here.

I should also mention the contribution of my hon. Friend the Member for Inverclyde, who spoke of his personal experience about the cost of treatment. I want to add a couple of points. I listened to the Minister carefully. It was almost getting to the point where I might have been persuaded and then something went awry in the middle. That was when he began to talk about the employee arranging and paying for treatment and having it reimbursed, or the employer arranging it for the employee. One of our concerns, particularly in relation to small businesses or people on low incomes, is that it is unrealistic to expect in all circumstances that individuals will be able to pay for treatment and get it reimbursed. What discussions, debates and arrangements are they going to have to make with their employers in doing that? There may be circumstances in which that is possible, but I would not like the expectation to be that the employees had to pay and then be reimbursed. I am sure the Minister will clarify that.

Mr Gauke: I am slightly surprised by the hon. Lady's attitude. This is about giving employers and employees flexibility. It is a tax relief that is open. This is not a compulsory arrangement. But if an employee is, for example, having back problems and arranges some

physiotherapy treatment, the employee can then go back to the employer and say, "This has cost me £150. Can you reimburse me?" The employer can reimburse. There is no tax charge. I am not sure that that is something that is beyond people. But this is not a compulsory arrangement. This is an option available to employers and to employees.

Cathy Jamieson: I hear what the Minister is saying, but perhaps he has not understood the reality of what it is like for many people in the working environment. It is not simply a case of being able to go off, arrange treatment and then go back to the employer and say, "Will you now pay for that? Thank you very much. You will get a tax break." For many employees that would be quite a difficult negotiation. In those circumstances, people may go off and do that but then the employer, for some reason, may say, "I'm not going to reimburse that." It also raises the question about continued treatment or treatments over a period and what was described as the "typical treatment" of up to £250 and the costs being between £150 and £250. That does not seem to fit with the experiences that people have had with the types of illnesses or conditions that lead them to be off work for more than four to six weeks. There have been concerns about that and my hon. Friends and I were trying to tease that out.

Charlie Elphicke (Dover) (Con): My understanding is that it is not a case of the employee telling the employer, "I need to go chiropractor. I am just going to nip off now. Would you mind paying for it as you will get a tax break?" Speaking as a former employer and former employee, what normally happens is that good employers have workplace schemes. The Government are sending a signal to say that this is a good thing to do and incentivising employers to have workplace schemes to look after their employees as respectable and caring employers. Does the hon. Lady think that is the case and does she not welcome that?

Cathy Jamieson: I am tempted to say that had the Minister explained things in those terms and perhaps answered some of my other questions in a slightly different way, I might have been prepared to accept that, but that is not what I heard from him. He seemed to suggest that it would be possible to do things in a slightly different way. I am happy for him to clarify that on the record.

Mr Gauke: To be clear, this has to be done through the employer. It is the employer who makes the arrangements. But it can be done by reimbursement of the employee or it can be paid directly by the employer. This is offering flexibility to employers and employees that does not currently exist. If an employer wants to provide this support at the moment, potentially there could be a NICs and income tax charge to the employee. We are providing a degree of support. I should have thought that all members of the Committee would welcome that.

Cathy Jamieson: Again, I thank the Minister for that explanation. However there are some issues around how this would work in practice. I want to put on record our concerns around the estimates of cost and the types of conditions that would be covered.

Chris Williamson: Will my hon. Friend give way?

Cathy Jamieson: I will in a moment. The Minister referred to counselling as part of the range of things that could be provided. Perhaps my hon. Friend is going to say something about that. I really would like to have seen a bit more information about how the figure of £250 was arrived at, in relation to what would be provided for a counselling service for someone with perhaps a series of difficulties.

2.30 pm

Chris Williamson: I am even more concerned now than I was at the start, given the Minister's intervention. It seems to indicate that he is entirely out of touch with reality, when he talks about employers reimbursing their employees. How does he expect—perhaps my hon. Friend can assist me on this—an employee on the minimum wage to find the resources to pay, say, £100 or £150 for some physiotherapy, and then go to their employer and ask for it to be reimbursed? Surely the money should be paid up front rather than expecting the employee to pay first and then get the money back. Many people on low incomes simply do not have spare resources to do that and get it back later.

Cathy Jamieson: My hon. Friend makes a valuable point in showing the reality of life for many people on low incomes. I hear what the Minister has said, in that it is not compulsory to do anything in a particular way, but none the less, we must ensure that there are no inadvertent consequences. That is why we have gone for this radical departure, as the Minister described it, and tabled amendment 4, calling for a report.

On the basis of what I heard in the Minister's response and other comments, I am persuaded to press the amendment to a Division.

Question put, That the amendment be made.

The Committee divided: Ayes 11, Noes 17.

Division No. 3]

AYES

Dakin, Nic	McKenzie, Mr Iain
Evans, Chris	Mearns, Ian
Gilmore, Sheila	Pearce, Teresa
Glindon, Mrs Mary	Vaz, Valerie
Jamieson, Cathy	Williamson, Chris
Leslie, Chris	

NOES

Dinenage, Caroline	Morgan, Nicky
Elphicke, Charlie	Pincher, Christopher
Fuller, Richard	Rudd, Amber
Garnier, Mark	Rutley, David
Gauke, Mr David	Shelbrooke, Alec
Heaton-Harris, Chris	Smith, Henry
Kwarteng, Kwasi	Swales, Ian
Menzies, Mark	Wheeler, Heather

Question accordingly negatived.

Clause 12 ordered to stand part of the Bill.

Clause 13

RELIEF FOR LOAN INTEREST: LOAN TO BUY INTEREST IN CLOSE COMPANY

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

Cathy Jamieson: I hope we will be able to make some speedy progress on clauses 13 and 14, because we have not gone for any radical departures from tradition and have not tabled amendments or new clauses.

Clauses 13 and 14 introduce changes that are required to comply with European Union law. I mention that not to cause any controversy—I am sure Government Members will not rise to that bait—but simply to explain that clause 13 extends the income tax relief for interest paid on loans to buy an interest in a close company to interest paid by individuals investing in companies that are resident in the European economic area and would be close if they were resident in the UK.

A company is defined as "close" if it is controlled by five or fewer participants or any number of directors who are participators, or if more than half the company's assets would be distributed to five or fewer participants or to any number of directors in a winding-up. The change to the definition of a close company for the purposes of the relief has therefore been made to ensure that the legislation is compatible with EU law.

Clause 13 also includes the definition of a close investment holding company, which was previously contained in the Corporation Tax Act 2010. Prior to 2015, the taxable profits for a close investment holding company were not allowed to use the small companies' rate of corporation tax. However, from 1 April 2015, there will no longer be a difference in the corporation tax rate for small and large companies, and so the definition in CTA 2010 will no longer be needed.

I want to ask the Minister some brief questions. First, what assessment has been made of the impact of the changes on levels of investment in companies defined as close companies in the UK? What assessment has been made of the potential for the changes to be used for tax avoidance purposes? We had a discussion earlier on how important it was to close any loopholes. How do the Government propose to check compliance with the strict close company rules throughout the EEA? What measures will be put in place to check on, for example, the setting up of close companies in other EEA countries by UK taxpayers to exploit any of the new rules? Is the Minister able to give us information on what figures the Government have used to assess the potential Exchequer impact of the measure?

As I outlined, we do not intend to vote against clause 13. We understand that it is to bring our legislation into line with EU law, but it would be helpful if the Minister could give us some information on the brief points I have raised.

The Chair: Before I call the Minister to respond, I must correct the result of the last Division. The Ayes were 16, not 17. That makes no difference to the result of the vote.

Mr Gauke: We will accept 16-11 as sufficiently crushing.

Chris Heaton-Harris (Daventry) (Con): On a point of order, Mr Caton. I think it was the Noes that had 16 rather than the Ayes.

The Chair: You are correct. I apologise.

Mr Gauke: I am grateful to my hon. Friend the Member for Daventry. A result of 17 Ayes to 11 Noes would have been crushing in the wrong way.

Clause 13 makes changes to ensure that income tax relief for individuals paying loan interest complies with EU law. The income tax relief for payments of interest on loans to acquire an interest in a close company was introduced in 1969. A close company is a company controlled by shareholders who are also directors, or by a small number of shareholders. If companies borrow in their own right and pay loan interest, they get a deduction in working out their profits for tax. Not all companies, however, have ready access to finance. The rules provide for individual investors to get relief on the interest paid on the loans that they take out to invest in a close company. At present, the relief applies to interest paid on loans taken out for investment in UK resident companies only.

Clause 13 will extend the relief so that it applies to investment in a close company wherever in the European economic area it is resident. That is part of the internal market, and the change will assist the performance of the internal market. The change made by clause 13, together with the change made by clause 14, is likely to affect fewer than 10,000 people, who will be eligible to claim relief for interest payments on qualifying loans. Extending the relief is expected to have little practical impact. It is in fact fairly easy to use the current relief to invest in a branch trade elsewhere in the EEA.

The combined cost of extending the reliefs through clauses 13 and 14 is therefore expected to be low—£15 million in 2015-16 and £10 million in later years—which answers the question of the hon. Member for Kilmarnock and Loudoun. The limit on income tax reliefs, which was introduced in the Finance Act 2013, applies to those reliefs and will continue to apply, as will the anti-avoidance rules that currently apply to the income tax relief for loan interest. On her question of whether the measure opens up new avoidance opportunities, the answer is no.

Clause 13 also makes a minor technical change to existing legislation to ensure that it continues to work as intended. That involves the definition of close investment holding companies. The effects of the legislation are not altered by the change. The clause makes necessary changes to ensure that the rules for income tax relief for individuals paying loan interest comply with EU law. I therefore hope that the clause will stand part of the Bill.

Question put and agreed to.

Clause 13 accordingly ordered to stand part of the Bill.

Clause 14

RELIEF FOR LOAN INTEREST: LOAN TO BUY INTEREST IN EMPLOYEE-CONTROLLED COMPANY

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

Cathy Jamieson: For brevity I will not repeat the points I raised on clause 13. Clause 14 extends income tax relief for interest paid on loans to buy an interest in an employee-controlled company wherever it resides in the EEA. I have already posed a number of questions to the Minister and am thankful for his assurances on anti-avoidance measures. I am also thankful for his assurance that we are not opening any loopholes. I assume that he will give me the same assurances in relation to the clause. On that basis, I am content for the clause to stand part of the Bill.

Mr Gauke: I am grateful for the hon. Lady's support for the clause. The limit on income tax reliefs introduced in the Finance Act 2013 applies to this relief and will continue to apply, as do the anti-avoidance rules that currently apply to the income tax relief for loan interest. I am almost tempted to refer the hon. Lady to the answer I gave a moment ago. As she pointed out, similar points apply to both clauses 13 and 14. Again, I hope clause 14 will have the Committee's support.

Question put and agreed to.

Clause 14 accordingly ordered to stand part of the Bill.

Clause 15

RESTRICTIONS ON REMITTANCE BASIS

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

The Chair: With this it will be convenient to discuss schedule 3.

