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Public Bill Committee

IMMIGRATION BILL

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CONTENTS

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Saturday 23 November 2013

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: Sir Roger Gale, †Katy Clark

† Bain, Mr William *(Glasgow North East)* (Lab)
† Baker, Norman *(Minister for Crime Prevention)*
Dowd, Jim *(Lewisham West and Penge)* (Lab)
Doyle-Price, Jackie *(Thurrock)* (Con)
† Hanson, Mr David *(Delyn)* (Lab)
† Harper, Mr Mark *(Minister for Immigration)*
† Hillier, Meg *(Hackney South and Shoreditch)* (Lab/Co-op)
† Huppert, Dr Julian *(Cambridge)* (LD)
† Jones, Helen *(Warrington North)* (Lab)
† Kirby, Simon *(Brighton, Kemptown)* (Con)
† McFadden, Mr Pat *(Wolverhampton South East)* (Lab)
† Mills, Nigel *(Amber Valley)* (Con)
† Milton, Anne *(Lord Commissioner of Her Majesty's Treasury)*
† Opperman, Guy *(Hexham)* (Con)
Paisley, Ian *(North Antrim)* (DUP)
† Patel, Priti *(Witham)* (Con)
Robertson, John *(Glasgow North West)* (Lab)
Smith, Henry *(Crawley)* (Con)
† Soames, Nicholas *(Mid Sussex)* (Con)
† Syms, Mr Robert *(Poole)* (Con)
† Wilson, Phil *(Sedgefield)* (Lab)

John-Paul Flaherty, Matthew Hamlyn, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 19 November 2013

[Katy Clark *in the Chair*]

Immigration Bill

New Clause 8

Residence permit: domestic violence

'(1) A person (P) shall be entitled to a residence permit for three months for rest and reflection where—

(a) P is married, in a civil partnership, or in a durable relationship with someone who is lawfully in the UK; and

(b) P is in the UK as a dependant of that other person; and

(c) the relationship breaks down as a result of domestic violence.

(2) The residence permit shall be available to P and any dependants already in the UK with entitlement to work.'.—*(Mr Hanson.)*

8.55 am

Brought up, and read the First time.

Mr David Hanson (Delyn) (Lab): I beg to move, That the clause be read a Second time.

Ms Clark, welcome back to the Committee after a week's recess, which I am sure has been helpful to us all. First, this is off-piste, but the new clause is linked slightly to the issue of domestic violence. May I thank the Minister for his letter of last evening in relation to the withdrawn amendment 30, which dealt with night shelters and women's refuges? I am pleased and grateful to him for recognising that the issue that we raised was important and for committing to bring forward an amendment in due course.

I hope that the Minister can look at this issue in a similarly positive light. New clause 8 is designed to ensure that an individual—P—is

"entitled to a residence permit for three months for rest and reflection where…P is married, in a civil partnership, or in a durable relationship with someone who is lawfully in the UK; and…P is…a dependant of that…person"

and is here only because of the relationship with an individual who is lawfully here. We want to test the Government on whether, if the relationship breaks down as a result of domestic violence, there could be a short period of rest and reflection, which would provide some respite for an individual who was in a very difficult and challenging relationship.

The new clause has been discussed in detail with organisations outside the House and is in response to the Government's own action plan, "A Call to End Violence against Women and Girls", which the Home Secretary has introduced and spoken to. I wanted to raise the matter because, as I have said, there are potentially issues to do with individuals whose relationships break down because of domestic violence. Currently, if someone is in the UK as a spouse of a student or a points-based system visa holder and their relationship breaks down as a result of domestic violence, the only option for them as a dependent spouse and for their children is an immediate return to their country of origin. That may mean leaving their own employment and taking children out of school and uprooting them. That leaves spouses a potentially very difficult decision: to continue in a violent relationship, to face immediate return or to overstay, with the risk of their spouse informing the Home Office of the relationship breakdown, which will affect any applications that they have.

I am open to suggestions about the new clause in principle, but what I seek from the Minister is whether he will consider providing a period of temporary relief in which a person who has suffered domestic abuse can examine options and potentially make an application to remain in this country in their own right, or effect a dignified and safe return to their country of origin. That could enable them to receive whatever counselling they were engaged in, make arrangements for any children who were in school and deal with issues to do with work. In particular, it could ensure that any removal took place in a safe and effective way.

Currently, there are arrangements for those who enter on other forms of dependant visa, but not for those who are included as the spouse of a student or points-based system visa holder, as I have mentioned. Accordingly, the new clause is designed to ensure that a temporary period of relief can be put in place for dependants of someone who holds a valid visa. That is particularly important because, as we have said, the Government themselves have committed to eliminating violence against women and girls. I mentioned amendment 30. That was withdrawn, but the Government have recognised that, in relation to landlord provisions, night shelters and women's refuges should be looked at as a particularly special case.

It is also important that we do not have a piecemeal approach whereby some women benefit from consideration under a domestic violence rule, while others secure limited leave to remain only if there are ongoing criminal or civil proceedings, which would deny support to the vulnerable. A victim of domestic violence is a victim of domestic violence.

I am not asking the Government to give indefinite or permanent leave, or more than three months' leave, but I am asking them, in the circumstances that I have described, whether they will consider the potential for a three-month period to allow the arrangements, discussions or ongoing applications to proceed. That is preferable to forcing someone into illegality immediately following the breakdown of a relationship through domestic violence. The Government could, if they wished, give people a formal response.

The previous and current Governments have supported the destitute domestic violence concession, which allows spouses and civil partners of settled and British citizens a three-month period of limited leave to remain, with access to public funds, while making an application for indefinite leave to remain. When he was Minister for Immigration, the right hon. Member for Ashford (Damian Green) said:

"No one should be forced to stay in an abusive relationship and this scheme helps victims in genuine need escape violence and harm and seek the support they deserve."

Today we are discussing people in other categories, which I have outlined, who fall into similar circumstances. I hope that the Minister will look sympathetically on new clause 8, and if he cannot accept it as currently

drafted, I would again welcome, as with amendment 30, his considering it in principle and looking into whether he can bring back further amendments on Report to meet our objectives.

The Minister for Immigration (Mr Mark Harper): It is a pleasure, Ms Clark, to serve under your chairmanship again after a short recess.

The right hon. Gentleman spoke about the importance of combating domestic violence, and there is no difference between us on that. I am grateful for what he said about the letter that I sent to members of the Committee about the commitment that my hon. Friend the Minister for Crime Prevention gave when we debated refuges. We said that our intention was to ensure that women—and indeed men—had access to them. I am pleased that the right hon. Gentleman has acknowledged that we will put in place our policy intentions.

The starting position on this issue, as the right hon. Gentleman alluded to, is that it depends on the migrant's expectations about domestic violence when they came to the United Kingdom. We want to ensure that a victim of domestic violence has the full protection of the criminal and civil law, and of law enforcement agencies, regardless of their immigration status. However, that does not mean that all victims of domestic violence should be able to stay in the UK.

As the right hon. Gentleman acknowledged, for those whose expectations would reasonably have been that they were settling in the United Kingdom permanently—that is, those who have come in as the partner of a British citizen or someone settled in the United Kingdom—there is already provision in the immigration rules to grant indefinite leave if they are victims of domestic violence. He also drew attention to the destitute domestic violence concession, which means that such people may be given three months' access to public funds while an application for indefinite leave is made and decided on. On 1 December, amendments to the rules will come into force extending those provisions to partners of foreign and Commonwealth armed forces personnel, if the serving personnel would have been in a position to settle in the United Kingdom were they not still serving.

I am grateful for the right hon. Gentleman's clarification about what the new clause is intended to do. On reading it, I had thought he primarily intended it to benefit persons in a relationship with European economic area nationals, but he has made it clear that he also intended it to be wide enough to cover those who are not EEA nationals but are here under some form of temporary leave. It is not our intention to cover somebody who is here on a temporary basis because of a relationship with someone who does not have the right to permanent residence. They are in a different position from someone who comes to the United Kingdom with a reasonable expectation of making a permanent life here. If their relationship breaks down for whatever reason, then they should expect to leave the United Kingdom. There is of course no bar to their applying to come to the United Kingdom in their own right, either as a student, under tier 2 as a worker, or under another provision of the rules. However, they did not come to the United Kingdom with the expectation of staying here permanently, and that is not a reasonable expectation. They came here on a temporary basis, which is what the rules currently deliver.

Mr Hanson: I appreciate that. The purpose of new clause 8 is to provide a three-month respite. The simple reason why I tabled it is that, as we have discussed, the landlord provisions in the Bill will mean that the individuals in question will potentially have no access to accommodation. All I ask of the Minister is to consider introducing a three-month respite to allow arrangements to be made, rather than have people falling immediately into illegality.

Mr Harper: I will come to that at the end to my remarks. I will also address the position of EEA nationals, which is relevant. The new clause refers not only to those who are married or in a civil partnership, but also to those in a "durable relationship". It is worth saying that we have legislated to implement the relevant EU directive on free movement for EEA nationals. It covers the rights of EEA nationals and their family members to move and to reside in other member states. In accordance with the terms of that directive, the UK has made provision for a right of residence to be retained by spouses and civil partners of EEA nationals upon termination of their marriage or civil partnership, if they were the victim of domestic violence during that relationship. That is intended to enable direct family members who have automatic rights of entry and residence in the UK to continue to reside in the UK, even if their relationship has been terminated. The new clause is therefore unnecessary for the spouses and civil partners of EEA nationals.

Regarding people in so-called "durable relationships", to which the right hon. Gentleman's new clause refers, the directive does not recognise the right of those partners to retain a right of residence. They do not have that automatic right under EU law. Once their relationship has ended, so does their right of residence. We have implemented the directive as it is and, as is usual practice for this Government, we have not gone any further than required by the directive. As far as EEA nationals are concerned, we have implemented the directive as it stands.

As I have said, there are currently provisions in the immigration rules for those who expected to be able to stay in the United Kingdom on a permanent basis to be able to stay and have access to the domestic violence concession. People who have come here on a temporary basis as somebody's partner should expect that, if their relationship breaks down for whatever reason, they will have no further right to remain in the United Kingdom.

Mr Pat McFadden (Wolverhampton South East) (Lab): May I ask the Minister about another aspect of the matter? Sometimes there are arranged marriages, with the spouse often coming from the subcontinent. There may or may not be domestic violence, but some marriages break down quite quickly, and the person who has been resident in the UK feels that they have essentially been cheated as a ruse for the other person to get into the country. They complain about it, and are often met with a wall of silence from the Home Office. They are told that the Home Office cannot discuss a third party's immigration arrangements with someone else, even though the person who is resident in the UK feels that the other person has abused the system in order to get into the country.

Mr Harper: The right hon. Gentleman makes a good point. In such cases, someone from another country marries either a British citizen or someone settled in the UK so that they can come here, and then the relationship breaks down. The specific point he raises concerns the extent to which we can communicate about that situation. In the past, there have been problems with that. My predecessor, my right hon. Friend the Member for Ashford (Damian Green), tried to shift the Department in a more sensible direction, and I have continued to do that.

We have tried to ensure that if the person settled in the UK is the sponsor—they would be in a case such as the right hon. Member for Wolverhampton South East mentions, and they have been in cases that I have seen recently—we can give them the relevant information. If they are no longer sponsoring the other individual, and that is the only basis on which the latter has a right to be in the United Kingdom, obviously we can take a decision to remove the other individual. It is of course possible that they could apply to be in the UK on grounds other than marriage. They may, for example, be entitled to apply for and be granted residence as a student. We have tried to be more open with people, and Members of all parties have raised the matter with me.