Cathy Jamieson: We are now making good progress, which will hopefully continue. Once again, we have not tabled anything radical—or even straightforward—in relation to this clause, but I would like to put some points on the record. Unsurprisingly, I also have some questions for the Minister. The clause affects UK residents and non-domiciles who pay tax on the remittance basis and use separate employment contracts for UK and overseas duties with the same or associated employers. In most cases, those separate contracts have been artificially arranged to obtain a tax advantage. I am sure the Minister will say more about that.

At the time of the autumn statement, the Government made it clear that they will

"legislate to prevent a small number of high-earning, non-domiciled individuals from avoiding tax through the artificial division of the duties of employment between the UK and overseas. From April 2014, UK tax will be levied on the full employment income where a comparable level of tax is not payable overseas on the overseas contract."

As I have said, the clause will ensure that non-domiciles are taxed on the overseas employment income it identifies according to the so-called arising basis. In other words, the income caught by the measure will cease to be eligible for remittance-basis tax treatment.

2.45 pm

Dual contract arrangements arise when an individual enters into an employment contract with more than one employer. There have been concerns about such arrangements giving tax advantages to UK-resident non-domiciled employees who have duties abroad. For that reason, such arrangements have been popular with that group. Under these provisions, all references to "non-domiciled" denote a domicile outside England, Scotland—the word "Scotland" is underlined in my notes, and I hope that it continues to be part of the United Kingdom—[HON. MEMBERS: "Hear, hear."]. It is always good when everyone is in agreement on that point. As I was saying, references to "non-domiciled" denote a domicile outside England, Scotland, Wales and Northern Ireland. Domicile is a matter of private international law and we do not want to go off on a tangent about that now.

This detailed measure is designed to counter a long-standing tax planning opportunity that is used by non-domiciled individuals to avoid UK tax. The aim is to stop the use of dual contracts and contrived arrangements when the duties of the two employments are broadly similar. In essence, it is an anti-avoidance measure, which we welcome in principle. Such arrangements were perhaps more common in the past, but they have been the subject of a great deal of HMRC activity. Inquiries have focused on whether any duties of the offshore employment have been performed in the UK, which is more difficult to avoid in the digital age, and whether any remuneration from the offshore employment has been brought to the UK. We might well ask why the practice is allowed at all. Rather than introducing complex rules to try and deal with the issue, what is the rationale for having a law that allows long-term tax avoidance by non-domiciled individuals at all?

What is the rationale for giving a tax break to wealthy non-domiciled individuals when there is already a statutory relief for non-domiciled employees for broadly the first three years in which they work in the UK? Will the Minister confirm that there will be no further changes to the rules on remittances during the lifetime of this Parliament? Are the Government considering further legislation on the matter? Given the complexity of the rules, how much time does the Minister estimate that HMRC will have to spend on enforcing them? Those rules apply to a relatively small number of people. Rather than devoting a considerable amount of HMRC resources to policing complex arrangements and pursuing a small number of employees, will the Government consider simply abolishing dual contract arrangements? Finally, will the Minister explain how the figures for tax savings as a result of the measure have been arrived at, given the difficulties of predicting salary and bonus levels some years in advance?

We do not intend to vote against the clause, but it would be helpful to have on record the Minister's response to my questions.

Mr Gauke: As we have heard, clause 15 introduces schedule 3, which targets arrangements by a small number of high-earning individuals who artificially split a single employment between the UK and overseas to obtain a tax advantage. Let me explain the background to the clause and schedule. Non-domiciles can elect to pay tax on a remittance basis on their overseas income and gains. Under the remittance basis, earnings from employment contracts when duties are performed wholly outside the UK are not liable to UK tax unless they are remitted here. Each year, HMRC encounters a small number of cases that aim to exploit the remittance basis and obtain an artificial tax advantage by artificially

[Mr Gauke]

splitting a single employment. It is telling that such cases mostly arise with overseas employments in low-tax jurisdictions, such as the British Virgin Islands.

Separate employment contracts for duties performed in the UK and overseas may, of course, be a legitimate commercial arrangement. Naturally the Government wish to continue to encourage non-domiciles to bring their investment and skills to the UK and to contribute significantly to the UK Exchequer through the tax they pay. However, the Government will also act to tackle contrived avoidance and to ensure that relief is given only when it is due.

The changes made by schedule 3 will levy UK income tax on an overseas employment that simultaneously meets a number of tests: if an individual has both UK and overseas employment, either with the same or associated employers; if a UK and an overseas employment that are related to each other; and if the foreign tax rate that applies is less than 65% of the UK's additional rate of tax. Those tests are designed to identify arrangements that are artificial. The Government do not intend to prevent legitimate commercial arrangements, so the Bill takes into account convincing reasons why an individual might be compelled to split a single employment between two countries, such as if there are work permit or professional regulatory requirements that necessitate such employment in the countries concerned.

HMRC is aware of several hundred people—they are concentrated in the investment banking sector—who, depending on their individual arrangements, might be affected by the measure. If income associated with an overseas employment falls outside the parameters of this targeted measure, the existing rules will continue to apply. The Government published this legislation in draft earlier in the year, and a number of improvements have been made in response to representations from stakeholders.

Cathy Jamieson: The impact assessment indicates that only about 350 individuals might be affected by the measure. Does the Minister accept that that is the total number of people involved in dual contract arrangements? That does not seem to be a huge number, so how has it been assessed?

Mr Gauke: That is the estimate produced on the basis of HMRC's national profile of risk for dual contracts. To arrive at the estimate, HMRC trawled self-assessment returns for non-doms with more than one employment when one or more employment is not taxed in the UK. The information is based on data from the most recent year available, which is 2011-12. I agree that the number of people is relatively small, but none the less significant sums are involved, so it is right that we take action.

The hon. Lady also asked why we did not abolish all dual contracts. As I said, some dual contracts are legitimate and reflect genuine commercial decisions or regulatory requirements. We believe it is right that legislation covers that. On the question of whether HMRC could address the matter by using existing legislation more effectively, of course HMRC does use existing legislation to challenge tax avoidance arrangements, and the matter of dual contracts is no exception. In March 2012, HMRC issued guidance setting out its approach in considerable detail. If income associated with an overseas employment falls outside the parameters of this targeted measure, the existing rules will continue to apply. HMRC will continue strongly to challenge any arrangements it considers to be artificial and if it considers that substantive duties are performed in the UK. However, compliance cases can take a significant time to work through. Information often needs to be obtained from third-party employers who are located overseas—beyond HMRC's jurisdiction. The clause creates a new test and charge to tax, providing a clear framework for taxpayers and HMRC in removing the complication and delays that can be introduced by third parties.

The remittance basis has been be in place for many years under various Governments. It is not about tax avoidance for the wealthy. It provides internationally mobile individuals who are in the UK, but have ongoing ties to another country, with an alternative treatment for their overseas income and capital gains. The Government remain committed to ensuring that the tax regime for non-domiciles retains the UK's attractiveness and competitiveness as a place to live, work and invest for those who are internationally mobile.

The measure on dual contracts does not signal a fundamental change to the remittance basis. It is a targeted approach against contrived avoidance by a small number of high-earning individuals who are creating an artificial division of the duties of UK employment between the UK and overseas. I hope that the measure will have the support of the Committee. The Government believe that it strikes the right balance between targeting those contracts that are predominantly motivated by tax planning and those that are not, and that it improves the fairness of the tax system.

Question put and agreed to.

Clause 15 accordingly ordered to stand part of the Bill.

Schedule 3 agreed to.

Clause 16

TREATMENT OF AGENCY WORKERS

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

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

New clause 7— *False self-employment in the construction sector*—

'(1) The Chancellor of the Exchequer shall, within three months of Royal Assent, undertake a review of disguised self-employment in the construction sector.

(2) The report referred to in subsection (1) above must in particular examine the setting of criteria for automatically deeming people to be employed for tax purposes if they meet those criteria.

(3) The Chancellor of the Exchequer must publish the report of the review and lay the report before the House.'.

Clauses 17, 18 and 20 stand part.

Cathy Jamieson: These important clauses are designed to prevent the use of agencies and intermediaries in tax avoidance planning. In particular, the measures are designed to stop the avoidance of employment taxes and national insurance contributions in false or bogus

self-employment cases. Under clause 16, when an agency supplies workers to an end user, unless these workers are not under the control, direction or supervision of that end user, or PAYE is otherwise operated, the agency will be responsible for operating PAYE.

Clause 17 allows HMRC to pursue PAYE debts from officers of a company when the correct amount of PAYE has not been deducted and fraud is involved. Clause 18 introduces further record-keeping requirements for agencies and employment intermediaries to help HMRC to enforce the new regulations. Clause 20 states that if a UK agency uses non-UK intermediaries to engage workers who are then supplied to UK companies, the UK agency will be responsible for operating PAYE.

Essentially, this is a crackdown on bogus self-employment. Clause 16 amends existing agency legislation in the Income Tax (Earning and Pensions) Act 2003. It was announced at Budget 2013 that the Government would be strengthening legislation to prevent the use of onshore and offshore intermediaries, otherwise known as employment agencies, to avoid income tax and national insurance. We are all aware of the circumstances in which employment agencies may have agreements with companies—in the construction and retail sectors, and particularly in the agricultural sector—to provide a set number of workers for a set number of hours at a set price. For the purposes of tax, the agency designates those workers—sometimes unwillingly, from the worker's perspective—as self-employed, and that is how PAYE and national insurance contributions can be avoided. If the agency is based offshore, the problem is made more acute, as HMRC often finds it difficult to track down the agency and to deal with the problem. The new rule proposes that if a worker is under the supervision, direction or control of someone else, they should be designated as an employee and paid through PAYE rather than self-employment.

3 pm

In general terms, we are pleased that the Government are introducing these measures. The issue has been the subject of much discussion, not least by the trade union movement. I am sure that the Minister will be pleased to know that the construction union, the Union of Construction, Allied Trades and Technicians, gave what it described as a "cautious" welcome to the Government's plans to clamp down on false self-employment, as workers in the construction sector are those who have traditionally found themselves under pressure to be classified as self-employed, or have no option but to do that. However, to all intents and purposes, they are turning up at a place of employment to work set hours doing exactly what is specified, often with equipment that is provided to them. In no real sense could they not be seen as employees.

Both UCATT and Unite have consistently campaigned on such issues—not only on the definitions, but on the often-related health and safety implications. It is important to recognise that there have been such campaigns over a period of time.

Clause 16, which is the key measure, is supported by clauses 17 and 18. Clause 17 arranges for agency PAYE debt to be moved personally to the company directors, while clause 18 allows the Government to make supporting provisions on record-keeping requirements, returns of information and penalties by regulation at a later date. Clause 20 focuses on the obligations of UK intermediaries in cases involving non-UK employers.

I want to say a bit more about the proposals in clause 20. The Government's plan is to create employment obligations on offshore employers employing workers in the UK. If the offshore employer fails to pay, as HMRC's powers do not extend offshore, the charge will, in specified circumstances, be moved to an onshore engager of labour. In a sense, the intermediary will be made wholly and immediately responsible for accounting for the tax and national insurance obligations of all workers who are ultimately engaged by an offshore business.

I want to ask a number of questions about the clauses. While we feel that it is important that some of the issues have been recognised, more needs to be done, and we have to keep on top of the issue.

To return to a theme that has run through today's debates, what assessment have the Government made of the impact of changing the record-keeping requirement on businesses? Will the Minister respond to a suggestion that has been made by a number of organisations that more robust and effective compliance activity in the area, with sufficient resources devoted to it, will be required to bring the problem under control? The legislation is simply one part of the process. To what extent will it be monitored and policed to try to change the culture in organisations that have used such methods in the past?

Do the Government believe that businesses are aware of the changes that must be made and the impact that implementing the proposals will have on them? How will they be monitored to ensure that they deal smoothly with the process of assessing workers' status, liaising with employees, dealing with contracts and so on?

On clause 20, I would be particularly interested to know how the changes will be publicised to the people affected. At the end of the day, there are implications for not only employers, but those people who have been designated as self-employed. They will become part of the employee headcount as a result of the changes, so how is the issue being discussed, and how is information being supplied to them?

Do the Government intend to undertake any further review of agency workers and the question of employed and self-employed status? Of course, many people take up the opportunity of self-employment, and we would not want to suggest that there is something wrong with those who are legitimately self-employed and doing the right thing by making a contribution to the community, and paying their way and their taxes. We must be able to crack down on schemes through which people are assessed as self-employed although they are, to all intents and purposes, employees, with self-employment used simply as a tax-avoidance measure. Such an arrangement also grants fewer rights to those involved.

Nic Dakin (Scunthorpe) (Lab): I recently heard of a case in which someone was registered as self-employed, but turned up regularly in a care home to work as a care worker. That is bad not only for the employee, but perhaps for those served by such a care home.

Cathy Jamieson: My hon. Friend describes an interesting scenario. He is aware that I have a background of working in social services. I can think of few situations

[Cathy Jamieson]

in which such an approach would be considered to be good practice for the provision of care for those who require it, or for building people up in the longer term and ensuring that they are properly trained and adequately supported in a difficult job.

A practice that was traditionally associated with what was called "the lump" in the construction sector seems to have expanded. It has also been used in agriculture, forestry and various other jobs relating to land management, and it increasingly appears to have moved into the retail sector. We now see it perhaps moving into the care sector, so where will it go next if we do not get a crackdown?

Ian Swales (Redcar) (LD): Further to the point raised by the hon. Member for Scunthorpe, does the hon. Lady accept that such arrangements are now used to get around minimum wage regulation? That gives us even more reason to support the measures.

Cathy Jamieson: The hon. Gentleman makes a good point—I would have arrived at it in due course, had he not beaten me to it. He highlights another real concern, especially when we look at some of the sectors into which the practice is moving, such as retail and care.

The hon. Gentleman leads me neatly on to the point that there are already pretty detailed provisions in place for enforcement on agency workers and false self-employment. However, if HMRC is not given adequate resources, will the monitoring and policing of the new arrangements be any more successful than that of the existing ones? If more people are brought into the scope of the legislation but HMRC does not have the focus or the resources to pin down and deal with the problems, will the proposal make the difference that is required?

The construction industry has been particularly affected by bogus self-employment in the past. Does the Minister have any idea about how he will look at the situation as the new legislation beds in? Is there a plan to carry out further research to look at any issues that arise? The construction sector is critical to getting growth back in the economy. We want infrastructure projects and house building, but we do not want a scenario in which poor practice and tax avoidance measures are able to continue. Will the Minister say something about that?

The Minister knows that in our discussions on previous Finance Bills, I have been keen to probe the whole issue of guidance. Legislation can be one thing, but the how guidance is framed and offered to people to enable changes to be made is also important. Does the Minister intend to provide guidance setting out the evidential requirements that would support a genuine self-employment arrangement? My understanding is that the employment status indicator tool on HMRC's website does not deal with the complexities around third-party appointments involving intermediaries or agency arrangements, so what does the Minister intend to do in that regard?

Perhaps the Minister will say something about the guidance that will be provided to ensure that the large numbers of people affected by the changes are aware of their new obligations and absolutely clear about the penalties for non-compliance. It needs to be made abundantly clear not only that people will be expected to comply, but that action will be taken against those who choose to ignore the new arrangements. What steps will the Government take to protect the employment rights of workers who may have been forced into accepting the so-called self-employment status and are not aware of the short and long-term effects on not only their benefits, but their future pension rights?

Nic Dakin: Individuals can find themselves in a situation in which they work as an employee, yet on a self-employed basis, because that is a condition for their getting work. They are often fearful of raising the issue, so what framework needs to be put in place to protect them so that they can raise issues without threatening their livelihood?

Cathy Jamieson: It will be interesting to hear what the Minister says about my hon. Friend's important and valid point.

The involvement of the trade union movement has been crucial. It is difficult for people when the only way they are able to earn some money—perhaps at the minimum wage—is to agree to agency arrangements or certain contracts. It is difficult for people to speak out for fear of losing their opportunity to earn a living and keep their family, and at the same time they know that there are significant longer-term impacts for their pension rights and ability to access support if they are unable to work. Many people are completely unaware of the dangers regarding their rights at work, so perhaps the Minister will say a little more about how things will be taken forward. Of course, we want bogus self-employment to cease and to ensure that the right arrangements are in place, but we must also ensure that employees who had to be designated as self-employed over the years do not find themselves at a further disadvantage because we are doing the right thing.

3.15 pm

Lorely Burt (Solihull) (LD): I have been working with bona fide employment agencies on this, and I have raised with the Minister the concern of many of them that expenses are being incorporated into the overall rate, which brings the net rate below the minimum wage. HMRC has taken several companies to court for that. The most important thing that this or any Government can do is enforce the existing rules.

Cathy Jamieson: The hon. Lady makes an important point about bona fide agencies. There will be scenarios in which, perhaps on a short-term basis or to fill gaps, employment agencies have a role to play. However, the Government are, correctly in my view—Labour have argued for this for some time, as have the trade unions and the construction sector—looking to ensure that those are genuine scenarios and bona fide organisations and that self-employment is not being used to avoid not only paying the taxes due, but giving workers the rights to which they are entitled and thus putting people in situations in which health and safety at work is not given proper priority. On a positive note, it is good to see that this issue now garners support from quarters where, in the past, it did not. That is helpful.

I suspect that colleagues may wish to contribute, because many feel strongly about this. I have asked the Minister questions and I am sure that, when the time

comes, he will be suitably inspired to respond to them. I shall leave my remarks at that to allow others to make contributions.

Mr McKenzie: I shall confine my remarks to bogus self-employment and talk not so much the taxes, but the lives lost because of it. As Members across the Committee will know, we have just commemorated workers memorial day, when we were told that far too many people lost their lives at their place of work. I come from an area that previously had many heavy industries; we saw lives lost on a regular basis, so we know the value both of health and safety and of the commitment to good practice on the part of those who work in sector.

We were told that something like 140 people across the country died at their places of work and, out of that, by far the vast majority were in the construction sector, which has seen a sustained increase in false self-employment. As the Committee will be aware, those people who present themselves to work as bogus self-employed are not too keen to report any injuries or, indeed, any health and safety infringements or failures in their working environment, which leads to dangerous conditions for those who work with them regularly.

What identifies people who turn up at constructions sites as self-employed? Turning up without any tools or training and so on should identify someone as not being self-employed. The relevant criteria need to be set. It is plausible for the Minister to take on board our proposed provisions. This bogus self-employment is not only unfair on employees, it is not even fair on employers. There are many employers who stick by the rules, pay their tax and so on, and find that those who take on these bogus self-employed can undercut them in bids for contracts. That is not fair to employees or employers. Our acceptable and obvious proposals are that

"The Chancellor the Exchequer shall, within three months of Royal Assent, undertake a review of disguised self-employment in the construction sector."

We want the construction sector and the Government to set out for employers the criteria for what exactly self-employed means in the sector, so that can be clearly identified for tax purposes. I fear that if we do not do something about this, next year we will see, once again, an unacceptable number of workers losing their lives on construction sites.

Sheila Gilmore: The growth of self-employment is often welcomed; it is often presented as offering great benefits to the economy. The problem for some people is that it has become a way of life because they have no choice. They have not necessarily said that they want to be self-employed, start a business or set up a company. However, self-employment terms are the ones on which particularly construction, though not only construction, operates. That is a serious issue.

Constituents tell me that, for them, it becomes an issue only when something goes wrong. For example, in Edinburgh in the mid-2000s, when there was a lot of construction work going on, people were often able to go from one contract to another without any great gap, so it felt like they were working permanently even though they were not. It came as a big shock when the work suddenly dried up. A lot of sites and building firms decided that if the market was not particularly healthy, they would simply stop work until it got better. That is commonplace in that field. The workers suddenly discovered that they were not entitled to things to which they had assumed they had an entitlement. That is a serious matter, and people are often quite angry about that. People are astonished that they are not getting what they had taken for granted. Given that they had often been working continuously, that shock was effectively redundancy when the contracts came to an end. When we fall ill or have an accident, we take for granted things that act as a safety net. That is why people are often angry when they suddenly discover that the net is not there.

Both parties to this may have perceived certain advantages, but for a lot of people in this position—and they really are employees—they have not had a great deal of choice. It is not anything new; we know that it has gone on in the building trade and elsewhere for many years. We thought we had legislated to deal with one form of it, but it has come back. There are other disadvantages: people cannot necessarily get a mortgage because they do not have permanent employment. It is only when people want to do such things that the disadvantages become that obvious.

It is important that we broaden the scope of the legislation. If people want to be self-employed and fully understand what they are taking on—it has many advantages for those who are well equipped to deal with the flexibility—they are making that positive choice. In the building trade, there is not any choice. For my city and, I suspect, for others, it is true to say that self-employment is the only game in town. People cannot go to one place and be an employee and go somewhere else and be self-employed. It cannot be right that self-employment is the only game in town, because choice is not there. For that reason, new clause 7 would be valuable.

Chris Williamson: I omitted to say what a pleasure it is, Mr Caton, to serve under your chairmanship again today. I hope I have now set the record straight. I rise to support the remarks of my hon. Friends the Members for Kilmarnock and Loudoun, for Edinburgh East and for Inverclyde. I, too, cautiously welcome the Government's proposition. It is a welcome step forward on something that has been an issue for many years. The issue was the backdrop to the 1972 building workers strike, which led to 24 trade union members being prosecuted under the trade union legislation of the day. Some of those individuals found themselves behind bars. Let us remember that a central part of what they were campaigning on and were on strike about was abolishing the lump. Here we are, some 42 years later, and the scourge of the lump still afflicts the construction industry.

Sadly, the issue of bogus self-employment does not just afflict construction. As we have seen, the consequences of the deregulation of the labour market have expanded into other areas. I am particularly worried about that, having seen the dreadful scenes on the BBC's "Panorama" programme last night. I do not know whether those workers were agency workers. The issue is bad enough in the construction sector, but we are talking about workers providing care in sensitive settings to extremely vulnerable people. It is essential that those workers are properly trained and remunerated and that there are safe and adequate recruitment practices to ensure that the right calibre of people are recruited to do that work.

[Chris Williamson]

The real fear is that, as a consequence of the growth in employment agencies, we are seeing bogus self-employment spread into other sensitive areas.

While I welcome the Government's proposal, they could go somewhat further. A former great parliamentarian, Winston Churchill—a Conservative who the Conservative party and the whole country venerate—said that

"the good employer is undercut by the bad and the bad by the worst".