Regarding Ministers' appetite for sharing information with the sponsor, given that the sponsor in such a case has a clear link to the individual in question and is not a third party in the normal sense of that term, we have tried to allow that to the maximum extent permissible by law. There will be occasions when there are sensitive pieces of information that we cannot share, but Ministers will do what we can to provide sponsors with the information they need, particularly in cases where there is violence and there is concern for their safety. If the right hon. Gentleman has any specific cases where he feels we have not done that, I would be grateful if he could draw them to my attention.

Mr McFadden: Would that include the sponsor's Member of Parliament, who might be acting for their constituent?

Mr Harper: I know that the Department sometimes does not get the matter right, but we have published clear rules. The general rule is that if the sponsor is writing to Ministers through their Member of Parliament, we should give the MP whatever information we are prepared to give to the sponsor. Sometimes there are challenges, because we have to operate within the Data Protection Act 1998, to which officials sometimes take a cautious approach. Both my predecessor and I have had specific cases where we felt that it was both right and lawful to share more information than had initially been proposed. To provide the right hon. Gentleman with reassurance, that is the view we take.

We obviously have to comply with the law, but sometimes there is a more risk-averse approach to sharing information with the sponsor. Clearly it would be inappropriate to share information with other people, but the sponsor has a specific relationship with an applicant for leave to remain in the UK, which provides them with a closer relationship and an entitlement to some, though not all, information. Ministers will try to share information on that basis.

I hope that my comments have been helpful. I was just about to bring my remarks to an end before the right hon. Gentleman raised that sensible and thoughtful point on a matter that has concerned Members of all parties. I urge the right hon. Member for Delyn, having tested the Government's views, to withdraw his new clause.

Mr Hanson: I am grateful to the Minister for his explanation. We still have some concerns, but given what he has said, I beg to ask leave to withdraw the clause.

Clause, by leave, withdrawn.

New Clause 13

RECRUITMENT AGENCIES: LOCAL WORKFORCE

'In section 5 of the Employment Agencies Act 1973 (General regulations), after subsection (2) insert—

"(2A) By order the Secretary of State can prohibit UK based agencies as defined in this section from including only people not ordinarily resident in the UK as their clients.".'.—*(Mr Hanson.)*

Brought up, and read the First time.

Mr Hanson: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 17—*Review of the labour market, housing and equality*—

'(1) That no later than 12 months following Royal Assent of the Immigration Act the Government shall produce an assessment of the impact of European immigration to the UK with specific reference to non-compliance with and enforcement of the—

(a) National Minimum Wage Act 1998;

(b) Gangmasters Licensing Act 2004;

(c) Equalities Act 2010; and

(d) Housing Act 2004.

(2) The review shall assess the impact of each Act in relation to European Community immigration and shall make recommendations to the Secretary of State for Business, Innovation and Skills, the Home Secretary and the Minister of State in the Cabinet Office with a copy of the report being placed in the library of each House of Parliament.'.

Mr Hanson: These new clauses provide an opportunity for the Committee to consider some of the wider labour market issues associated with the challenges of immigration from the European Community. I have tabled them so that the Committee can find out whether the Government, like the Opposition, wish to consider strengthening enforcement.

The new clauses would apply not just to the immigration that has happened to date, but to immigration that might happen from 1 January with people arriving from Bulgaria and Romania. It is important that the Committee considers issues in the labour market that affect, particularly, the national minimum wage, gangmaster licensing, the Equality Act 2010 and the Housing Act 2004.

New clauses 13 and 17 are designed to elucidate some discussion and some clarity from the Government on their views on those issues, and to engender a debate about how we manage the labour market when immigration is still a live and challenging issue, with individuals coming to the UK from other countries in the European Community. We need to ensure that people who come here and those who are indigenous and live here now are not exploited by unscrupulous employers through their terms and conditions or recruitment practices.

9.15 am

New clause 17 asks the Government to produce an assessment in the 12 months following Royal Assent, which will be up to mid-2015, on the impact of European immigration to the United Kingdom, with specific reference to non-compliance with and enforcement of four Acts. The National Minimum Wage Act 1998, which set a minimum wage for young people and full-time employees, was a welcome addition to the employment legislation armoury. It is in operation and it is an effective tool.

Similarly, the Gangmasters (Licensing) Act 2004, which followed the Morecambe bay tragedy in which a number of individuals were killed owing to gangmaster activity, introduced regulation and licensing of those who seek to recruit workers to supply to particular industries. The Equality Act 2010 brought together a range of legislation passed under the previous Government that outlawed discrimination on a number of fronts, including in recruitment on the grounds of race or nationality. The Housing Act 2004 strengthened measures on houses in multiple occupation and the registration of landlords, among other associated matters.

We ask for a review of the impact of European immigration with specific reference to non-compliance and enforcement, because both anecdotal and documentary evidence shows that, sadly, individuals who are recruited abroad for jobs and come to the United Kingdom from other parts of Europe—predominantly from eastern European countries, but increasingly from countries with struggling economies such as Italy, particularly southern Italy—are potentially vulnerable to exploitation. Their terms and conditions may not be enforced under the National Minimum Wage Act, and they may find themselves exploited by people who seek to undermine the Gangmasters (Licensing) Act to get recruited through companies in breach of the Equality Act. They also potentially live in accommodation that breaches the Housing Act 2004, particularly in relation to houses in multiple occupation.

I ask the Minister not to examine those issues and take action on them now, but to make an assessment of those four Acts over a 12-month period, as one of the legal obligations under the Bill. I ask him to find out whether there are concrete examples of breaches, which I believe there are, as I will explain in a moment with anecdotal and other evidence. I also ask him to find out the level of prosecutions and the drive of the authorities that have responsibility for enforcing those Acts. He should also consider what guidance the Government can give to ensure compliance, so that whoever is in government post-May 2015 can determine, based on their political and social objectives, whether they wish to tighten up any or all of those Acts or have a drive towards greater enforcement of them. The new clause would commit the Government not to change, but to an assessment.

I will give some background to the issues currently being faced. Recruitment agencies remain an asset to the country and the communities they work in. They help employees and potential employees to find work, they keep economies ticking over and they find people for work. That should still be celebrated and acknowledged. However, whether public and well publicised or not, the fact is that there are still recruitment agencies that are effectively open solely to foreign workers, which exclude UK workers from their employment opportunities.

Over the past two decades there has been significant growth in agency employment, with a 500% increase in agency workers since the 1980s. Economic migrants, who are welcome, are increasingly over-represented in agency work, particularly at the lower end of the employment market, with A8 migrants constituting the largest single group of agency workers. In certain sectors, such as the meat and poultry processing industry, there are examples of UK-based workers facing difficulty getting into employment because agencies are effectively supplying workers to UK-based companies solely from eastern Europe.

It is not illegal to recruit from particular countries—I want to test the Minister on this—but it has the potential to become unlawful under the Equality Act 2010. What enforcement is taking place? What advice is given, and do the Government recognise the problem? In a major survey of the food processing industry by the Equality and Human Rights Commission in 2010, a third of agencies confirmed that they had acted unlawfully in supplying workers by judging what nationality the processing firm would prefer, or by responding to direct requests from companies based on the simple sentence, "I want workers from a particular country". That is currently illegal. We need to examine the guidance on those issues and whether we need to take further action.

According to the Library, the only way for action to be taken currently is for an individual who is concerned about discrimination to go to an employment tribunal or to the Equality and Human Rights Commission to bring about a compliance order, because recruitment agencies are not legally prevented from acting in such a way. I have tabled new clause 13, which is linked to new clause 17, so that we can have a debate on the issue. It might be an inelegantly phrased new clause, but at least we can consider whether we need to tighten up the legislation.

Some agencies specialise in supplying workers from eastern and central Europe for British firms. I could list the websites of a number of such recruitment agencies, which include EasyPoland.co.uk, www.aniaspoland.com, www.skillsprovision.co.uk, www.workforceplus.co.uk, www.peakstaff.co.uk and www.europesolutions.co.uk. Those companies advertise and supply people from a particular sector of the European community, potentially at the expense of UK-based individuals or even individuals from other EU countries. For example, one company has advertised for cleaners on its website:

> "We have a thorough vetting system for all our cleaners. All applicants are interviewed at our offices to ensure their suitability...All our cleaners come from Poland. Several of them have had extensive cleaning experience in the UK."

Is it illegal under the Equality Act to advertise in such a way or is this a grey area? I am genuinely interested to find out.

I noticed a report last week—it is a couple of years old now—from the Centre for Cities, which did a report on inward migration from the European Community. A paragraph on immigration and the economy in Hull struck me. I know Hull well: I went to university there. It is a city for which I have a great deal of affection. That paragraph stated:

> "In Hull, migrants are predominantly employed in factory work, especially in food processing and packing, channelled through recruitment agencies—many were (unofficially) 'Polish only'. Unless you were Eastern European, recruitment agencies were unlikely to put you on their books. This may have prevented the same vacancies from being advertised to local people."

Yesterday I looked at the PeakStaff Recruitment website, which states:

"PeakStaff Recruitment Services specialises in the recruitment of Polish staff for vacancies in the UK and Europe."

I am testing whether that is illegal. Do we need to tighten that up? A vacancy in a factory should be open to anybody. If a recruitment agency supplies individuals to a particular factory, anybody should be able to apply to that agency, regardless of nationality. The Equality Act 2010 is clear on that, but I want to ensure that the Government are clear. I also want to ensure that there is not the need, as in new clause 17, for a review of the compliance with the Equality Act 2010, the enforcement of that Act and the information that is supplied.

Meg Hillier (Hackney South and Shoreditch) (Lab/Co-op): We talk a lot about community cohesion and the importance of integration, and I am sure my right hon. Friend would agree that, as well as there being a need to look at the law, having separate agencies recruiting people from different nationalities does nothing to help communities to integrate.

Mr Hanson: I am grateful to my hon. Friend for that point. Community cohesion is important. I have no objection to people from Poland working in factories and businesses around the country. In my constituency there are people from Poland who are integrated and involved in the church and the community, and who are working closely with it. What annoys my constituents in north Wales is that some companies have a portion of the work force open to agency workers, but the local employment market cannot get into that employment agency because it is recruiting from a specific sector.

I am sure the Minister will say that the Equality Act 2010 covers that point. I contend that it might do, but we still need to test that and look at it. We need to look at compliance and the penalties and action on non-compliance, which part of new clause 17 deals with. Yesterday I looked at the Workforce Plus website, which says:

"How we recruit Polish workers. We have established a high reputation amongst Polish people both here in the UK and in Poland. Our database already holds an extensive list of potential candidates, and we are adding new workers daily…and we have a constant new supply of workers…We screen all candidates and we will select only the best to offer to you."

I want to be clear about the legality of that type of activity. The website of another firm—Fast Recruitment, whose slogan is "Recruiting specialists for Eastern European workers"—says:

"Fast Recruitment provide English speaking skilled workers from Eastern European countries such as Romania, Poland, Slovakia, Czech Republic, Hungary and others into all types of businesses. We will provide skilled or unskilled workers for your business."

Again, is that within the bounds of legality?

The reason I ask is because a helpful note from the Library this week told me:

"Recruitment exclusively from eastern Europe would constitute indirect discrimination under the 2010 Equality Act."