The new clause would go a long way to driving out the bad and eradicating the worst employers from our country. We know, do we not, that employment agencies are responsible for some of the worst aspects of worker exploitation in our country. That exploitation not only has a massive impact on those individuals and creates unfairness for other employers, but has a knock-on implication for the wider economy. We heard from the hon. Member for Solihull about people being paid below the minimum wage through employment agencies using these loopholes. Thankfully, we have seen HMRC acting and making prosecutions against them, although, sadly, it does not have enough inspectors to deal with that abuse. There should be more of them and more investment.

That is something else that the Minister ought to consider seriously. I hope that we are united, across the Committee, in wanting to ensure that nobody is allowed to contravene the law and exploit workers. We need proper enforcement agencies to ensure that the bad employers, and the worst ones, are brought to book. We need HMRC staff to be able to deliver the sanction and protection that the workers deserve.

3.30 pm

Having worked in the construction industry and seen the dreadful health and safety conditions when I was working in it, back in the 1972—despite my youthful appearance. I know that it is hard to believe, but it is true. *[Interruption.]* Indeed, it is true. I think it is down to the vegan diet.

We must deal with bogus self-employment. In a different incarnation, I worked as a welfare rights officer. I represented a number of individuals who had been treated as self-employed although they were employed earners. I represented people who had sustained industrial accidents.

My hon. Friend the Member for Edinburgh East said that, often, when people—workers—sustain an accident, they anticipate that there are certain protections in law to ensure that they can keep the wolf from the door and continue to put food on the table, because we have a welfare state that cares for people who have fallen on difficult times. Many of them are shocked to find that when they seek that support, having been deemed to be a self-employed worker, many protections available to employed earners are not there for them. I represented many people in such circumstances a considerable number of years ago—25 years or so—and it is still a problem. It is not just a problem on the scale that it was then; it is even getting worse. The measure is a welcome step forward, but we need to go further.

Not only is bogus self-employment bad practice and not only does it have an impact on good employers, whom we should all encourage, and not only does it have an obvious impact on workers, who are exploited in this way, but it results in a significant loss to the Exchequer in lost tax. At a time when the Government are short of funds and have been incapable of growing our economy, and with the slowest recovery from a recession for more than 100 years, surely, we want to ensure, do we not, that we maximise the income to the Exchequer so that we can continue to support the sort of public services that make our society a decent place to live in.

Alec Shelbrooke *rose—*

Chris Williamson: I have prompted the hon. Gentleman into life. I give way to him and wait with interest and bated breath, to hear what he says.

Alec Shelbrooke: It is a pleasure to serve under your chairmanship, Mr Caton. I agree with the hon. Gentleman; we must bring in as much tax as we are owed. Therefore I take it that he will make representations to Unite soon, to ask it to pay the tax it owed last year.

Chris Williamson: I had hoped that the hon. Gentleman would make a slightly more serious point, rather than indulge in the customary anti-trade union rhetoric that we hear from Government Members. Let us remember that if we had a stronger trade union movement, many exploitive practices that we are concerned about and debating today would not exist. The trade unions are there to protect the workers and ensure that employed earners are given status, so that we can not only provide those workers with protection but secure the income that the Exchequer desperately needs.

Alec Shelbrooke: I simply say to the hon. Gentleman that it is not anti-trade unionist to say that tax should be paid. Indeed, I am a proud trade unionist. I was a member of Unite for many years until it went the wrong way and I gave up my membership. It is not balanced to say that any criticism is anti-trade unionist, because trade unions supply an important part of health and safety. I have worked on construction sites. We must remind ourselves that only in the past month, someone was killed building Crossrail. There is essential work to be done in all areas, and trade unions are important. I say to him gently that I find it a bit offensive, when talking about paying tax, to be seen as anti-trade unionist.

The Chair: Order. We are wandering a little bit away from the clauses that we are supposed to be debating and the new schedule.

Chris Williamson: I am grateful to the hon. Gentleman for that clarification. If I caused any offence, I am sorry and I withdraw it. He is absolutely right that tax owed needs to be paid, but I do not want to get involved in a debate about the point that he raised in his previous intervention. It would not be appropriate, and, in any event, we may get called to order by Mr Caton.

Lorely Burt: I am mindful of your previous comment, Mr Caton. However, I do think it is a little bit rich for the hon. Gentleman to say that if we had stronger trade unions, this would not be a problem. We had a Labour

Government for 13 years. That Labour Government tackled many of those issues. It is not just for the trade unions on either side of the House; it is the Government's job as well to ensure that people are not exploited.

Chris Williamson: I agree with the hon. Lady. If I gave the impression that stronger trade unions would eliminate the problem, I withdraw that comment. I was not making that point; I was trying to point out that a stronger trade union movement would certainly have a positive impact on the issue and would make it more difficult for the kind of exploitation and tax fiddling in which some exploitative employers indulge.

However, the hon. Lady is absolutely right and I agree that there is a clear role for Government as well. I would like to see the Government working in tandem with the trade union movement to drive out the bad and exploitative employers, ensure that we create a safe working environment, enable us to grow our economy and ensure that the entire country can benefit from the fruits of economic growth. With that, I conclude my remarks.

Ian Mearns (Gateshead) (Lab): It is a pleasure to serve under your chairmanship again, Mr Caton. I was not going to speak about this particular clause, but I think that it is important, particularly given the mirth that some of these issues have caused to those on the Government Benches, to remind ourselves that it is no laughing matter that 2 million working people around the world die annually in their places of work. Until we introduced the much-vaunted health and safety legislation, the rate of attrition in construction in this country in the early to mid-1970s, and before that, was 200 to 300 deaths annually. In the post-industrial heartlands of this country, many thousands of people still die annually as the result of industrially contracted diseases such as mesothelioma, pneumoconiosis and emphysema. That is not a matter for mirth.

It is therefore important that we highlight the situation. Many of my friends, who I have known for many years, are caught in exactly that trap. Working in construction, they have been forced into self-employment, where they have to look after their own insurance and a difficult cash-flow situation. Sometimes they have to wait months for payment from the construction parent companies. The practice starts at the very top. Big, well-known and well-regarded construction companies win contracts and tenders to build things, and they subcontract everything.

I wonder whether we need to look at incentivising the construction industry to work in a completely different way. One of the major problems that construction has had in this country is that the industry has singularly failed, over many decades, to train its future work force. The apprenticeships created by large construction comprise only about 40% of the future skilled labour work force—plasterers, electricians, plumbers, joiners and so on—that the industry needs. With such a poor rate of training, where do we get the labour from? Largely, I am afraid, we get it from eastern Europe. They are very good people, who are ready, trained and off the peg. In they come, largely because of the singular failure of big construction to train its own future work force.

Health and safety is important, and it is still completely relevant in this day and age. Bogus self-employment, which is widely used across many sectors but largely in construction, is a way of getting around the regulations for big organisations that subcontract everything, and the people at the bottom have to take the stick.

Mr Gauke: May I express my pleasure at the positive response that the clauses have provoked from the Opposition? All the contributions from Opposition Members have been positive, and I am particularly grateful to the hon. Member for Derby North, who, in a characteristically conciliatory and bipartisan speech, welcomed the proposals and said that the issue was a long-standing one. The point is that the Government are addressing an issue that is about fairness. I will set out the details in a moment, but I am pleased that we have the Committee's support. The hon. Member for Kilmarnock and Loudoun quite rightly raised some practical questions, which I will attempt to address in a moment. The recognition that the Government are doing the right thing is pleasing.

Ian Mearns: I should have added while I was speaking that my hon. Friend the Member for Derby North, although he is a vegan, has a regular diet of red meat.

Mr Gauke: The hon. Member for Derby North was certainly very positive today, and I look forward to similar contributions over the course of our proceedings. Clauses 16, 17, 18 and 20 are all designed to stop employment intermediaries being used to avoid employment taxes. Opposition Members have tabled a new clause that would commit the Government to conducting a review of disguised self-employment in the construction sector. I will deal with the new clause, but I would first like to explain the effects of the clauses I have mentioned, which are pertinent to the issue because they will tackle the use of employment intermediaries to disguise employment as self-employment.

Some labour providers have created structures that are specifically designed to avoid tax and national insurance and gain a commercial advantage over those who play by the rules and by their spirit. The clauses are designed to put a stop to such practices. They will provide a level playing field for compliant labour providers who help to facilitate the UK's flexible labour market. The avoidance we seek to stop takes two forms: falsely presenting employees as self-employed, and placing the employer or employment business of the UK worker outside the UK. Both those models rely on standardised substitution clauses within contracts in an attempt to avoid existing agency legislation, and clause 16 strengthens the existing agency rules to stop that.

The clause also introduces a targeted anti-avoidance rule to prevent people from setting up even more convoluted arrangements in an attempt to avoid the changes. We recognise that there may be times when fraudulent documents are provided to employment intermediaries. Such documents might claim that the worker is either already having pay-as-you-earn deducted, or is not subject to supervision, direction or control. To deal with that possibility, we have included a provision that deems the person who provided the fraudulent documents to be the employer for tax purposes.

3.45 pm

Clauses 17, 18 and 20 support clause 16. Clause 17 allows HMRC to transfer a company's outstanding pay-as-you-earn debts to directors where HMRC has used the targeted anti-avoidance rule or the provision relating to fraudulent documents. Clause 18 provides HMRC with the power to create legislation requiring employment intermediaries to keep records, to provide them to HMRC and to penalise the intermediaries if they fail to do so. The clause supports HMRC's compliance work, ensuring that it is targeted where the risk is highest. Clause 20 clarifies that where a UK employment intermediary has placed workers who are being employed or engaged outside the UK, it is the UK employment intermediary that is responsible for administering pay-as-you-earn.

Let me explain the background to the changes. The clauses target structures set up to present workers as self-employed, when they are really employees. The practice has been a growing problem in recent years and has spread from the construction industry to other sectors. What started as a problem affecting temporary workers is now increasingly affecting permanent workers. We have evidence of large, household-name businesses moving their employees off the payroll and into those types of arrangements. That is not acceptable. Workers lose out on their rights, competitive disadvantages are created for compliant businesses and the taxpayer foots the bill.

The changes will also ensure that pay-as-you-earn obligations apply where intermediary structures are set up outside the UK to employ or engage UK workers. To be clear, the clauses will not generally affect internationally mobile workers who come to the UK for a period of time and also work in other countries. That is because the employers of such workers do not generally attempt to manipulate the existing legislation. The provisions are designed to target employers of people who live in the UK, work in the UK and, more often than not, have always lived and worked in the UK. We have examples of employers of UK teachers in Jersey, of UK nurses in Guernsey and UK crop pickers in Singapore—that is clearly not right.

I will now briefly describe what each of the clauses under consideration does. Clause 16 changes the agency legislation. It is no longer enough to claim that the worker can send a substitute so that the legislation does not apply. Instead, the clause refocuses the legislation so that it applies where the worker is subject to supervision, direction or control, or the right of supervision, direction or control. Some concerns have been expressed about the changes meaning that everyone working through an intermediary will be deemed to be an employee for tax. I assure the Committee that that is not the case. Workers can still be engaged as self-employed, either directly or through an agency.

I am aware of some confusion about what

"under supervision, direction or control"

means in practice. To help people understand, HMRC has worked with industry representatives to develop extensive guidance, including examples. Clause 16 also changes who the employer is for income tax purposes. The employer for tax purposes will be the employment intermediary placing the worker with the end client.

HMRC has been shown evidence that employment intermediaries have sometimes been given false documents. There is some concern that the practice will spread and that documents will be produced stating that the worker is having pay-as-you-earn deducted by someone else in the contractual chain, or that there is no supervision, direction or control over the worker, when this is not the case. In such circumstances, where the employment intermediary has acted in good faith, it is clearly not fair for them to be penalised. For that reason, the clause also brings in a provision that, where fraudulent documents have been provided, the party that provided the documents to the employment intermediary is the employer for income tax purposes. That will ensure that, where intermediaries have done their due diligence, asked the right questions, received the necessary assurances and acted in good faith on the documents provided, they will not be penalised. Instead, those who have sought to deceive are the ones who suffer the consequences.

Some think that the clause does not go far enough to protect employment intermediaries. There have been representations that a "reasonableness test" should be included in the legislation. However, HMRC has some experience in this area and knows that those who are seeking to avoid the legislation will spend many years in the courts arguing that what they have done is reasonable. That would undermine the changes and mean that we could not provide the level playing field for which the industry has been asking for so long.

In addition, the clause introduces an anti-avoidance provision. Those involved in avoidance in the labour market are quick to adjust and to come up with new and innovative ways to avoid tax—in fact, I have been alerted to one such scheme by my right hon. Friend the Chief Secretary to the Treasury. We are therefore introducing a targeted anti-avoidance rule to ensure that the legislation cannot be circumvented.

Ian Swales: I fully support what the Minister is trying to do, but none of the provisions mentions national insurance. Does he agree that many of the issues he is seeking to deal with also apply to national insurance? Will he comment on what the effects might be?

Mr Gauke: Of course, national insurance matters have to be dealt with in national insurance Bills, and that would be the case here, but my hon. Friend is absolutely right to raise the point. Very often national insurance is the issue behind a lot of these sorts of arrangements.

Clause 17 allows HMRC to transfer companies' outstanding pay-as-you-earn debts to directors personally. The transfer provision applies only where the targeted anti-avoidance rule has been used or the employment intermediary has provided fraudulent documents. That will stop companies involved in fraud or avoidance closing down and then setting up again days later under another name, leaving a trail of unpaid tax in their wake.

Clause 18 supports HMRC's compliance work in this area. It introduces a power that will allow HMRC to create legislation requiring employment intermediaries to keep records and provide them to HMRC. Those will include details of people who they place with clients but from whom they do not deduct pay-as-you-earn. The clause also provides for regulations to be made to enable HMRC to issue penalties where any of the information or documentation is not provided. HMRC will consult on the draft regulations over the summer.

Mrs Mary Glindon (North Tyneside) (Lab): Although the Government have invested £1 billion to help HMRC on tax avoidance, the cuts to HMRC amount to £3 billion, so there is a discrepancy. If more of our HMRC centres are to be closed, how will we achieve what the Minister wishes to achieve with the clauses? There simply will not be the people to help the fight against tax avoidance. The Public and Commercial Services Union is concerned, and that concern is well founded. The PCS is running a campaign for tax justice. I am sure the Minister can see the value in that.

Mr Gauke: The hon. Lady could lead me into a much broader debate on tax avoidance and tax evasion. The Government's record in that area is extremely strong. If we focus on output rather than input, the amount of yield that HMRC is likely to bring in over the course of this Parliament is almost double the aggregate yield it brought in during the previous Parliament. That is a significant increase in its performance.

The hon. Lady is right that there have been cuts to HMRC. We have to remember that it undertakes a lot of administrative tasks that can now be done much more efficiently and cheaply as a consequence of greater use of new technology, and it has been able to make savings in its IT contracts by renegotiating the terms to get a better deal for the taxpayer. Its record of delivery is strong, and I am not at all embarrassed that we have been able to reduce costs within HMRC. The Government have reinvested a substantial element of those savings in HMRC to improve its compliance performance and to give it the resources to deal with tax avoidance and evasion generally, including in the area that we are debating this afternoon.

Lorely Burt: This afternoon, we have been discussing tax avoidance and evasion by disreputable employment agencies. One of the strongest things we have done as a Government is introduce the general anti-avoidance rule. Will the GAAR be applicable in the present context, working against people who keep on finding ways around that are strictly in compliance with, but not in the spirit of the rules on tax that should be paid?

Mr Gauke: My hon. Friend is right. We are the first Government to introduce a general anti-abuse rule into our tax system that will be a useful additional tool to HMRC. We have never said that the GAAR is a solve-all policy. It is useful to assist HMRC and could potentially be used in this area, but, as I mentioned earlier, we also have a targeted anti-avoidance rule that I think will assist. In front of us, we have a set of measures that not only deals with the specific problems that exist at the moment, but gives us the powers, because of that targeted anti-avoidance rule, to address innovative behaviour that tries to get around those measures.

Clause 20 makes changes to clarify that, where a UK worker is employed or engaged offshore, and they are supplied to an end client through a UK employment business, it is the UK employment business, not the end client, who is responsible for administering PAYE. The change makes clear where the tax obligations lie and stops those setting up such schemes claiming that there is no financial risk to the UK employment intermediary.

Over the past year, HMRC has consulted extensively on the proposals. It has held numerous round tables and received 150 written responses to the two consultations. The Government have revised their approach to address comments and concerns raised throughout the process.

The Government believe that the changes made through the clauses are the best way of tackling the use of employment intermediaries to avoid tax. The proposed changes to legislation will level the playing field for UK businesses and ensure that compliant UK businesses that facilitate the UK's flexible labour market are not undercut by those seeking to avoid tax. Employers will have to fulfil their duties and ensure that workers have the protections and benefits to which they are entitled.

New clause 7, tabled by Opposition Members, would review disguised self-employment in the construction sector and examine the option of setting criteria for automatically deeming people to be employed for tax purposes if they meet those criteria, a policy on which the previous Government consulted in 2009. I am sure that some hon. Members remember the 2009 proposals, which involved moving from the long-standing case law approach to determining employment status based on a series of absolute tests.

Case law gives flexibility to accommodate genuine diverse engagement practices. Absolute tests do not have that subtlety and are therefore hard to design. As set out in the consultation response document, stakeholders at the time felt that the criteria proposed could undermine legitimate commercial practice, as well as risk capturing large numbers of genuinely self-employed workers, particularly in a sector such as construction, where the difference between employed and self-employed is not always obvious. The Government believe that the changes introduced by clauses 16 to 18 represent a more targeted way of tackling false self-employment, in a way that will not inadvertently impact on the genuinely self-employed.

Employment intermediaries are the biggest mechanism for delivering false self-employment in all sectors and are being aggressively marketed to employers and employment businesses. While the Government appreciate the certainty that objective criteria might provide, this is not something to be considered lightly or rushed. For example, we have taken more than 12 months to develop and test the new salaried members rules for limited liability partnerships, introduced by clause 68 and schedule 13, which are designed to ensure that LLP members who are, in effect, providing services on terms similar to employment, are treated as employees for tax purposes.

4 pm

The salaried members rules represent an approach akin to that envisaged by the new clause, so it would be preferable to see how these changes, and those introduced by clauses 16 to18, bed in before undertaking further work in this area. Nor does it make sense to look at just the construction sector, given the growing problem of false self-employment in other sectors. Let me reassure the Committee that the Government will closely monitor the impact of the changes introduced by this Bill on false self-employment, and will bring forward new measures to tackle any continued abuse in this area as required. On that basis, I hope that the hon. Member for Kilmarnock and Loudoun will not press the new clause to a Division.

Let me now deal with the questions raised by the hon. Lady. She asked how all businesses would be made aware of the changes. HMRC and the Treasury have met extensively with people in the industry and representative bodies. Guidance has been published to ensure that people know when and how the changes will apply. As to whether this could affect the genuinely self-employed, while the absence of any obligation to provide a personal service has long been held as an indicator of self-employment, and it is also most unlikely for a person who is personally providing their services in a genuinely self-employed capacity to be under the supervision, direction or control of someone else, the inclusion of a standardised substitution clause within contracts has for too long been used as a way of avoiding being caught by the agency legislation. As I mentioned earlier, when someone is genuinely not under supervision, direction or control for the manner in which they undertake their duties, it is fine for them to be engaged on a self-employed basis.

I was asked whether the returns are likely to be burdensome and costly. We do not believe that that will be case. The Government are mindful of the cost implications and aware that HMRC has restricted the information required to a minimum. This will enable HMRC to monitor compliance with legislation to address both false self-employment and the offshoring of payrolls, and to support the response to non-compliance. HMRC's compliance strategy will be to help those genuinely trying to get things right, but target and take action against those wilfully attempting to avoid the legislation. As to the suggestion that the existing legislation could work and address the matter, and that we do not need new legislation, over a period of time, these schemes have been developed specifically to target weaknesses in the existing legislation. The clause strengthens and clarifies the existing legislation, ensuring that there is a level playing field for all businesses.

On the reporting requirements and the delay there and whether that will allow intermediaries to find other ways to circumvent the legislation, I come back to what I said a moment ago to my hon. Friend the Member for Solihull. We have introduced a targeted anti-avoidance rule to deter such avoidance. There will be no delay in enforcing the legislation to target those intermediaries involved in the facilitation of false self-employment who may find other avoidance vehicles.

Returning to the issue of guidance, additional guidance has already been published. HMRC has undertaken to continue to work with the industry to ensure that there is sufficient guidance and to update guidance as required. There is also a technical consultation over the summer on record-keeping requirements. In terms of monitoring compliance in the construction sector specifically, all subcontractor payments made are returned to HMRC under the construction industry scheme. That will enable a close monitoring of the extent of non-compliance. On the impact on business generally, particularly in the construction sector, the measure will create a level playing field for businesses, ensuring that compliant UK businesses that facilitate the UK's extremely flexible labour market are not undercut by those seeking to avoid tax. We do not believe it is fair that compliant businesses can be undercut by businesses that are avoiding tax.

The measures could also benefit workers who are currently losing out on entitlements to statutory benefits because their employer is not paying the appropriate secondary national insurance contributions—a point raised by a number of hon. Members. Workers are often unaware that such arrangements are even in place until they attempt to claim statutory benefits such as maternity pay or sick pay, which is all the more reason for the Government to take action on that long-standing issue.

These are important changes to agency legislation. In total, the changes will ensure that the right tax is paid when employment intermediaries are used. The changes will also ensure that the right amount of tax is paid for individuals engaged by or through an employment intermediary, thereby ensuring that they are in the same position as someone engaged directly by an employment business. Setting up contrived structures will therefore not result in a tax advantage. The changes will help to provide a level playing field across the labour market. I hope the clauses will have the Committee's wholehearted support.

Question put and agreed to.

Clause 16 accordingly ordered to stand part of the Bill.

Clauses 17 and 18 ordered to stand part of the Bill.

Clause 20 ordered to stand part of the Bill.