Similarly, recruiting only persons who speak, for example, Polish would also constitute indirect discrimination, the disadvantage being the effective exclusion from applying of most English jobseekers. However, as I have already indicated, jobseekers who are indigenous and encounter discrimination can issue a discrimination claim at an employment tribunal or the Equality and Human Rights Commission can investigate. In tabling new clause 17, what I am seeking from the Minister is to say that we could assess over the next 12 months whether and how the law is enforced, and how many prosecutions there are. Will he also clarify the boundaries of the legislation? New clause 13 would give us a chance to look at that.

Another area covered by new clause 17 is the minimum wage. I refer to an *Economist* article this week, the headline of which is "Why the minimum wage is immigration policy." The article draws on the fact that the minimum wage is currently being undermined by individuals who are recruiting from eastern Europe. It is important to look at that in detail. The minimum wage is there for a purpose: to ensure that people do not fall below a minimum and that businesses do not gain advantage by undercutting the minimum wage.

9.30 am

These are some of the jobs advertised on EasyPoland.co.uk today:

"Office worker…Location: Swansea…40 hours per week…£5.93 per hour…Accommodation…£50 per week, must bring bedding.

Industrial sewer…Location: Colchester…Pay rate: £6 per hour…rent £50/70 per week, must bring bedding.

Sewing lady…Swansea…£5.93 per hour…rent £50 per week, must bring bedding".

I took those jobs from the website last night. Does the Minister recognise that companies advertising below the minimum wage seek to recruit individuals from outside the United Kingdom, in this case Poland? I am not happy with an advert on the website today that says:

"2 carpenters…Swansea…£5.80 per hour."

That is illegal under UK law.

Research by the Low Pay Commission has shown that in certain sectors of the economy, particularly those employing significant numbers of immigrant workers, such as food processing, hospitality and cleaning, the minimum wage is often not enforced. The Office for National Statistics survey estimated that approximately 299,000 jobs, such as those I have mentioned, were paid below the minimum wage in 2011. A recent King's college London study found that between 150,000 and 220,000 care workers receive less than the minimum wage.

Mr William Bain (Glasgow North East) (Lab): My right hon. Friend is making a powerful argument. I am also concerned about the impact that migrant workers being paid on a piece-rate basis has on the enforcement of the national minimum wage. The Joseph Rowntree Foundation has shown that migrant workers are much more likely than indigenous workers to be paid on a piece-rate basis, which can lead to them not being paid the national minimum wage.

Mr Hanson: Indeed. My hon. Friend makes an important point. As well as the basic level of pay that is advertised, things such as the piece rate can cause individuals' wages to fall below the minimum. A number of companies' terms and conditions say that accommodation costs will be taken out of the salary, which effectively means that the minimum wage is undermined. Sometimes equipment, uniforms and tools are charged as part of the wage package. With new clause 17 we are asking the Minister to have a 12-month assessment of those issues.

I could talk for a long time about those issues because I am concerned about them. My plea to the Minister is: can we look at them over a 12-month period and have an assessment? Can we see whether there is a particular problem with workers who are imported from the European Union? These issues are detrimental not only to community cohesion, which my hon. Friend the Member for Hackney South and Shoreditch mentioned, but to employment practices for UK workers and people who come to work in this country, potentially under false pretences.

Since the general election, only two people have been taken to court for paying below the legal limit of £6.19 an hour and just three have been referred to prosecutors. Workplace inspections have halved, from 3,643 in 2009-10 to just 1,693 in the past year. Her Majesty's Revenue and Customs, which is responsible for enforcement, has lost nearly £1 billion—a quarter of its budget. A number of people from eastern Europe come to this country and are potentially employed by employers who pay—as the website I have quoted shows—less than the minimum wage. However, there has been a small number of prosecutions and the number of workplace inspections has been halved. I am concerned about this issue, but I want to assess it properly, over 12 months, and not jump to conclusions. New clause 17 would place a legal requirement on the Government to assess the minimum wage, as it affects eastern European and European migration in particular. It would also give the Government the opportunity to look at the issue in more detail.

The third area that new clause 17 addresses is gangmasters. The gangmasters legislation has been welcomed: it has received widespread support and has been effective. However, under new clause 17, I would like an assessment over the next 12 months of how that legislation affects those coming to this country from wider Europe. There is anecdotal and some stronger evidence from reputable sources that gangmasters are recruiting predominantly from eastern European citizens. They come to this country with the prospect of employment and find themselves subject to, and liable to, a number of people who operate under the auspices of the Gangmasters Licensing Authority, but also potentially illegally.

A report by the Serious Organised Crime Agency, published only in August this year, recorded that of the 507 potential victims of human trafficking that labour enforcement encountered in 2012, 29% worked in block paving and tarmacking, and a further 2% in general construction—eastern Europeans were recruited by gangmasters in those areas in particular. In February this year, the Gangmasters Licensing Authority brought a prosecution against 15 dairy farmers who had used gangmasters employing illegal migrants. The 15 UK dairy farms were found guilty of using illegal labourers, but were fined only £300 each, which was less than they saved on the wages they paid for the individuals employed illegally through the gangmasters.

I am interested in looking at both enforcement of the current legislation and compliance with it. In October 2012, the Gangmasters Licensing Authority led an enforcement operation against gangmasters supplying workers to chicken farms. Thirty Lithuanians were found working in bonded labour conditions, denied any pay at all, verbally and physically threatened, and housed in squalid accommodation. There are widespread reports of that nature, and Andrew Boff, the leader of the Conservative group on the London Assembly, has published a report, called "Shadow City: Exposing Human Trafficking in Everyday London". I know that the Government are looking at human trafficking legislation later in this Session, but Mr Boff, who is not a member of my party, stated:

> "The Mayor should call for the remit of the Gangmasters Licensing Authority (GLA) to be extended into the hospitality and construction sectors so that it effectively tackles labour trafficking in London".

Helen Jones (Warrington North) (Lab): Does my right hon. Friend agree that some of these activities, particularly in sectors such as construction, not only undercut wages but have serious health and safety implications, not only for the type of work that is done but for others working on-site as well. People are working who have no knowledge of health and safety legislation or of their rights under it.

Mr Hanson: I agree fully with my hon. Friend. She makes a valuable point. The key issue that I am putting on the table is that, under new clause 17, in the 12 months following Royal Assent we can make an assessment of compliance with and enforcement of the gangmasters legislation, and whether there is a particular problem with bringing in people from wider Europe. The subtext is whether we need to strengthen that legislation to deal with areas such as hospitality and the sectors mentioned by Mr Boff, which included construction. I believe that there is a problem which is under the radar at the moment, and I am anxious to flush it out through new clause 17.

The fourth area in new clause 17 is housing. Again, there is anecdotal but constructive evidence that regulations made under the Housing Act 2004, particularly those covering houses with multiple occupation, are not being adhered to by a number of individuals who deal with migrant labour from the wider European community. A study by the Joseph Rowntree Foundation in 2007—six years ago, but it remains valid—showed that new migrants into the United Kingdom predominantly moved into temporary accommodation where living conditions were poor; they lacked privacy and there were concerns about safety and security. That happened under the previous Government, but it continues now and we need to assess that problem.

The Home Office report in July found that the increase in immigrant numbers led to more people living in overcrowded, poor-quality accommodation; it used the phrase "beds in sheds" for the flouting of such regulations. The report found:

> "Secondary effects of high migrant demand at the bottom end of the private rental market were reported as poor quality, overcrowded accommodation, inflated rents…exploitation by unscrupulous landlords, waste management and pest control issues that can quickly spread, and…a growing number of beds in sheds."

In new clause 17, we are asking for an assessment of compliance with and enforcement and understanding of existing legislation, and, given the current challenges, whether it remains fit for purpose.

South Holland council in Lincolnshire only recently found migrant workers living in severely overcrowded accommodation, with 16 people crammed into a two-bedroom home. Its survey also found that nearly 60% of

[Mr Hanson]

migrants in South Holland lived in houses in multiple occupation. In 2008, the chief fire officer of Lancashire fire brigade, Peter Holland, said that growing numbers of economic migrants living in dangerously overcrowded housing created a risk of major fire disasters. We are aware of numerous incidents where fires in houses in multiple occupation killed migrants who came to the United Kingdom for work.

Meg Hillier: My local fire brigade has helped me by identifying the postcodes where it knows there are more likely to be fires in homes, which are exactly the areas that my right hon. Friend identifies: large houses in multiple occupation in the private rented sector. Given that my local fire brigade knows that, does he agree that the Government should take account of that in broader policies that might prevent such tragedies?

Mr Hanson: I am grateful to my hon. Friend for giving an example from her constituency. My point is not that we should rush to a conclusion now: the 2004 Act provides licensing for HMOs and a framework to try to tackle unscrupulous landlords or issues such as those identified by the Home Office in July in relation to migrant labour using overcrowded accommodation. My point in tabling new clause 17 is that alongside the National Minimum Wage Act 1998, the gangmasters legislation and the Equality Act 2010, the Government need to look at the 2004 Act, particularly as it applies to wider eastern European migration, compliance with that Act and whether the levels of enforcement and knowledge are helpful.

The Local Authorities Coordinators of Regulatory Services, LACORS, undertook its own investigation and reported that half of local authorities have noted problems with private landlords exploiting migrant workers—a significant problem by any stretch of the imagination. Those findings came as an evaluation of the HMO licensing powers given to local authorities showed that many councils express concerns about the housing conditions of migrant workers. Another point that could be looked at through the new clause is the evidence that migrant workers are sharing rooms in buildings not licensed as houses in multiple occupation: for example, converted farm buildings or the said "beds in sheds" that the Minister's report highlighted.

Meg Hillier: I am at risk of overloading the Committee with local examples, but my constituency, which is like the Ellis Island of the UK, demonstrates this. Often when I am out knocking on doors, it is apparent that there are far more people resident in small properties, hot-bedding it, than legally there should be. It is often difficult for the authorities to discover that, but it is clearly a big risk. The measures in the Bill will not help.

9.45 am

Mr Hanson: I am grateful. The same is true in my north Wales constituency of Delyn I have had numerous reports of people in my constituency sharing a property and hot-bedding over a period of time. That is important, because in my view overcrowded rental accommodation is bad both for the people who are living in it, and for wider community cohesion. Many of my constituents report to me that they cannot compete with people who can take lower wages because their rent is shared between a large number of individuals. Someone can offer to do a job for £6.20—1p over the minimum wage—whereas a person who would do it for £7 or £7.50 cannot drop their wage down to that level because of the costs of rental accommodation. A member of a normal family living in a three-bedroom house cannot afford to take work at that wage, whereas a number of individuals in overcrowded accommodation can cover the rent. Enforcement of the Act is key.

Some of what I have said is anecdotal, and some comes from research by the Home Office and by local authorities such as Slough council, which only recently found as many as 20 Polish workers living in a three-bedroom house. For me, the key issue is the Government should carry out a proper assessment. New clause 17 would allow them the opportunity to reflect without even having to commit to action. The resulting report would undoubtedly come out at the time of or just after the general election, and any new Government—whether it included the current Government parties or the current Opposition—could assess the report afterward.

My contention is that there are four pieces of legislation that potentially deal with four key issues. When wider European migration is dealt with by unscrupulous people, it can lead to people being paid less than the minimum wage; to their being recruited by gangmasters who are not covered by the current legislation; to recruitment based on ethnicity or nationality, which may be illegal but needs clarification; and to their living in properties that could and should be managed under the Housing Act 2004.

I want the Government to make a proper assessment of those four challenges and of the effectiveness of the four Acts in dealing with them. This should include their enforcement of the legislation and their wider knowledge of it, and their advice to agencies and businesses dealing with the legislation. It would be an opportunity for the indigenous and migrant communities to examine these issues, which I think are having an impact on community cohesion and on people's right to have decent standards of living in their communities.