Clause 21

Oil and gas workers on the continental shelf: operation of PAYE

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

Cathy Jamieson: Following clause 20 and PAYE obligations for UK intermediaries, clause 21 applies similar obligations with specific provisions for oil and gas workers on the continental shelf. With specific reference to workers supplied by a non-UK based employer, clause 21 will add a new section 689A to the Income Tax (Earnings and Pensions) Act 2003 to make key provisions. When the offshore employer has an associated company, body or agency based in the UK, the associated company, body or agency will be responsible for accounting for the NICs and tax of its offshore associate. When the offshore employer has no associated company in the UK, the oilfield licensees will be responsible for accounting for the tax and NICs.

In recognition of the fact that oilfield licensees are generally removed from the operation of the oilfield—joint operating agreements on oilfields are but one example of that—and given the complex chains of employment in the sector, the Government propose to institute a certification scheme similar to the one operated for corporation tax, whereby a compliant offshore employer can apply to HMRC for a certificate. While the certificate is in place, it will remove HMRC's ability to enforce any unpaid employment tax and NICs against the licensees.

The Government announced at Budget 2013 that they intended to strengthen legislation to prevent offshore intermediaries being used to avoid employment taxes, as we have already heard in our consideration of previous clauses. We find nothing wrong with that in principle. A number of technical points in the clause specifically relate to the offshore sector, and I do not wish to repeat the principles that have already been discussed, but I wonder whether the Minister might answer a couple of questions.

As I understand it, there was some consultation on the initial proposals and the Government revised them based on concerns that some of the measures would be hugely complex and would not easily fit the complex supply chains in the oil and gas sector. Will the Minister clarify whether the significant complexities that were identified during that consultation process have been resolved? Is he confident that the oil and gas industry is sufficiently satisfied that the revised proposals now fit that bill? It is important to understand that because the information impact note outlines expected total costs of some £800,000 across approximately 10,000 businesses in the UK oil and gas sector. There is some concern about that. Is the Minister able give us any further information today? If he is not able to, perhaps he could let the Committee know in due course about the tax information impact note and the net benefit to the Exchequer as a result of the provisions in clauses 20 and 21. Those were set out in table 2.1 of Budget 2013: £80 million in 2014-15; £85 million in 2015-16 and 2016-17; and £90 million in 2017-18.

Is the Minister able to break down those figures further and outline how much of that revenue is expected to come from provisions contained in the clause, which is aimed at the oil and gas sector? How confident is he in those figures, considering previous estimates of revenue yields as a result of other offshore tax avoidance and evasion measures did not perhaps give us as accurate a picture as people may have liked? For example, in the autumn statement of 2012, it was suggested that the UK-Swiss confederation taxation co-operation agreement would raise £3.2 billion in 2013-14, rising to £3.45 billion in total at the beginning of 2013. The point was raised in last year's Finance Bill Committee. At that stage, the Exchequer Secretary told my colleague that the estimates remained the same, yet a few months later we were told that the Exchequer had received only a fraction of that amount. My question is about the robustness of the figures and how they were calculated.

The tax information and impact note predicts expected implementation costs to HMRC of around £1 million, as well as what it describes as a "small increase" in costs of administering the new certification scheme for compliant offshore employers. Given that it is estimated that HMRC will have lost a total of more than 18,000 full-time equivalent posts by March 2016—assessed as 26% of its work force—and following on from what my hon. Friends have said, what additional burden are the measures likely to place on HMRC and its staff, which are in addition to the problems that will be placed on the oil and gas sector?

Perhaps the Minister could reassure me on those points. We do not intend to vote against the clause but it would helpful to have that information.

Mr Gauke: I thank the hon. Lady for her support for the clause and for her questions, which I will attempt to address. As we have heard, clause 21 supplements the changes introduced by the clauses that we have just debated in order to tackle tax avoidance by employment intermediaries. The clause makes changes to clarify who is responsible for operating PAYE in respect of workers on the UK continental shelf. It also allows the Treasury to make regulations for a certification scheme when someone other than the deemed employer for tax fulfils those obligations.

The clause provides a tailored legislative approach for the oil and gas industry. It is consistent with other legislation relating to the oil and gas industry, and is required because of its complex structures, which are absent in other sectors. Additionally, there are many legitimate reasons why employers of oil and gas workers are based outside the UK. However, for several years employers of workers engaged on the UK continental shelf have been relocating outside the UK in an attempt to avoid UK employment tax obligations. The clause will end those practices by clarifying when and where UK employment tax obligations arise. It will ensure that there is no longer a situation in which those who are doing the right thing and paying their taxes are at a competitive disadvantage.

Changes being made by the clause include creating a new section 689A, clarifying who is responsible for operating PAYE in respect of workers on the UK continental shelf. In practice, that means that when the employer of the worker is based outside the UK and has a UK-associated company, that associated company is responsible for operating PAYE. When there is no UK-associated company, the oil field licensee is responsible for operating PAYE.

4.15 pm

The clause also provides the Treasury with the power to make regulations about a certification scheme. The regulations were laid under a Provisional Collection of Taxes Act 1968 resolution on 2 April 2014, and came into force on 6 April 2014, allowing HMRC to issue certificates from then. The regulations allow for the offshore employer to apply for a certificate where the oilfield licensee is responsible for fulfilling PAYE obligations. The certificate confirms that those obligations have been fulfilled by another party.

For the certificate to remain valid, the non-UK employer will have to comply with all UK PAYE obligations, including those associated with real-time information reporting and employers' national insurance obligations. While the certificate is in place, the oilfield licensees will not be liable for any underpayments of income tax. If the non-UK employer fails to comply with its obligations, HMRC will withdraw the certificate and the oilfield licensee will become responsible for all future PAYE obligations.

HMRC has consulted extensively with the oil and gas industry about the design of the measure. The proposals have changed significantly as a result of that consultation in order to take into account concerns raised by the industry. We were clear about what those changes were and how the legislation would operate in the response document that we published in October 2013. The oil and gas industry requested the certification scheme that I have just described and that we are now implementing. We believe that the changes will ensure that the administrative burden is significantly reduced from the original proposals, but we will still ensure that the employer of workers on the UK continental shelf will comply with its obligations in the same way as all UK employers.

I was asked about the burden on HMRC and the yield. The offshore measure is scored at around £80 million per annum, including both oil and gas and the use of offshore employees in the temporary labour market. We have already seen many companies moving onshore. As

for the burdens, HMRC is introducing computer systems for the return requirements, which will assist with what HMRC is able to do and ensure that it can deal with the burden.

Ian Swales: There is a large number of oil and gas workers in my constituency, and local agencies report that HMRC is not very good at relating to them regarding training and assistance for the arrangements that it puts in place. The issue is not just computer systems, but ensuring that HMRC staff are able to advise agencies on what needs to be done.

Mr Gauke: I am grateful to my hon. Friend for his intervention and will make sure that his concerns are expressed to HMRC in order to ensure that the necessary skills and expertise are there to deal with such issues. HMRC's role is to ensure that the law is properly enforced and taxes are paid, but it is important that effective and constructive relationships exist.

The clause ensures that there is a level playing field for those engaging workers on the UK continental shelf. It recognises the unique nature of the oil and gas industry and puts in place a system that works for the industry and is not unnecessarily burdensome. In fact, we have recently had some good news. As a direct result of the clause, some of the largest contractor companies providing workers on the UK continental shelf have already unwound their offshore arrangements. They are now employing their workers out of the UK. Given the remarks I have made and my attempts to answer the questions, I hope the clause can stand part of the Bill.

Question put and agreed to.

Clause 21 accordingly ordered to stand part of the Bill.

Clause 19

PAYMENTS BY EMPLOYER ON ACCOUNT OF TAX WHERE DEDUCTION NOT POSSIBLE

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

Cathy Jamieson: I hope to be brief so that we can make some progress. The clause changes the deadline by which employees must make good any PAYE amount withheld by their employer on notional payments treated as having been made to them. If the amounts are not paid to the employer by the appropriate deadline, the PAYE paid by the employer is treated as a taxable benefit. This type of notional payment typically arises when an employee receives share-related income—for example, a share option income—that counts as employment income, but where no transfer of money from employer to employee is involved, so the employer has nothing from which to withhold PAYE.

However, a PAYE obligation still exists, so the employer has to pay the amount to HMRC and recover an equivalent amount from the employee. Previously, the deadline for recovering the amount was 90 days from the relevant event, but, from 6 April 2014, the deadline will be 90 days from the end of the tax year in which the relevant event occurs. We do not intend to oppose the clause, but can the Minister explain why the Government did not follow the main recommendation of the Office of Tax Simplification report into employee share schemes that the income in relation to employee share schemes be simply removed from the scope of the legislation with no deadline? Does the Government agree with the OTS recommendation that improvements should be made to the HMRC guidance to clarify what arrangements need to be in place to constitute making good? Have the Government given any consideration to extend the definition of "making good" the tax to include the arrangements where an undertaking or indemnity has been given within the period to make good the tax?

It has been noted and recognised by the OTS that the Government proposals would give employers who need to recoup PAYE from employees early in the tax year much longer to do so than those who need to do so at the end of the process. It would be helpful if the Minister could respond to those points and comment on whether the proposals create an uneven playing field.

Mr Gauke: Clause 19 concerns the rules around notional payments of employment income, such as payments that are not in cash, where it is not possible for employers to deduct PAYE in the same way as they would for cash payments. This is just one of the provisions that implements recommendations made by the Office of Tax Simplification to simplify the tax rules. I will be setting out many further simplifications arising from OTS recommendations as our consideration of the Bill proceeds.

Currently, where an employer is treated as making a notional payment to an employee, such as on the exercise of a share option by the employee, and that employer is required under PAYE to pay an amount of tax that they could not deduct from the notional payment, the employee is required to make good that amount to the employer within a specified period. Otherwise, an income tax charge will be due on the amount that has been paid on the employee's behalf. This reflects the fact that the employee has received a benefit, because their employer has met the tax liability on their employment income. I mentioned the term "making good", as did the hon. Lady. There is no statutory definition of "making good". The normal meaning applies. For example, the employee should transfer something of value to the employer.

The tax charge is often described as unfair. It is intended, however, to ensure that employees fund their own tax and national insurance contributions liabilities, regardless of whether they are paid in cash or in other ways. It addresses cases in which non-cash payments have been used to avoid tax and puts an employee receiving a notional payment in broadly the same position as their colleagues who receive their salaries net of the deduction of PAYE tax. The change we are making will make it easier for businesses to comply.

The deadline for the employee to make good the amount will be changed from 90 days after the event treated as the notional payment to 90 days after the end of the tax year in which the event fell, which will be 6 July following the relevant tax year. On the question of why the Government have not precisely implemented the OTS recommendation, we have applied the change to all notional payments, not just those arising from employee shares. The OTS proposed treating some notional payments, such as employee shares, differently from others, but we want to apply a degree of consistency. The Government also decided to change the NICs treatment of this tax charge.

We believe that these modifications will better control the Exchequer cost and ensure consistent treatment for all notional payments while still retaining the simplification benefits of the OTS proposal. This change simplifies the position for businesses: there is now one single deadline for each tax year by which an amount must be made good following a notional payment to prevent a further tax charge. The single deadline is aligned with that by which the employers must submit information to HMRC on employee expenses and benefits, and so will provide a focal point that incentivises businesses to review the circumstances of any notional payments made during the previous tax year.

In most cases, this change will give a longer period for the employee to make good the relevant amount than previously and we anticipate that it will lead to fewer cases in which the deadline is missed simply because of an oversight. I hope that the clause may stand part of the Bill.

Question put and agreed to.

Clause 19 accordingly ordered to stand part of the Bill.

Clause 22

THRESHOLD FOR BENEFIT OF LOAN TO BE TREATED AS EARNINGS

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

Cathy Jamieson: We are making good progress, which hopefully will continue. The clause is concerned with beneficial loans: the loans provided by an employer with interest at less than commercial rates or HMRC's official interest rate, which is currently set at 3.25% for 2014-15.

The current law, which is set out in the Income Tax (Earnings and Pensions) Act 2003, states that where employers provide their employees with cheap or interest-free loans, such loans do not confer a taxable benefit on the employee where the total of all such loans does not exceed £5,000 at any point in the tax year. Budget 2013 announced that the statutory limit would increase to £10,000 on 6 April 2014, to double that provision. The clause therefore amends all references to £5,000 in that legislation to £10,000. In addition, employers will no longer be required to report details of such loans where the outstanding balance is £10,000 or less throughout the tax year.

The tax information and impact note outlines the Government's expectation that about 7,000 businesses will benefit from this measure. It goes on to say:

"There will be ongoing savings for companies from reduced administrative costs, either through no longer having to complete the P11D form or through no longer having to fill in the beneficial loans boxes on the form. Overall, it is expected that the resulting reduction in administrative burden placed on businesses…will be around £0.6 million per year."

Will the Minister elaborate on that and inform us of how the Government arrived at that £600,000 estimated total saving? What will that mean for the average business?

Hon. Members will be aware that beneficial loans are useful to many employees. Indeed, a TIIN from last year estimated that some 25,000 had beneficial loan balances somewhere between £5,000 and £10,000. That does not include those with loans that have smaller balances. Many employees take out such loans at cheap rates of interest or interest free for the purpose of purchasing season travel tickets; we are aware of the increasing costs of rail fares and their impact. The increase of the £5,000 limit is welcome because it will allow more employees to benefit from such loans. In response to Budget 2013, several people questioned why the change was being introduced in 2014 rather than in 2013. I do not intend to pursue that point, but I note that it has been raised in previous Budgets. I hope that the Minister will respond to my question, but we will not oppose the clause standing part of the Bill.

4.30 pm

Mr Gauke: I thank the hon. Lady for her support for the clause, which raises the statutory threshold of beneficial loans from £5,000 to £10,000. Beneficial loans are employment-related loans with lower interest rates than average commercial loans. The clause increases the threshold below which benefits relating to such loans are not taxed as a benefit in kind. Benefits on loans in excess of the threshold are treated as earnings of the employment and must be reported to HMRC. The change removes a reporting requirement for many employers, which will lift administrative burdens where loans administered are lower than the threshold.

To elaborate on the savings for companies, the reduction in administrative costs as a result of no longer either having to complete the P11D form or having to fill in the beneficial loans boxes of the form will, as the hon. Lady has said, reduce the administrative burden that businesses face by some £600,000 a year. The administrative savings are in the areas that I have mentioned. Employees take out beneficial loans for a range of purposes, one of the most common of which is to fund the purchase of season tickets for commuting. The beneficial loan threshold has remained unchanged since 1994, and the increase in the threshold is designed to ensure that it more accurately reflects the current levels of loan arrangements. The increase will make it easier and cheaper for employers to help their employees spread the cost of items such as season tickets across a longer period of time.

The change made by clause 22 is expected to benefit approximately 25,000 individuals and 7,000 businesses. The resulting savings in administrative burdens are estimated to be in the region of £600,000 a year. The increase in the threshold will assist individuals and businesses by reducing burdens, and I hope that the clause will stand part of the Bill.

Question put and agreed to.

Clause 22 accordingly ordered to stand part of the Bill.

Clause 23

TAXABLE BENEFITS: CARS, VANS AND RELATED BENEFITS

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

Cathy Jamieson: Clause 23 relates to clause 25, which we will come to slightly later in our consideration of the Bill. Clause 23 removes section 114(3) of the Income Tax (Earnings and Pensions) Act 2003, which allows employees to claim company cars as employment earnings rather than as a benefit in kind. Clause 23 thereby

[Cathy Jamieson]

ensures that the benefit of company cars and vans is taxed in full from 6 April 2014. My understanding is that the measure has been introduced because the Government take the view that the former situation might inadvertently lead, in some cases, to individuals paying less tax on their car or van benefit by claiming the benefit as earnings, which the Government did not originally intend. The explanatory notes that accompany the 2003 Act make it clear that section 114(3) was inserted to prevent a double-taxation charge from arising on car, car fuel or van benefits. Indeed, the information impact note accompanying the clause supports the view that it sought to provide protection from double taxation. However, the explanatory notes to the clause explain further the Government's thinking with some concern about the way the situation operates currently because individuals could pay less on the car or van benefit than the Government intended. That would have a negative impact on Exchequer revenue.

It seems to me when looking at some of the points that have been raised in the past that—perhaps the Minister will confirm this—cases in the courts have brought that to the fore. HMRC *v.* Apollo Fuels Ltd and others involved the employer leasing cars to some of its employees, but the rent paid by the employees was the same under that arrangement as if they had entered into a lease agreement themselves. I cannot quote all the facts, but it seems that there was a financial gain to the employees. Such cases have brought the matter to the fore.

Will the Minister confirm whether there are similar cases or other issues that she wishes to highlight to us in relation to HMRC and cases that have been taken to tribunals? Can she estimate how much revenue has been lost as a result of any such actions arising from the way the legislation operates, and has there been an estimate of the number of individuals who have engaged in such activity and claimed for their car or caravan benefits as constituting earnings under the provisions and therefore paying less tax?

We do not oppose the clause standing part of the Bill, but it would be useful if the Minister responded to those points.

The Financial Secretary to the Treasury (Nicky Morgan): I am providing some variety as we head towards the end of our sitting. It is a pleasure, Mr Caton, to serve under your chairmanship on my first Finance Bill. I thank the hon. Member for Kilmarnock and Loudoun for her comments and I hope that we can speed through the clause. I understand that the Opposition broadly support it, but she has highlighted some questions.

Clause 23 makes changes to the Income Tax (Earnings and Pensions) Act 2003 to protect tax revenue by ensuring that a company car and van benefit is taxed in full. Section 114(3) of that Act is intended to prevent an employee from being charged twice in respect of the same company car benefit—once under the car benefit rules and once under the money's worth rules. That applies to a car or van benefit, but for simplicity I will speak only about cars.

The Government's policy intention is to tax the full amount of the car benefit. However, that is not what the provision achieves in some cases. It inadvertently gives priority to the money's worth charge and then entirely disapplies the car benefit rules. The end result is that the amount of tax an employee pays is likely to be significantly less than the amount due using the car benefit rules. That could have a negative impact on Exchequer revenue and the integrity of the car benefit rules.

The change being made by the clause will repeal section 114(3) of 2003 Act. It will apply to all employees who have a company car or van. Most individuals will not see any change as their company car is already taxed under the car benefit rules. However, the clause ensures that the full amount of car benefit is taxed. There will also be no change to the way a car benefit is calculated or to the existing reporting requirements to HMRC.

The hon. Lady asked several questions and I will answer them briefly. She asked about HMRC *v.* Apollo Fuels Ltd and others. She was correct in saying that that first tier tribunal case alerted us to the possibility of the car and van benefit rules being disapplied, and we are making the changes to prevent any tax loss.

The hon. Lady asked whether there had been any tax lost to date. HMRC is not aware of any tax loss as a result of individuals using the provision to prevent a double tax charge to pay less tax on a company car. However, she will appreciate that the clause will ensure that Exchequer revenue is now protected and that the full amount of car or van benefit is subject to tax.

The hon. Lady also asked whether any tax avoidance schemes had been created in this respect. HMRC has not seen any such schemes created, but the clause ensures that individuals cannot use the provision preventing a double-tax charge to pay less tax on a car or van benefit.

The clause aligns the legislation with the policy intention to tax the full amount of a car benefit. Most people will not see any change, but the clause will protect Exchequer revenue by ensuring that the correct amount of tax is payable on a car benefit.

Question put and agreed to.

Clause 23 accordingly ordered to stand part of the Bill.

Clause 24

CARS: THE APPROPRIATE PERCENTAGE

Cathy Jamieson: I beg to move amendment 5, in clause 24, page 25, line 9, at end insert—

'(18)(a) the Chancellor of the Exchequer shall, within three months of Royal Assent , undertake a review of the impact of changes made by this section to the Income Tax (Earnings and Pensions) Act 2003 on—

(i) tax revenues; and

(ii) the electric car market manufacturing industry in the UK.'.

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

Cathy Jamieson: I take the opportunity to welcome the Minister to her place and I thank her for her contribution on the previous clause.

The clause relates to company car tax and the appropriate percentage. It provides for company car tax rates for 2016-17. Before turning to the detail of the amendment, it is worth making a couple of points about the clause. I want to quiz the Minister on a particular issue, which is the diesel supplement on company car tax.

The Government announced the removal of the diesel supplement in the 2012 Budget, as part of a raft of changes to company car tax, including the ending of the five-year exemption for zero carbon and ultra-low carbon emission vehicles. The impact notes describe the benefits of changes for low-emission vehicles. Will the Minister enlighten us on how much the average company car driver—of a diesel car—can expect to save in 2016-17 as a result of the removal of the diesel supplement?

Will the Minister also set out the Government's reasoning for repealing the 3% diesel supplement? Are we to presume that it is on the basis of emissions from diesel cars, which are often lower than for petrol cars? At Budget 2012, the Government forecast that the changes, including ending the exemption for ULEVs, would lead to a net benefit of between £300 million and £400 million to the Exchequer. Will the Minister outline the cost to the Exchequer of removing the diesel supplement, if indeed there is a cost?

The amendment is a probing one to elicit information. By way of background, the company car tax calculation, which previously had been based purely on business mileage, was correctly reformed—in my view—back in 2002 by the Labour Government to take account of carbon dioxide emissions. That led to a number of changes to the now famous Income Tax (Earnings and Pensions) Act 2003, providing for calculating the cash equivalent of the benefit of a company car. Broadly speaking, the calculation depends on the list price of the car, as well as any taxable accessories—we have had some interesting discussions on those during the passage of previous Finance Bills—multiplied by the level of CO_2 emissions that the car produces. The way in which the appropriate percentage is calculated means that the lower the car's emissions, the lower the percentage.

As Members know, the 2002 reforms to the regime mean that changes to rates have been announced at least two Budgets in advance—a practice intended to give stability and certainty to the company car market. That has been particularly helpful for fleet operators when making decisions about purchasing vehicles. It is therefore welcome that, as of 2013, the Government have been announcing the changes to rates three years in advance to avoid difficulties on that issue.