New clause 13 deals specifically with recruitment agencies, but I am particularly interested in the Government's response to new clause 17. I hope that the Minister will respond to these genuine concerns, which exist not only on this side of the House but also on his own side.

Mr Harper: I am grateful to the right hon. Gentleman for raising the issue of European immigration, because of course this is an area where people have genuine concerns. That is, in part, because of the significant number of European migrants who came to Britain after the previous Government failed to introduce proper transitional controls. Indeed, to show the topicality of our debates on these matters, only last week the former Home Secretary, the right hon. Member for Blackburn (Mr Straw), wrote:

"One spectacular mistake in which I participated (not alone)"—

there were other guilty men and women in the previous Labour Government—

was in lifting the transitional restrictions on the Eastern European states like Poland and Hungary which joined the EU in mid-2004.

> Other…EU members, notably France and Germany, decided to stick to the general rule which prevented migrants from these new states from working until 2011. But we thought that it would be good for Britain if these folk could come and work here from 2004."

That was a mistake. Because the previous Government did not have transitional controls, everyone from those countries who wanted to work in another country came to the United Kingdom. That is part of the reason why some communities were under pressure from the numbers who came in a relatively short space of time, and it is one of the reasons why there is understandable concern about the restrictions on Romanian and Bulgarian workers ending at the end of this year.

The difference is that we have had transitional controls, as have a number of European countries. When those transitional controls end at the end of this year, they will end not only for the United Kingdom but for eight other European countries, including Germany, whose economy is growing and generating jobs. We will not have the single focus on one country that we saw in 2004.

Mr Hanson: I am sorry that the Minister cannot help himself. He knows that we have said that mistakes were made, which is fair and proper. I have tried to approach the issue in a way that gives him an opportunity to consider the positives. I am seeking to reinforce the minimum wage, and I could easily have said that I remember staying up for 36 hours while the Conservative party voted against it.

Mr Harper: We have made it clear that we support the minimum wage. Since being in power, we have implemented the increases in the minimum wage proposed by the Low Pay Commission. I will say a bit more about the national minimum wage in a while. The remarks by the right hon. Member for Blackburn are worthy of exploring in Committee. He clearly intended the remarks to be widely reported, which is why he chose his words with care. It would have been remiss of me not to share those words with the Committee.

The Government are clear that the consequences of that spectacular mistake by the previous Government need to be addressed. There are two aspects to this: gathering information and taking action. New clause 17 would effectively introduce an information-gathering process. We are slightly ahead of him in that we are actively doing two things. First, as part of the Home Office's balance of competences review, we are examining the scope and consequences of the free movement of people across the European Union. That report is due to be published later this year, and it will consider the balance of competences between the European Union and the United Kingdom on the free movement of people. Secondly, we have asked the Migration Advisory Committee, which was set up under the previous Government and has continued under us and which produces excellent evidence-based reports, to review migrant employment in low-skilled work, including the extent to which, and the reasons why, employers actively choose to recruit migrant workers, and through which channels.

The specific commission that I gave to the MAC back in May was to consider the labour market, economic and social impacts on the UK, and specifically on British workers, drawing on and updating earlier work in that area. In particular, the MAC was asked to research the growth of migrant labour, distinguishing where possible between EEA—that is the point mentioned by the right hon. Member for Delyn—and non-EEA migrants in low-skill sectors of the UK economy and the factors driving that. In fact, we do not need to wait a year after Royal Assent for such a report to be presented, because the MAC published its call for evidence on 19 September and will report back to me by April next year. The report might even be published before the Bill, Parliament willing, receives Royal Assent. We will therefore be in possession of those facts without having to wait a year, as suggested by the new clause.

On taking action, we are already considering migrants' access to benefits and public services to guard against abuse. The Prime Minister announced in March that the Home Office will amend the Immigration (European Economic Area) Regulations 2006 to create a new statutory presumption limiting the right to reside and consequently to access benefits for EEA nationals who come to the UK to look for work or who retain worker status after involuntary unemployment. Under the new proposals, EEA jobseekers will have a right to reside and access to benefits for only six months unless they can prove that they are actively seeking work and have a genuine chance of engagement. The Department for Work and Pensions is developing a new intervention to assess a claimant's evidence that they have a genuine prospect of work after six months of active job search, with the burden of proof being on the claimant. That will come into force for new claims to jobseeker's allowance from next January—again well before the proposals suggested by the new clause.

From previous debates, colleagues will know that we are seeking to improve the NHS's ability to claim back the cost of treating EU nationals from their home country. The Department of Health is looking at the idea, and it will set out its proposals in the not-too-distant future. We are issuing new statutory guidance to ensure that local authorities set a residency requirement or a minimum period of residency in an area before a person qualifies for social housing. People often get upset when they see recent migrants getting access to social housing before people who have lived in an area for many years. The Home Office is working with the police, local authorities and other partners to identify EU nationals who are sleeping rough and may not be exercising a treaty right in the UK. We work with them to offer support for them to return home voluntarily. If they refuse the support or are destitute and cannot demonstrate that they have a right to reside in the UK, they may be administratively removed.

We are working with our partners in the European Union. I think I have said previously in this Committee that the Home Secretary has lobbied the Justice and Home Affairs Council on the abuse of free movement rights. We are getting increasing support from other member states, and even the Commission has now accepted that there is a problem.

It is worth worrying not only about European immigrants. Under the previous Government, twice as many migrants came from outside the European Union as from inside. The report that I have asked the MAC to commission will cover both EEA and non-EEA migration. New clause 17 is focused on only European migration, so I think it has been drawn too narrowly.

[Mr Harper]

Regarding recruitment agencies, which are the focus of the new clause 13, the Government of course want to protect the rights and interests of UK workers. I listened to the right hon. Gentleman's examples carefully. If we look at labour market statistics, we will see that there has been a dramatic change under this Government. There was a period under the previous Government—in the five years running up to December 2008—when there was a significant rise in employment in the United Kingdom. However, more than 90% of the increase in employment was accounted for by foreign nationals. Employment growth was happening—businesses in Britain were creating jobs—but most of the benefit was going to foreign nationals. I suspect—I do not know—that the previous Government's frustration that that economic growth was not benefiting British citizens was what led the then Prime Minister, the right hon. Member for Kirkcaldy and Cowdenbeath (Mr Brown), to suggest that he wanted to see British jobs for British workers, but he had not thought through how he was going to do that.

I am pleased to say that, because of our immigration policies, we have reduced net migration by a third since its peak in 2010. Also, with the combination of our immigration and welfare reform policies, which are increasing the focus on getting British nationals into work, I am pleased to say that, since this Government came to office, there has been significant growth in employment, two thirds of it benefitting UK nationals. The jobs created in Britain by British businesses are now benefiting British citizens.

The latest labour market statistics that came out just last week show that in the past year, 93% of the growth in employment was accounted for by UK nationals. The vast majority of employment growth is now benefiting British citizens. The new clause tabled by the right hon. Member for Delyn is about ensuring that British citizens get a fair crack of the whip. The labour market statistics last year and since the 2010 election demonstrate that British citizens are increasingly getting a fair crack of the whip, because the vast majority of employment growth now benefits them. That is welcome and a real benefit, compared with the significant period the previous Government were in office.

10 am

New clause 13 is rather flawed. My reading suggests that it would be easy for an agency to avoid its provisions, because it would simply have to sign up a single UK national to avoid breaching them. The new clause would therefore not be particularly effective. However, let me focus on the right hon. Gentleman's specific points, which were perfectly good, about making sure British workers get a fair crack of the whip.

Referring to a Library note—this is also the information I had—the right hon. Gentleman set out a number of examples, and they would, indeed, be in violation of existing legislation. He referred to the Equality Act, and I remember it well, because I served on the Public Bill Committee. I sat in the chair he is now sitting in, and his former colleague Vera Baird was the Minister who took the Bill through.

The right hon. Gentleman referred specifically to advertising for workers exclusively in one country. It is clear that even if UK-based jobs advertised exclusively in Poland—that was the example he gave—are advertised as open to all EEA nationals, they will be vulnerable to claims of indirect discrimination, because British nationals would be treated less favourably than Polish residents, who would be aware of the advert.

Mr Hanson: Does the Minister have any statistics on the number of successful and unsuccessful prosecutions under the Act since 2010?

Mr Harper: I will come to that in a moment. I just want to touch on the other issues the right hon. Gentleman raised.

The right hon. Gentleman talked about employment agencies advertising in the UK for a particular nationality of worker. It is clear that unless there is a legitimate occupational requirement for someone to be of a particular nationality for a job, it would constituent direct discrimination for an advert to say that only people of a specific nationality should be appointed.

As the right hon. Gentleman said, one remedy—this is the important point—is for the individual to make a claim to an employment tribunal. The primary enforcement mechanism for the 2006 Act—we debated this at considerable length—is the Equality and Human Rights Commission, which has a legal duty to promote equality of opportunity and to work towards the elimination of unlawful discrimination. The EHRC may conduct an inquiry into those matters under section 16 of the Act, and I think the right hon. Gentleman referred to an inquiry that it had, indeed, conducted. If such an inquiry gives rise to suspicion that there has been an unlawful act—for example, direct discrimination—the EHRC has enforcement powers to investigate whether the person has committed the unlawful act, and it may give the person an unlawful act notice. It can also apply to a court for an injunction restraining the person from committing an unlawful act.

As a result of the right hon. Gentleman's general inquiry and the specific cases he raised, I will ask the EHRC what it has done, is doing and is planning to do to carry out its legal duty under section 8 of the Act, and whether it has conducted, is conducting or will conduct any inquiries on these matters. I will draw to its attention the specific examples that he has given me to see whether it wishes to take enforcement action. It is the correct enforcement body for this area of law, as set out clearly by the previous Government, and I will raise those points with it.

The new clause mentions examining how well the Equality Act is working, and the right hon. Gentleman should know that the Government will shortly undertake a review of it to assess its impact and effectiveness in protecting people from unlawful discrimination, harassment and victimisation, and that includes the employment provisions. I will talk to ministerial colleagues who are going to conduct that assessment, and I will ensure that the specific examples the right hon. Gentleman gave me, and the issues they raise, are looked at in that review of the Equality Act.

The right hon. Gentleman's points are sensible. We want to ensure that British citizens get a fair crack of the whip, and the employment statistics show that they are increasingly doing so. However, he has raised specific questions and it is important that the proper enforcement body deals with them.

We want to go further on enforcement and compliance in the Bill, and it contains proposals to make it more difficult for illegal immigrants to work and access services. We have proposed to double the maximum penalty to which an employer can be liable to £20,000 from next April. We will also double the current starting point for the calculation of a penalty.

On enforcement, the right hon. Gentleman should know that since the immigration enforcement command was created within the Home Office, when the Home Secretary split up the UK Border Agency, we have increased the focus on enforcement. There are more illegal working operations, and significantly more notices of potential liability have been issued. That is helpful.

The right hon. Gentleman mentioned the minimum wage. We have revised the national minimum wage naming and shaming scheme, to make it simpler to name employers who break the law. My colleagues in the Department for Business, Innovation and Skills are carrying out an evaluation of the current penalty regime to ensure that it is effective.

The right hon. Gentleman referred to penalties and the civil effects of the national minimum wage and prosecutions. I will come to prosecutions in a moment. It is important to note that every single complaint that a worker makes about the national minimum wage through the pay and work rights helpline is followed up. That compliance and enforcement action is having an impact. In 2012-13, HMRC, which acts to enforce the national minimum wage, identified nearly £4 million in wages arrears for 26,000 workers. That was a 33% increase in the number of workers that the Government were able to help, and a 26% increase in arrears identified, compared with 2009-10. The minimum wage is obviously vital for low-paid workers, and BIS keeps our compliance and enforcement strategy under review to ensure that it is effective.

The right hon. Gentleman referred to the relatively low number of prosecutions. However, the last time I did the maths, I looked at the number of prosecutions during the period of the previous Government from when the national minimum wage came in to the end of their time in office. Our rate of prosecutions per year is actually slightly higher, although I accept that it is a low number. That is because the priority of both the previous Government and the current one has been to recover money for workers, so that they get the national minimum wage that they are entitled to.

For nine years under the previous Government there were no prosecutions at all. The previous Government legislated to restrict prosecutions to only the most serious cases. I am disappointed that the right hon. Member for Wolverhampton South East is temporarily not in his seat, because by a spooky quirk of fate he was the Buiness Minister who said:

"Prosecution will still take place only in the most serious cases"—[*Official Report*, 14 July 2008; Vol. 479, c. 44.]

That was the right judgment then, and we agree with it, because we prosecute in the most serious cases. The focus is on recovering wages for those who have not been paid the minimum wage. We have improved the number of workers we are helping and the value of wage arrears, which punishes the employer but also importantly gets the wages to the employees affected, as the right hon. Member for Delyn rightly said.

The right hon. Gentleman also referred obliquely to advertisements he had seen where employers were, on the face of it, breaking the law. The right hon. Member for Normanton, Pontefract and Castleford (Yvette Cooper), the shadow Home Secretary, raised that issue on Second Reading when she referred to the minimum wage and workers being charged for over-crowded accommodation offset against pay.

It is clear that only a relatively modest offset can be deducted from the minimum wage for accommodation. Since October, employers have been able to deduct only £4.91 a day, which is £34.37 a week, from people's pay to account for accommodation. The examples that the right hon. Member for Delyn gave were significantly in excess of that amount and would, of course, be a breach of the national minimum wage rules. Workers affected should report the matter to the pay and work rights helpline, and HMRC will investigate and follow it up. If employers are deducting in excess of the offset from the national minimum wage and therefore breaching the legislation, enforcement action will be taken to recover the money for workers.

The hon. Member for Warrington North mentioned gangmasters and the interaction with health and safety. The scheme run by the Gangmasters Licensing Authority includes strict licensing conditions to ensure safe, legal working. The GLA works closely with the Health and Safety Executive and other organisations to enforce the law. If employers were breaching health and safety laws, not only would it be to the HSE to take action, but the GLA could revoke the licence. That is important. We want to see safe, legal working.

The right hon. Member for Delyn referred to the Housing Act 2004. He knows about the Government's beds in sheds initiative and how we have been supporting local authorities to use their powers under the Housing Act, and under planning and other legislation, to deal with the problems of rogue landlords and beds in sheds. Where there are acute problems, the Government have provided around £2.5 million in funding as well as guidance on dealing with rogue landlords. Indeed, we have joint operations with local authorities run by both major political parties. I have been out on some of those operations, and the partnership working is very effective. The housing teams can use their powers to secure warrants to access properties; immigration enforcement officers can use their powers when people are breaching immigration rules; and housing colleagues can use their powers to take action either when people are in breach of legislation on houses in multiple occupation or other safety or planning legislation.

We also take the opportunity to notify HMRC of the situation, to ensure that landlords who are breaking many other laws do not also forget to pay their taxes. HMRC has extensive powers to take action against people who are in violation of the tax laws. It should be clear to people in breach of the laws that we will use the housing laws against them and immigration laws against immigration offenders. We want provisions on landlords in the Bill to give us a further power to fine landlords who let property to people who have no right to be here, but we will also examine housing and planning powers, and HMRC will examine tax powers. We will use all those powers against rogue landlords who house people in inappropriate accommodation.

[Mr Harper]

The Government are currently considering bids from local authorities for a further round of £3 million of funding to support their efforts to crack down on the broader range of rogue landlord activities. I listened carefully to what the hon. Member for Hackney South and Shoreditch said. I do not know how extensive the issue of rogue landlords is in her constituency or her borough, but if it is an extensive problem, I hope her local authority has bid for some of the funds. Even if it has not, or if it has bid and been unsuccessful, if it wants to take serious action it should approach the Home Office. Our immigration enforcement teams are happy to carry out joint operations with local authorities, so that there are not people in her constituency who have no right to be here, and so that we can take action against landlords who exploit tenants and charge them significant rents.

10.15 am

When illegal working operations are carried out, one gets the chance to talk to tenants, some of whom are there illegally and some not. One interesting thing, which the right hon. Member for Delyn did not mention, is that not only is the accommodation overcrowded and in a bad condition, but the tenants do not necessarily get it inexpensively. Sometimes the rents are very expensive. We saw an example where someone was housed in a Harry Potter-like manner, literally in the room under the stairs, and was charged the kind of rent one would expect to pay for a proper, well appointed room in a home. The Government are clear that there is a lot of abuse going on, and we are working in partnership with local authorities to take action. There are a number of local authority taskforces in areas where there are hot spots of housing overcrowding. We are, for example, working with Ealing council, Newham council and Wisbech council in Cambridgeshire.

Mr Robert Syms (Poole) (Con): One way around the minimum wage is to jack up the rent that people have to pay, particularly if it is required for the job. One of the perverse incentives of charging high amounts for visas is that people can be loaned money for them and then charged high levels of interest. Those people therefore face problems when they come here, because they have to repay that money and pay high rent, and they are also paid substandard wages.

Mr Harper: My hon. Friend makes a good point. The issue of people getting into debt and becoming debt-bonded tips over into that of human trafficking, because those people are effectively in a condition of modern slavery. I will not dwell on that issue at length, because it is not within the scope of the Bill, but the right hon. Member for Delyn referred briefly to the fact that the Government will introduce draft legislation in this Session, which will become a Bill on modern slavery in the next Session and will tighten up the provisions in law. I hope that the Bill will have cross-party support, because there is cross-party consensus on the need to deal with modern slavery. My hon. Friend the Member for Poole talked about people being bonded by debt commitments, being forced to work and feeling like they have no choice about it, which effectively puts them in a condition of modern slavery. We should bear that issue in mind when we seek to ensure that our legislative solutions are effective.

Finally, the hon. Member for Hackney South and Shoreditch rightly talked about the need for local fire brigades to know where dangerously overcrowded houses are. Of course, fire authorities have the ability to work with housing authorities to take action. The Housing Minister, my hon. Friend the Member for Keighley (Kris Hopkins), and I co-chair a taskforce on the issue of rogue landlords, which brings together a number of local authorities, and we have a representative from the London fire authority. I want to reassure the hon. Lady that we are aware of the issue of the use and enforcement of fire regulations, and it is among the factors that we consider.

Another issue to consider is that people sometimes have residential accommodation in buildings that are not residential in nature. When the fire and rescue service respond to a call, they make a judgment about the risk to the people in that location and to their officers based on what they expect to find. If they attend a commercial premises at night they do not normally expect to find people. If they find people who are at risk, they will not be properly prepared, and those people and the brave fire and rescue officers will therefore be at risk. We are considering that issue. I do not think it requires a legislative response, but from an enforcement perspective that information should be shared.

When local authorities become aware of illegal residential accommodation in commercial premises, there is clearly a need to share that information with fire and rescue services. Compliance action can then be taken against the occupiers and landlords of those buildings. It also means that if there were an incident the fire and rescue services could make a properly judged call about the appropriate response.

I hope I have addressed the new clauses that the right hon. Member for Delyn tabled and demonstrated that we will not have to wait a year after Royal Assent before we have the report from the MAC. The Government will also publish their balance of competences review. Both Parliament and the Government will therefore have access to information across the waterfront. I therefore urge him not to press his new clauses.

Mr Hanson: I thank the Minister for his contribution. There is agreement in the Committee on the exploitation of individuals who are coming here to work—there needs to be an assessment and there needs to be action. New clause 17 would reinforce the National Minimum Wage Act 1998, which the Conservative party voted against. One of the longest nights of my 22 years in the House of Commons was the night when the Conservative party kept me up for 36 hours by voting against the minimum wage, so I will not take any lessons from the Minister about the history of the previous Government.

Mr McFadden: I apologise, but I believe that in my absence the Minister referred to my record on the minimum wage as a Minister. I do not know what he said, but I hope he included the new legal mechanisms that I introduced to ensure that there are unlimited fines for consistent non-payers of the minimum wage.

Mr Hanson: I am grateful to my right hon. Friend, who played a significant part in the progress of a significant piece of legislation, on which I was proud to

campaign. When I was first elected, people in my constituency could be paid anything that their employer wanted to pay, with no minimum whatever. There has been progress, and I dare say that it has been one of the fundamental and irreversible shifts that the Labour party was elected to create.

The key point on the minimum wage is that the Gangmasters (Licensing) Act 2004, the Equality Act 2010 and the steps to license houses in multiple occupation introduced by the Housing Act 2004 are all current legislation introduced by the previous Labour Government. I tabled the new clause to get the Minister to examine the current relevance of, compliance with and enforcement of those Acts and consider whether we need to amend them to meet the challenges created by unscrupulous individuals who are bringing people to this country to work for less than the minimum wage under gangmaster licensing, in flagrant breach of the Equality Act, and to live in accommodation that is substandard under the Housing Act.

The Minister has set out a number of measures that he believes the Government are taking, and I will reflect on those measures and determine whether we wish to return to the matter on Report. The Opposition are still concerned that eastern European migration is being exploited by a number of individuals who are finding a way to subvert those Acts, particularly in relation to employment issues, without recourse to the law. We wish to test that point, and we will return to it on Report. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 14

EMPLOYMENT OF AN ADULT SUBJECT TO IMMIGRATION CONTROL: PENALTY

'In section 15 of the Immigration, Asylum and Nationality Act 2006 (Penalty), omit subsection (2) and insert—

"(2) The Secretary of State may give an employer who acts contrary to this section a notice requiring him to pay a penalty of a specified amount not exceeding the prescribed maximum and not below the prescribed minimum.".'.—*(Mr Hanson.)*

Brought up, and read the First time.

Mr Hanson: I beg to move, That the clause be read a Second time.

New clause 14 is related to our previous discussion. It would establish a minimum prescribed fine for breaching section 15 of the Immigration, Asylum and Nationality Act 2006. At the moment, it is illegal to employ illegal immigrants, and indeed there is currently a maximum fine of £10,000 for doing so, but I understand that no minimum fine is set in legislation.

The UK Border Agency's homepage states:

"We introduced a civil penalty system for employers in February 2008."

That was under the previous Government. It continues:

"This is allowed under section 15 of the Immigration, Asylum and Nationality Act 2006.

If our staff carrying out enforcement and compliance visits find that an employer is using illegal migrant workers, they will issue the employer with a notification of potential liability (NOPL). Our civil penalty compliance team will then consider evidence provided by the visiting officer or team, and will decide whether to issue the employer with a notification of liability (NOL) and a civil penalty of up to £10,000 for each illegal worker."

That is important and, I think, fair. There is a right and proper way to do that, and if people are employing workers illegally they could be fined up to £10,000. That is a positive thing, and it is potentially a deterrent. However, in practice—this is where I want to test the Minister—issuing a civil penalty to an employer gives them 28 days to do several things. First, they can pay the civil penalty, potentially of up to £10,000, in full. They can ask the civil penalty compliance team for permission to pay it in monthly instalments. That is potentially fair, but we can debate that another day. They can submit an objection to the penalty to the compliance team, or they can lodge an appeal in a county court. A fast payment option can be offered to employers who qualify for it, which is important. This allows them to pay a reduced amount if they pay within a certain time. Again, we can revisit that.