I will not go into all the detail about the new bands that are being introduced, other than to raise one query. The rates are now lower than the 13% announced in Budget 2012 for all zero-emission and low-carbon cars emitting less than 95 grams of carbon dioxide per kilometre in 2015-16, which were to rise to 15% in 2016-17. Yet that still represented a rise in 2015, so again I seek some clarification.

4.45 pm

Clause 24 is partly concerned with uprating the new lower rates of company car tax for 2016-17. The tax information and impact notes, as well as comments by Ministers in previous Finance Bill Committees, have set out what those changes would mean for the basic rate taxpayer driving a low-emission company car.

Amendment 5 calls on the Government to take stock and consider the impact that their various policy announcements have had on the company car and van tax burden and on the electric vehicles market and manufacturing industry in the UK. The amendment is probing. It would be helpful if the Minister told us how much more a basic rate taxpayer driving a low-emission vehicle at the average list price can expect to pay in 2015 compared with 2010.

It is important to support the manufacture, sale and usage of electric vehicles. If the Minister could reassure us on that point, it would help us to make some progress.

Nicky Morgan: As we have heard, clause 24 makes changes to the taxation of company cars, to take effect from 6 April 2016. I would like to give hon. Members some background before I speak about the clause and the amendment in detail.

The taxation of company cars was reformed in 2002. It was linked to carbon dioxide emissions to promote the purchase of environmentally friendly cars—the lower the carbon dioxide emissions, the lower the appropriate percentage. Carbon dioxide emissions from the average new car have declined by just over a quarter since 2002. The appropriate percentages have therefore traditionally increased each year to reflect the continued improvement in car fuel efficiency and to ensure that the company car benefit in kind continues to be taxed fairly.

As the hon. Lady has said, all Governments have committed to announcing changes in the taxation of company cars at least three years in advance so that employees and businesses have greater certainty about the costs involved in their use.

The previous Government introduced a time-limited company car tax exemption for zero-emission cars from 2010 to 2015. Upon expiry of the tax exemptions, zero-emission cars would have paid the same appropriate percentage as the cleanest conventionally fuelled cars. The changes made by clause 24 are part of announcements in Budgets 2012 and 2013, which introduced a differential in appropriate percentages between ultra-low emission and conventionally fuelled company cars from 2015-16 to 2019-20 to ensure that we continue to incentivise the choice of the former over the latter.

The Government also announced that the appropriate percentage for conventionally fuelled cars will increase by two percentage points in 2015-16 and 2016-17. The changes therefore ensure that taxation of company cars continues to reflect the improvement of emissions levels and provides for company car drivers to make a fair contribution towards the Government's deficit reduction plans.

Regarding the impact of the ultra-low emission car changes, the detail of the appropriate percentages and bands are set out in the legislation. The changes ensure that ultra-low emission cars will be taxed at a lower rate than conventionally fuelled cars. Therefore, in 2016-17, a basic rate taxpayer driving a popular ultra-low emission car would pay £420 less tax than a basic rate taxpayer with a popular conventionally fuelled car. Our tax plans therefore continue to incentivise the choice of ultra-low emission company cars.

The hon. Lady asked for the differential between what someone paid in 2010 and what they would pay in 2015. If I am not able to gather the information before I sit down, I will certainly write to her.

Regarding the impact of the non-ultra low-emission car changes, for conventionally fuelled cars, a basic rate taxpayer with a popular petrol fuelled company car could be paying approximately £80 more in 2016-17.

[Nicky Morgan]

A higher rate taxpayer could pay £165 more. However, there is a company car turnover of three to four years, which allows employees and employers to switch to more fuel efficient cars to benefit from paying a lower tax rate.

The increase should be seen in the context of the increase in the personal allowance to £10,500 in April 2015 and the freeze in fuel duty. As a result of the Government's action on fuel duty since 2010, a typical car owner will have saved £680 by March 2016. Furthermore, businesses that provide their employees with a company car have had their vehicle excise duty frozen in real terms since 2010.

The hon. Member for Kilmarnock and Loudoun asked about the diesel supplement abolition. New European standards coming into force on 1 September 2015 are intended to put the air quality pollutant emissions from diesel cars broadly on a par with petrol cars. To reflect the tightening of the air pollutant emission standards that new cars will now have to meet, the Government announced at Budget 2012 that the diesel supplement will be abolished after the first full year of the new standard. The abolition will also help provide administrative simplification to the taxation of company cars and bring the regime into alignment with that of fuel duty and vehicle excise duty, where the tax treatments of petrol and diesel cars are the same.

I have mentioned the changes in the standards. The hon. Lady also asked about what that would mean in terms of what drivers would be paying. A basic rate taxpayer with a popular diesel fuelled car could pay approximately £40 less tax in 2016-17, due to the repealing of the diesel supplement. A higher-rate taxpayer could pay some £85 less.

The hon. Lady also asked about the score card implication. Budget 2012 set out company car tax rates from 2014-15 and 2016-17, including the removal of the diesel supplement in 2016. We do not have the figures to isolate the diesel supplement removal cost in isolation, but the overall score card cost impact of the 2016-17 changes was included in the costing of the Budget 2012 announcement and showed an increase of £120 million in 2014-15, £375 million in 2015-16 and £350 million in 2016-17. If that is not clear, I am happy to write to her again, so the information is set out.

The Government are undertaking other initiatives and policies to limit air pollution emissions, including making £900 million available to the Department for Transport to support the early market for ultra-low emission vehicles and the Department's making £535 million available, under the local sustainable transport fund, to support local transport projects aimed at reducing emissions.

The Government cannot accept amendment 5, because it calls for a review, within three months of the Bill's receiving Royal Assent, of the impact of changes that will not take effect for another two years. The Government announced at Budget 2013 that we will review the company car tax incentives for ultra-low emission cars, in light of market developments, at Budget 2016. Furthermore, Committee members will know that we keep all taxes under regular review as part of the annual budget.

This Government's ambition is to make the UK a premier location for the design, manufacture and adoption of ultra-low emission vehicles. The tax support that we have provided, including for company cars, combined with the Government's grants to ultra-low emission vehicle purchases, will help to make that ambition a reality.

The clause strikes a balance between supporting the purchase and manufacture of ultra-low emission cars in the UK and ensuring that all drivers of company cars and their employers are subject to a fair level of tax. I owe the hon. Lady an answer on one thing and I am afraid that I will have to write to her about it.

Cathy Jamieson: I mentioned that I wished to probe a number of points and I thank the Minister for her response. Given that she has provided assurance that she will write to me on a number of points—and I am sure that she would do so if there were any follow-up—I do not intend to press the amendment to a vote. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 24 ordered to stand part of the Bill.

Clause 25

Cars and vans: payments for private use

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

Cathy Jamieson: I shall be brief, because we have discussed some relevant issues during debates on previous clauses. We have already talked about the implication for employees paying tax on the cash equivalent of a benefit in kind, such as a company car or vans. The clause relates to situations in which an employee has to pay for the private use of a car as a condition of the car being made available. In such cases, the value of the cash equivalent benefit is reduced accordingly on a pound for pound basis. In the same vein, capital contributions of up to £5,000 made by employees towards the cost of a car and/or accessories when the car is first made available will continue to reduce its list price for the purposes of calculating the appropriate percentage.

The clause amends sections of the 2003 Act. According to the tax information and impact note, the changes will be

"putting beyond doubt that payments for private use of a company car or van need to be made in the tax year in which private use was undertaken. The current wording of the legislation does not achieve the policy intention."

The note suggests that the measure is focused solely upon protecting Exchequer revenue:

"This measure protects Exchequer revenue by ensuring that a car or van benefit is chargeable in full if contributions required for private use are not made before the end of the tax year in which private use was undertaken."

However, on the next page it suggests that the Exchequer impact of the measure will be negligible. Some suggestion that the Exchequer is losing out must have made the Government bring the changes forward, yet at the same time the TIIN states that the impact is negligible. Will the Minister provide some clarity on that?

The table on page 2 of the note suggests that, aside from the negligible Exchequer impact, the measure will have no discernible impact on employees, businesses, civil society organisations or indeed the economy itself. It would appear that only employers who are misreporting may see some impact. Again, the Government are presumably taking these steps because they have some evidence of business incorrectly reporting the value of the benefits in question. Will the Minister say whether that is the case? Equally, does she believe that the clause is essentially an anti-avoidance measure or that it is simply a tightening up of regulations to put an end to delays in repayments by employees?

Finally, I note the comments on the measure from the Institute of Chartered Accountants in England and Wales, which believes that it is perfectly reasonable for the Government to clarify the deadline by which payments should be made by employees. However, in response to the measures set out in the draft Finance Bill, the ICAEW has suggested that a later deadline, coinciding with the submission of P11D forms, would be more appropriate. Will the Minister respond to those comments? Did she consider the points made by the ICAEW? Will she clarify whether a later deadline to ease the administrative burden has been considered?

Nicky Morgan: I thank the hon. Lady for her questions, which I will do my best to address. Clause 25 makes changes to the 2003 Act to ensure that payment for the private use of a company car or van is made in the tax year in which private use is undertaken. If an employee receives a company car or van and it is made available for private use, there is a taxable benefit. An employee can reduce his or her tax liability on the benefit if they make contributions to their employer for the private use of a company car or van. The original policy intention was that the payments towards the private use of a car or van must be made before the end of the tax year in which private use was undertaken, otherwise the full amount of tax would be payable on the car or van benefit.

The 2003 Act, however, inadvertently allows an employee to make payments or state their intention to make payments for private use of the car or van in any tax year. That could allow an employee to avoid a car or van benefit charge altogether by stating an intention to make payments, but deferring such payments indefinitely. If everyone with a company car or van decided to manipulate the current wording of the tax legislation, that could remove all tax yield from car and van benefit. The most recently published statistics by HMRC indicate that the yield was some £2 billion in 2010-11.

The hon. Lady asked various questions, and I will give her some answers. The Government have moved to protect future tax revenue by amending the legislation at the earliest opportunity. HMRC is not aware of any tax loss as a result of individuals deferring private use payments of a car or van benefit, so the clause ensures that Exchequer revenue is protected in future and payments are made in the relevant tax year. We do not believe that there has been widespread manipulation of the legislation, but the clause will put beyond doubt when private use payments need to be paid. Employers will need to pay all their contributions for private use before the end of the tax year in which the private use is undertaken. Full updated guidance will be issued by HMRC in the autumn.

The clause is a tightening up of inadvertent drafting in the legislation, just to prevent any future manipulation. The hon. Lady asked about the ICAEW changes, and I will need to go away to see whether the points she made have been addressed. I am happy to write to her on that.

The changes made by the clause will put beyond doubt that payments for private use of a company car or van need to be made before the end of the tax year in which private use is undertaken. That will protect Exchequer revenue. Most individuals and employers will not see any changes, as the clause ensures that the legislation is aligned with existing policy. The changes it makes are wholly in line with the original policy intention of the 2003 Act.

Question put and agreed to.

Clause 25 accordingly ordered to stand part of the Bill.

The Chair: I remind Members that there is no sitting on Tuesday morning and that we next convene at 3.30 pm on that day.

Ordered, That further consideration be now adjourned. —*(Amber Rudd.)*

5.1 pm

Adjourned till Tuesday 6 May at half-past Three o'clock.