However, the Bill as I read it contains no provision for the levying of a minimum fine. Effectively, the fine—which could be a maximum of £10,000—has no Secretary of State-nominated minimum which must be imposed for breaches of the legislation. For example, we talked earlier about UK dairy farms that were found guilty of using illegal labour hired through gangmasters. The workers were housed in poor accommodation previously used by animals and paid £400 to £500 less than the minimum wage each month, and yet the civil penalty issued amounted to £300 per worker. Even though the companies responsible were fined and had to pay a civil penalty, it was in their financial interests to ensure that they could be fined only £300, as they were saving £400 to £500 per month in wages. That strikes me as incompatible with the objectives of section 15 of the Immigration, Asylum and Nationality Act 2006.

Our new clause would enable the Secretary of State to give an employer who acts contrary to section 15 a notice requiring him to pay a penalty of a specified amount which does not exceed the prescribed maximum and is not below the prescribed minimum. Here, we are effectively testing the Minister—although perhaps with inelegant language, as is the nature of opposition—on whether a minimum payment could be set in law. That would at least provide a minimum deterrent, as well as the maximum penalty of £10,000. I look forward to the Minister's response.

Mr Harper: In some senses the right hon. Gentleman and I are at one on this. We want to see tough penalties for employers who deliberately break the rules, and the provisions in the Bill relating to penalty notices for employers of illegal migrant workers will strengthen the scheme. Clause 39, which we have already agreed, will require an employer to exercise their right to object before they can go to a civil court for an appeal. Clause 40 will streamline the steps needed to enforce unpaid civil penalties in the civil courts. That will deal with one of the issues that has rightly been raised, concerning the extent to which fines are actually collected.

The Bill did not include any provisions relating to the levels or amounts of penalties to which employers may be liable, as these are set out in secondary legislation.

[Mr Harper]

The power to set the maximum penalty is set by the affirmative resolution procedure, so Parliament can debate it when the Government bring proposals forward.

Picking up the point raised by the right hon. Gentleman's new clause, the legislation already requires the Home Office to publish a statutory code of practice. This sets out the factors to be considered when determining the level of penalty, so that the basis on which the scheme operates is completely transparent and is consistently and fairly applied. Therefore, minimum penalty levels to which the Home Secretary must have regard can be set out in the statutory code of practice. We believe that the package of measures we have already set out in response to our public consultation on these issues constitutes a toughening of, and a robust vision for, this scheme. This reform will get tougher on rogue employers who continue to flout the law, exploit illegal labour and—importantly—undercut legitimate businesses.

10.30 am

We want to make sure that the scheme retains flexibility and proportionality, so that appropriate action is taken in every case where an employer is found to be in breach. With illegal working sanctions, we should distinguish between employers who employ an illegal worker through negligence—including the extent of that negligence—and those who do so deliberately. In applying penalties, we should also differentiate between employers who employ illegal workers once and those who repeatedly do so. The scheme should encourage and support compliance. In an ideal world, we would not need to issue penalties because their existence and the tough enforcement regime would encourage compliance.

The penalties are calculated on a sliding scale, taking into account a number of factors. Case law also suggests that we should have sliding scales rather than fixed penalties. For example, case law concerning the civil penalty scheme for road hauliers bringing in clandestine entrants effectively required that the culpability of the haulier be taken into account.

In addition, to strengthen the position we have introduced proposals to improve the deterrent impact of these schemes. We propose from next April to double the maximum penalty to which the employer can be liable to £20,000 per worker, and we will double the starting point for the calculation of a first-time penalty to £15,000 per worker. We will also clarify the application of mitigating factors and remove one of them: a partial, incomplete check of somebody's right to work.

In light of the responses to our public consultation, we are retaining the warning letter, but we will use it in only a limited range of circumstances. People were concerned about the potential impact on small or new businesses—on which a significant fine could have a disproportionate impact—particularly where non-compliance was down to a lack of resources or experience, rather than a duplicitous employer. We will also narrow the criteria under which an employer can be issued with a warning letter rather than a financial penalty, so that outcome will be an exception rather than the norm.

Amendments to the regulations will be subject to the affirmative resolution procedure; when we introduce the changes I have set out, Members will have the opportunity to debate them in the House and raise their concerns. We are trying to create a higher starting point, narrowing the opportunities for people to receive only a warning letter rather than a penalty, and to put more significant steps in place to enable the collection of those penalties. The overall regime will be tougher on and more significant for employers who are the worst offenders.

We will increase the starting point for calculating a penalty, but mitigating factors have to be taken into account. As I said, if, for example, a new small employer has made a genuine mistake and not complied, it would be perverse to hit them with a significant fine that drove them out of business and made all their workers unemployed. However, it would be perfectly proper for an employer who has been established in business, has no excuse for not understanding the rules and is a serial offender to be hit really hard. That is why we are increasing the starting point for calculating a penalty and doubling the maximum. However, it is important to look effectively at the culpability of the employer.

As I recall, when we debated the landlords provisions, the Opposition wanted us to have a more flexible range of penalties, so that we could take into account a small landlord who is perhaps renting out a room in their property. The Opposition's argument was that it would clearly be appropriate to have a smaller penalty for such a person than for a larger landlord who knew what they were doing and were deliberately evading the law. I seem to remember that people wanted us to have a more flexible penalty regime, and concerns were expressed by Opposition Members—although perhaps not from the Front Bench—that we had set the penalty too high. The same principles apply in this area: the penalty should be linked to the culpability of the employer. That is what our proposals will deliver, through the Bill and in the changes to secondary legislation that we will make.

With those assurances, I urge the right hon. Gentleman to withdraw his new clause. When we introduce our changes to regulations, which we will have to debate under the affirmative procedure, he will be able to check and test whether we are being sufficiently robust.

Mr Hanson: I would hope, over time, to persuade the Minister that the benefits of a minimum penalty override the issue of culpability. I do not recall discussing a flexible regime when we dealt with provisions for landlords, but I will check my notes. I recall discussing whether we would have a phased roll-out or phased pilot, and whether we would have one pilot or five. There was a clear division on that issue. At some point I will want to return to the issue of having a basic minimum penalty, but for today I beg to ask leave to withdraw the clause.

Clause, by leave, withdrawn.

New Clause 15

Restrictions on Bulgarian and Romanian migrants

'The Transitional Provisions set out in Article 20 and Annexes VI and VII of the European Communities No. 2 (2005) Treaty shall be in force until 31 December 2018.'.—*(Nigel Mills.)*

Brought up, and read the First time.

Nigel Mills (Amber Valley) (Con): I beg to move, That the clause be read a Second time.

The reason for tabling the new clause is that, as most of us know from our postbags or from popping down to the proverbial Dog and Duck, the immigration issue of most concern to people at the moment is what may or may not happen in about six weeks' time when the transitional restrictions on citizens of Romania and Bulgaria finally expire in the UK and across much of the EU. Various estimates have been made of how many migrants we might see coming here over the next five years as a result of lifting those restrictions.

An e-petition on this issue attracted well over 150,000 signatures and there have been campaigns in various national newspapers, so it is right that while we are debating an Immigration Bill, we debate an issue that is understandably of great concern to many of our constituents. Given the history in this area, which the Minister helpfully set out earlier, it is perhaps no surprise that there is a great deal of concern as we start to lift transitional restrictions. The right hon. Member for Blackburn (Mr Straw) finally admitted last week that Labour made a mess of the accession of various countries in 2004, when the level of migrants ended up being higher than the then estimate by a factor of 100. That has probably reduced confidence in our handling of these issues to a pretty low level.

It is worth rehearsing some of the numbers. The 2011 census shows that about 2.7 million people live in England and Wales who were born in the EU, about 41% of whom—some 1.1 million—are from countries that joined the EU from 2004 onwards. The 2012 labour force survey showed that about 658,000 people from those countries were working in the UK in the third quarter of 2012. The figures also show that net migration from the eight accession countries between 2004 and 2011 was about 400,000. There is no doubt that this is a big issue.

It is not surprising that there is concern that that might happen again when the transitional restrictions are lifted. The level of gross national income per capita for Bulgaria and Romania is about $16,000, whereas ours is about $37,000. It is perfectly understandable that some people might see a great chance of a better life here in the UK than they can find in their own countries.

I accept that it is not just the UK in that position this time. Most of western Europe appears to have kept the transitional restrictions on Romanians and Bulgarians for as long as the accession treaty allowed. The Minister has already told us some of the countries—I think Belgium, Germany, Spain, France, Luxembourg, Malta, the Netherlands and Austria still have those restrictions for another six weeks. If anything, that probably shows that those countries have had genuine concerns for the last seven years about what might happen when those restrictions are lifted. It would be fair to assume that those restrictions would not still be in place if those countries did not have remaining concerns.

In six weeks we will be required to lift those restrictions on the basis of the accession treaty signed in 2005. We can be relatively generous to the Government of the time: I suspect that none of us knew the recession was around the corner or how severe it would be. If the then Government and other western European Governments had known what would happen, perhaps we would have had more than seven years of restrictions—we may have been less generous. That might be why we see discussion across the political field, in this country and beyond, about whether the current free movement of people directives are now appropriate, given where the EU is with 28 members, compared with the western European club of 15 nations that were pretty similar in terms of history and wealth. We could not apply that description now.

Our constituents' concerns about allowing what they fear might be a new wave of migration are about the impact on jobs, wage levels, access to housing, access to benefits and public services. The Minister set out some of the measures the Government will take to try to reduce the UK's attraction factor at various levels. I will touch on those later, but I want to re-run the Migration Advisory Committee's analysis from 2011, when the Government quite rightly extended the transitional restrictions for a further two years. It is interesting to consider whether, if we were allowed another two-year or longer restriction, that committee would recommend that restriction or whether it would say that there is now no need.

I do not want to put words in that committee's mouth, but the accession treaty allowed those restrictions to be extended until 2013 if there was a "serious disturbance" to the labour market. We have no clear definition of that phrase, but the definition used by the MAC two years ago referred to

> "rapid adverse changes in leading labour market indicators, including employment, unemployment, vacancies and redundancies."

The MAC qualified that in paragraph 3.31 by saying that, in the then context, the adverse levels of those indicators should be tested and compared with pre-recession levels—there did not need to be a recent disturbance in those indicators; the history should be looked at over a certain period. That report said that the average figures before the recession were 72.7% for employment, 5.1% for unemployment and 3% for the claimant count, with about 621,000 available vacancies. In 2011, when the MAC recommended extending the restrictions, employment was 70.6%, unemployment was 7.8% and the claimant count was 4.6%, and there were 469,000 vacancies. Clearly those figures are far worse, as we would have expected, than the pre-recession average. It was on that basis that the MAC recommended continuing with the restrictions.

If we look at the most recent update of those numbers, we see a welcome improvement—albeit only on the 2011 position, unfortunately. We should remember, however, that the Government have been at pains to say that we have turned the corner and are going in the right direction, but that we have not reached the destination. Currently, employment is 71.8%, which is still below the pre-recession average of 72.7%, while unemployment is 7.6%, which is still well in excess of the pre-recession figure of 5.1%. The claimant count is 4%, which is in excess of the pre-recession figure of 3%, and vacancies are now up to 545,000, although that is fewer than the 621,000 we saw pre-recession. I suggest to the Minister that, were we able to extend those transitional restrictions, we might have a good case to argue that there is still a serious disturbance to our labour market that would justify such an extension.

10.45 am

That should not be a surprise, given the context. The Governor of the Bank of England is talking about interest rates staying low until unemployment goes below 7%. If we still have to keep interest rates exceptionally low and to engage in quantitative easing, it is a fair conclusion that we still fear that we have a serious disturbance in our labour market and in various other parts of our economy.

My contention, based on the factual, evidence-based assessment the Migration Advisory Committee did for us two years ago, is that there would be a good case for extending the restrictions, if we were allowed to under the treaties. That brings us to the question whether we can extend them. Clearly, we have signed treaties that say we cannot, but we are a sovereign Parliament and we could, presumably, decide we no longer accepted the conditions in them, because things have changed so dramatically that we should exercise our sovereign right to renege on parts of them and impose restrictions regardless.

I am not sure it would be wise of me to try to persuade a Committee of fewer than two dozen MPs that it is time for us to start reneging on our treaty obligations. I suspect we would find ourselves in various courts relatively quickly, and we might well be found to be in breach of our treaty obligations. However, I have some sympathy for the approach the French told me about when I asked them, on something completely different, how they seemed to be able to take a more relaxed view of EU rules than us. The answer was, "We prefer the approach of apologise later, rather than seek permission now."

I suspect it is, technically, an option for us to say, "Sorry, our economy is so weak and our youth unemployment is so high, that we don't think we can accept the potential for significant migration. Sorry, but we can't lift these restrictions now. We need to keep them for a further period." The new clause proposes five years, the logic being that that should see the economy back to full strength. It would take us to about the middle of the next Parliament, by which stage we all hope we will have had a referendum, in which people can decide whether they want to be in the EU, warts and all, or whether they would like to leave, in which case this decision will have been taken, one way or another.

There are clearly issues above and beyond the impact on the labour market of allowing these transitional restrictions to lapse. We have set out the potential impact on our health service. A recent EU Commission report by Milieu, which was published last month, said that the cost of EU migrants to our health service, after we have recovered the amounts we can from their various home nations, is between £1 billion and £1.5 billion a year. That report sparked various media stories about there being 600,000 jobless EU migrants in the UK. The number was somewhat exaggerated, and the real number for job-seeking EU migrants is about a third of that. Nevertheless, it is still a significant issue for our economy and our constituents.

I accept that the Government have set out some sensible ideas for reducing the "attract" factor we have for migrants over and above places elsewhere in the EU. Regardless of whether this is always entirely a fair perception, there is a feeling among our constituents that we are a soft touch on health, benefits and housing, so it is more attractive for people to come here than to go to other EU nations with comparable income levels. Therefore, I absolutely welcome the efforts to say that people are not entitled to any benefits after six months unless they can show they are in work or actively looking for work, and to say that they cannot get access to a social house until they have proved they have lived in an area for five years.

Those are all absolutely the right things to do, but it would be helpful if the Government could give us their estimates of the number of migrants arriving from Romania and Bulgaria and of the effect that proposed or existing measures will have on reducing the forecast levels of migration. The only reliable estimate I could find for the level of potential migration from Romania and Bulgaria was proposed by Migration Watch, which thought it would be between 30,000 and 70,000 a year over the next five years. A simple average of that would be 50,000 a year, giving us about 250,000 people coming here over the next five years.

I think we would all agree that numbers of that size will not help the Government to meet their entirely laudable target of getting net migration down to the tens of thousands, from the hundreds of thousands. It is a little hard to work out how many Romanians and Bulgarians have come here since their countries joined the EU and they were given more rights to come here. The population data suggest that the number went up by roughly 25,000 a year between 2007 and 2012, based on the increase in the population of people with Romanian or Bulgarian descent. If we already had 25,000 while the restrictions were in place, it would not be unreasonable to suggest that the number could easily be double that once the restrictions are lifted.

My purpose in tabling the new clause is to ensure that we have a chance to debate this issue of great concern. Do the Government believe that the issue is of great concern? Is there a potential that a significant number of people seek to come here to access jobs that we are desperately trying to find for our own unemployed constituents, both young and less young? I am also concerned about overburdening our various public services. Alternatively, are the Government now happy that, with the various measures they are putting in place, we do not need to be as concerned as many of us are about what might happen from January?

Mr Harper: We had quite a lengthy debate on new clauses 13 and 17, tabled by the right hon. Member for Delyn, during which I set out a whole range of issues—to be fair, my hon. Friend the Member for Amber Valley referred to them—regarding the changes we are making to tighten up the legislation on jobseeker's allowance. I referred to the guidance on social housing, to which my hon. Friend also referred, and extensively set out the change in the employment market, in which the bulk of employment growth is now benefiting British workers. I am sure that you, Ms Clark, and the members of the Committee will be delighted to know that I do not propose to repeat all the points I made previously, but shall make new points in response to my hon. Friend's concerns.

If we keep European migration in perspective and look at the immigration figures, we see that just over half of migrants to the UK come from outside the EU.

Just under a third come from within the EU, and around 16% of migrants are British citizens who have been abroad and are returning home. It is worth saying that, because it is helpful to remind the public and put the figures into perspective. One sometimes gets the impression, when the subject is being debated, that people think that the vast majority of migrants to the UK are from the EU. That is simply not borne out by the facts, and it is worth putting that on the record.

As I said—I may have said this in a slightly critical context—that was also the case under the previous Government. However, even during the period to which the previous Home Secretary referred, in talking about what happened under the previous Government—I will not repeat his words, because the right hon. Member for Delyn took exception to it—when significant number of migrants came from eastern Europe, twice as many were coming to Britain from outside the EU. I will not dwell on what that says about the previous Government's migration policy; the point is that those coming from outside the EU have been more significant in number than those coming from inside. That is not to say that there are no concerns—our previous debate showed that there are—but it is worth putting them into context.

As I have also said, we are working with our European partners—there is work that we are doing now, which we can deal with in this Parliament. We finally got the Commission to accept that there is a problem with the abuse of free movement. Of course, free movement is valuable to British citizens, as well as those from outside the EU. There are about 2.1 million EU citizens in Britain and around 1.4 million British citizens working, living or studying elsewhere in Europe. If we were to abrogate our responsibilities under the treaties we have signed, as my hon. Friend the Member for Amber Valley suggested—I am not saying he was urging this, but that is the implication of his new clause—what is to stop others from doing so? We might find British citizens who are settled in other European countries finding that they do not receive the benefits that they expect or the rights they have.

Specifically addressing my hon. Friend's new clause, I have a straightforward answer. The accession treaties that were signed and negotiated by the previous Government allowed the transitional controls to be extended until December 2013. They were originally in place for five years, and we extended them for a further two. My hon. Friend referred to the Migration Advisory Committee report that informed that decision, but there is no possibility under the treaties to extend those controls any further. The only way of doing so would be to negotiate a change to those treaties. Given that this would require the unanimous agreement of all member states, including Bulgaria and Romania, the Government's judgment—which I think is the right one—is that there is no prospect of achieving it. That is why the transitional restrictions come to an end at the end of this year.

We are not the only country with transitional restrictions. There are eight other countries—my hon. Friend mentioned several—that also have such restrictions in place and which are also removing them. We are therefore not in the same position as previously, when we were the only country that was an option for those wishing to migrate. There are now a range of other European countries in the eurozone, including Germany, which is an economic powerhouse that is generating jobs and creating economic growth.

As a closing point, let me say to my hon. Friend that I would not be quite as negative and pessimistic as he sounded about the state of our economy. We are now starting to see economic growth, and the Governor of the Bank of England says that one does not have to be an optimist to see that the glass is half full. We have seen quite strong growth in the third quarter, and independent forecasters now predict that growth will be stronger. We are not out of the woods yet, but there are some signs of improvement. The one thing that has been consistently true since 2010, even when economic growth was less robust than it is today, is that we have seen a tremendous response from private sector employers in Britain. Even during those difficult quarters when there was not strong growth, businesses and hard-working men and women across the country were successful in generating employment, which, as I said previously, under this Government has largely benefited British citizens.

We are not complacent and there is a lot more work to do. However, given that picture, the economy is in a little better shape than it perhaps sounded in my hon. Friend's remarks. Given that it is not possible to do what he suggests and given the steps that the Government are taking, which I have set out, I urge him to withdraw his new clause.

Nigel Mills: I am grateful to the Minister for those remarks. I did not intend to give the impression that the economy was worse than it is. I set out all the stats, which showed the improvement in the various employment levels over the two years since the last report. I warmly welcome the fact that the economy is growing much more strongly than it was. It is a pity that the Government still do not have an estimate of the level of migration they forecast from Romania and Bulgaria—or, if they do, that we did not get those data from him. I will reluctantly accept that, in a Public Bill Committee with a dozen or so MPs in the Room, trying to get this country to breach various treaties it has signed is probably not a very sensible way of pursuing our diplomatic mission, so I beg to ask leave to withdraw the clause.

Clause, by leave, withdrawn.

11 am

New Clause 16

SUPPORT FOR PRESCRIBED GROUPS

'(1) Section 4 of the Immigration and Asylum Act 1999 (Accommodation) is amended as follows.

(2) In subsection (1), for "facilities for the accommodation" substitute "support".

(3) In subsection (2), for "facilities for the accommodation" substitute "support".

(4) In subsection (3), for "facilities for the accommodation of a dependant of a person for whom facilities" and insert "support of a dependant of a person for whom support".

(5) In subsection (5)—

(a) in paragraph (a), for "accommodation" substitute "support" in both occurrences; and

(b) in paragraph (b), for "accommodation" substitute "support" in both occurrences.

(6) In subsection (6)—

(a) in paragraph (a), for "accommodation" substitute "support";

(b) in paragraph (b), for "accommodation" substitute "support"; and

(c) in paragraph (c), for "accommodation" substitute "support" in both occurrences.

(7) For subsections (10) and (11) substitute—

"(10) "support" means—

(a) accommodation appearing to the Secretary of State to be adequate for the needs of the supported person and his dependants;

(b) food or other essential items;

(c) the means to enable the supported person to meet what appear to the Secretary of State to be expenses (other than legal expenses or other expenses of a prescribed description) incurred in connection with his claim for asylum or leave to remain in the UK;

(d) the means for the supported person and his dependants to attend bail proceedings in connection with his detention under any provision of the Immigration Acts; or

(e) the means to enable the supported person and his dependants to attend bail proceedings in connection with the detention of a dependant of his under any such provision.

(11) If the Secretary of State considers that the circumstances of a particular case are exceptional, such other resources as he considers necessary to enable the supported person and his dependants to be supported.".'.—*(Dr Huppert.)*

Brought up, and read the First time.

Dr Julian Huppert (Cambridge) (LD): I beg to move, That the clause be read a Second time.

It is a pleasure to propose this final new clause in our Committee proceedings. My new clause would make technical but important changes to the Immigration and Asylum Act 1999 that would enable support under section 4 of that Act to be run more like support under section 95, which is already available, while also allowing the Secretary of State the flexibility to make distinct regulations where there are differences. Section 4 support currently covers some 3,000 people who have been refused asylum claims—and their dependents—but who for various reasons cannot go home, back to their country, whether because of illness or pregnancy, for example. Section 4 support is run as a parallel system to section 95 support for people who are applying, but it is an expensive way of supporting people. It also involves a complex process, with a second, long form for people to complete, after they have already filled in a section 95 form. There have been lots of problems with maladministration and whether people should be getting such support, and about transition between the two.

Analysis from Still Human Still Here, which campaigns on a number of issues, estimates that if we got rid of section 4 support and provided the same people with section 95 support, not only would those individuals be better off, but it would save the Exchequer some £2 million to £4 million, which sounds like quite a good deal. The Select Committee on Home Affairs considered this matter in much more detail than I will have time to explain and concluded:

"We are not convinced that a separate support system for failed asylum seekers, whom the Government recognise as being unable to return to their country of origin, is necessary… Section 4 is not the solution for people who have been refused but cannot be returned and we call on the Government to find a better way forward."

That is what I am proposing.

Section 95 support is set at a relatively low level—less than domestic benefits. It has not been uprated recently and is not uprated in line with other benefits, but section 4 support is even lower, with everybody, regardless of their circumstances, getting the princely sum of £35.39 a week—about £5 a day—to live on. That is a lot less than they get on section 95 support—for a child under three, it is £17.57 a week less, which makes a huge difference—and it is less than the single adult amount. The single adult amount is already set at less than half what a single adult on income support would get, so we are talking about half what we have said is the right amount to support people on—59% for a lone parent with a baby and 54% for a pregnant woman. It is incredibly low. One justification is that such support is meant to be a temporary measure. In fact, slightly more than half the people on section 4 support have been on it for two years, and about 200 have been on it for about six years, which is a long time for a temporary provision to last.

Another issue arises from the slightly odd terminology used, which is why my new clause is rather complex. The relevant provisions mention facilities for accommodation and the provision of basic services, rather than a more general term for support. That causes problems, one of which is that the support is given through a cashless system—this is not a cash-support system. The Azure card has money on it that can be used only in specified shops, including a few supermarkets and retail shops. Only £5 can be carried over from one week to another, so the maximum that people can spend in a week is £40. There is no way to save, which means that people cannot save to buy clothes or shoes, or anything that might cost a little more money. It is not possible to use the card to take public transport and there are huge numbers of other restrictions. There have also been lots of technical faults with the Azure card system and shop errors, whereby people have been refused children's clothes, for example. Additionally, the entire Azure card system costs £350,000 to run, for 3,000 people. It is an expensive way of working and it does not work that well. Anyone looking at the Oxfam report on destitution will see the problems.

There is no evidence that people come to the UK or stay here to get such support, or that a change from section 4 to section 95 would make any difference. After all, the Government recognise that these are people who cannot return home. The Home Office has previously found that asylum seekers have limited control over where they apply for asylum anyway and little knowledge of entitlements to benefits in the UK. I find it hard to imagine that if asylum seekers saw a change from section 4 to section 95, it would make any difference to where they went, and the OECD came to the same conclusions.

The current rules also do not allow for subsistence-only support. Under section 95 of the 1999 Act, it is possible for people to have accommodation that they find themselves with friends or family, but to get subsistence support. Indeed, 13% of people on section 95 support use that facility and hence do not burden the state. However, because of the wording of section 4, it is impossible for support to be given for subsistence but not accommodation,

so people have to leave accommodation, even if they are staying with friends and family, and move into state-provided accommodation to get their £35 a week to live. That increases the cost to the state. If people have somewhere they can stay, we should not force them to take state-provided accommodation, which seems perverse.

The analysis by Still Human Still Here suggests that moving from section 4 to section 95 for everybody, which is not quite what the amendment says—it would allow the Secretary of State differing levels if she wanted—would cost about £700,000 a year, making some reasonable assumptions. However, it would save £2 million a year on accommodation, including £350,000 by not having the Azure card system, massively reduce the administration costs of having two completely different systems, and probably reduce the number of errors made. For example, in 2008-09, about £10 million was overpaid, partly as a result of the complexity. It is estimated that the move would save between £2 million and £4 million net. If we can save the Exchequer a few million pounds and treat people a bit better—making it easier for people to buy warm clothes for their children and easier for pregnant women, who cannot leave when they are heavily pregnant, to look after themselves and occasionally take a bus—that is worth looking at.

I do not expect the Minister simply to agree now, but I would be grateful if he agreed to have a look and get the Home Office to check the costings from Still Human Still Here. If it is right that we would save money by providing a better standard for those people, the Government ought to look at that.

Mr Harper: I am grateful to my hon. Friend for raising this important issue. He clearly set out some of the issues, and I will not repeat his points. However, it is worth clarifying one point he alluded to. There are two different types of support. We support destitute asylum seekers by using the section 95 powers in the Immigration and Asylum Act 1999. Separately, as my hon. Friend said, the section 4 powers are provided to certain categories of failed asylum seekers and people released from immigration detention on bail under section 4 of the 1999 Act. It is worth remembering that those who receive support under section 4 are people who, having used their right of appeal, are judged not to have the right to stay in the UK in the long term.

We do support such people where there is an unavoidable obstacle preventing their immediate departure. My hon. Friend referred to a pregnant woman who had passed the point at which it would be safe for her to travel. Another example would be where a person was complying and trying to obtain an emergency travel document, but where that was taking time. If they are not complying and getting an emergency travel document, we will of course not support them, but where they are, the process might be taking some time through no fault of theirs. Therefore, there are some limited cases where we still feel it is appropriate to support people even where they have no right to be in Britain. Section 4 support is therefore for a different purpose and a different group of people from those supported under section 95, who are still making an asylum claim, a significant number of whom will receive our support.

My hon. Friend set out fairly how the process works. However, the restrictions on the use of the Azure card are fairly limited. Cards can be used at a number of retail outlets; they cannot be used to purchase fuel, alcohol, tobacco or gift cards. They can be used to purchase pretty much anything else, including food and other essential items. He made the point that they cannot be used to roll money forward. That is true for single people, but families receiving section 4 support are allowed to carry over unspent money each week to help them to meet unforeseen costs. Pregnant women in that position receive a credit of £250 to meet some of the extra costs arising from maternity for that small period of time in which they will remain in the UK before they leave.

That is why we have a different system, which I think is appropriate. My hon. Friend has a specific request, and the purpose of his new clause is to test it. He mentioned the work of Still Human, Still Here and its assertion and analysis that moving to a different support mechanism or combining the two mechanisms would save the taxpayer money. He asked me to look into that, and I am happy to do so. We have considered the idea before, but as he has raised it, I am happy to consider it again, looking at both the narrow point about the support systems and any possible knock-on consequences.

Changing to a different support system could have consequences for the pull factor—I know my hon. Friend was not persuaded of that—or might have an impact on incentives for people to leave. He will know from our previous debates that the cost of someone being in the United Kingdom and having access to those public services that we would not withhold, such as health services, can amount to several thousand pounds a year. However, I will re-look at the report and the financial analysis that he set out. I commit to giving him the Government's conclusions on that, and I will also send a copy to the Committee. I hope that with those assurances he will be able to withdraw his new clause.

Dr Huppert: I thank the Minister for offering to look at those analyses. It would be good to save money, should it seem that we can do so, and I am happy to beg to ask leave to withdraw the clause.

Clause, by leave, withdrawn.

Mr Hanson: On a point of order, Ms Clark. On behalf of Her Majesty's Opposition, may I thank you and your co-Chair, Sir Roger, for chairing our proceedings over the past few weeks? When I was first approached about an immigration Bill, my natural inclination was to want to leave the country fairly quickly, but we have managed to stay the course. For that I want to thank my hon. Friends, especially my hon. Friend the Member for Warrington North, who shared the Front-Bench duties with me, and my hon. Friend the Member for Sedgefield, who has whipped the Bill. I would also like to thank both Clerks, who have been supportive to the Opposition, their colleagues from *Hansard*, who as ever have turned our gobbledegook into something sensible, and the Doorkeepers and police for their assistance.

I would particularly like to thank the officials, who do a lot of work for the Ministers behind the scenes, and to thank both Ministers for their courtesy in dealing with a very sensitive issue. There have been some differences between us in Committee, which will undoubtedly be reflected on Report, but I ask the Ministers to accept my thanks on behalf of the Opposition.

Dr Huppert: Further to that point of order, Ms Clark. I would like to add my congratulations and thanks to you and Sir Roger for your work on what has been a very interesting set of discussions. It has been good to explore some of the issues. It has been far easier than I thought it might have been, so I add my thanks, particularly to the Clerks, for their work on amendments, and to the Ministers for their helpful responses on a number of important issues.

Mr Harper: Further to that point of order, Ms Clark. On behalf of the Government, may I think you and Sir Roger for your chairing of the Committee? I hope you have had as much fun as we have. Being in the Chair, you would of course never deign to let on how much fun you have or have not had, but I hope it has been as enjoyable for you as for us.

I should say to the right hon. Member for Delyn that if he had left the country, it would have helped our net migration figures, but we would have missed him tremendously. *[Interruption.]* He says from a sedentary position that he stayed so that he did not give the Government assistance. The debate has been a good one. This is a sensitive subject, and without exception everybody who has participated in our discussions has dealt with it with the seriousness that it deserves and in a sensible way. We have a fair idea of where the debate may go on Report and I am grateful to colleagues on both sides of the House.

I am also grateful to the Doorkeepers, the police, both the Clerks, and the *Hansard* reporters, who may or may not have to deal with gobbledegook. The *Hansard* writer smiled when I said it too, so I shall judge by that smile that we are both guilty of spewing up some gobbledegook. I am also grateful for the tremendous support that I have had from officials in responding to the Committee.

As a final point, the Minister for Crime Prevention and I have both tried to deal sensibly with the points raised in Committee. I hope that the written responses we have issued to the Committee on particular points have been helpful. I look forward to the continuing progress of the Bill through the House.

Nicholas Soames (Mid Sussex) (Con): Further to that point of order, Ms Clark. I am moved to say one thing. This is the first time that I have had the privilege of sitting on a Bill Committee for quite some time, in view of both my age and my seniority. Looking back on the horrors that I have sat through in the past, about far less contentious issues than this, may I say that—aside from all the other people—the usual channels should be thanked particularly for the highly effective way in which things have been conducted? It just goes to show that contentious issues can be debated in a civilised and realistic manner by both sides of the House.

The Chair: On that note, may I say thank you on behalf of us all for all those kind comments?

Bill, as amended, to be reported.

11.15 am

Committee rose.

Written evidence reported to the House

IB 32 British Property Federation

IB 33 Sarah Craig

IB 34 Dover Detainee Visitor Group Ex-Detainee Project

IB 35 Dover Detainee Visitor Group Detention Support Project

IB 36 Passportia

IB 37 Dr Sally Stewart

IB 38 University of Sheffield Students' Union

IB 39 Air Transat

IB 40 Forum of Private Business

IB 41 Dover Detainee Visitor Group's Legal Advice Project

IB 42 Revd Mike Cansdale

IB 43 Immigration Law Practitioners' Association - supplementary

IB 44 Immigration Law Practitioners' Association - supplementary

IB 45 Immigration Law Practitioners' Association - supplementary

IB 46 National Union of Students (NUS)

IB 47 Emeritus Professor John Mellor

IB 48 Homeless Link

IB 49 UNISON

IB 50 Asylum Aid

IB 51 United Nations High Commissioner for Refugees

IB 52 Boaz Trust and NACCOM

IB 53 Catherine Thornton

IB 54 Nikolai Berkoff

IB 55 Leeds Coalition against the Immigration Bill

IB 56 Immigration Law Practitioners' Association - supplementary

IB 57 Shelter

IB 58 Qantas

IB 59 JUST West Yorkshire

IB 60 Royal College of Midwives

IB 61 British Red Cross

IB 62 Information Commissioner's Office

IB 63 Northern Ireland Strategic Migration Partnership (NISMP)

IB 64 Association of Asia Pacific Airlines

IB 65 UK Chamber of Shipping