PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE (NO. 2) BILL

(Except clause 8; clause 33 and schedule 9; clauses 40 and 41 and schedule 11; new clauses or new schedules relating to the income tax treatment of armed forces' accomodation allowances, the bank levy, stamp duty land tax, the effect of the Bill on equality, or the effect of the Bill on tax avoidance or evasion)

First Sitting

Tuesday 9 January 2018

(Morning)

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not later than

Saturday 13 January 2018

The Committee consisted of the following Members:

Chairs: Sir Roger Gale, † Albert Owen

† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Burghart, Alex *(Brentwood and Ongar)* (Con)
† Carden, Dan *(Liverpool, Walton)* (Lab)
† Chalk, Alex *(Cheltenham)* (Con)
† Clarke, Mr Simon *(Middlesbrough South and East Cleveland)* (Con)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Dowd, Peter *(Bootle)* (Lab)
† George, Ruth *(High Peak)* (Lab)
† Graham, Luke *(Ochil and South Perthshire)* (Con)
† Kerr, Stephen *(Stirling)* (Con)
† Lee, Ms Karen *(Lincoln)* (Lab)
† Maclean, Rachel *(Redditch)* (Con)
† Philp, Chris *(Croydon South)* (Con)
† Pidcock, Laura *(North West Durham)* (Lab)
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Stride, Mel *(Financial Secretary to the Treasury)*
† Stuart, Graham *(Beverley and Holderness)* (Con)
† Thewliss, Alison *(Glasgow Central)* (SNP)
† Whately, Helen *(Faversham and Mid Kent)* (Con)

Colin Lee, Jyoti Chandola, Gail Bartlett, *Committee Clerks*

† attended the Committee

Public Bill Committee

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(Morning)

[ALBERT OWEN *in the Chair*]

Finance (No. 2) Bill

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9.25 am

The Chair: Good morning and happy new year to you all. I have a few announcements to make; as there are a number of new Members on the Committee, they will be quite lengthy announcements, but they will set out the procedure for the whole Committee stage.

I remind Members that only water is to be drunk in the Committee Room—no hot drinks. I will pretend that I have not seen the one at the end of the room. That is a strict rule from the Chairman of Ways and Means. Mobile phones and iPads should be switched to silent. There are document boxes behind me, which people may find useful for storing their documents when the Committee is not sitting. I would appreciate it if Members followed those rules, so that I do not have to make many more speeches.

Neither I nor my fellow Chair will call Members to speak to starred amendments—amendments tabled without adequate notice. The notice period is three working days, so amendments should be tabled by the rise of the House on Monday for consideration on Thursday, and by the rise of the House on Thursday for consideration the following Tuesday.

Not everyone is familiar with Committee procedures, so let me explain them briefly. The Committee will be asked first to consider the programme motion. The Minister will move that motion, and we will then consider the amendments to it. There is a strict time limit of 30 minutes for that. We will proceed to a motion on written evidence and then begin line-by-line consideration of the Bill.

The selection list for today's sitting is available at the end of the room. Amendments selected for debate have been grouped. Grouped amendments generally relate to the same or similar issues. The Member who tabled the lead amendment in a group will be asked to speak first. Other Members will then be free to catch my eye and speak to the amendments in that group only. A Member may speak more than once, depending on the subjects under discussion. At the end of debate on a group of amendments, I will call the Member who moved the lead amendment to speak again. They will need to indicate before they sit down whether they wish to withdraw that amendment or seek a decision on it. If any Member wishes to press an amendment in that group to a Division, they will need to let me know. I will work on the assumption that the Government wish the Committee to reach a decision on all Government amendments—we will nod at each other, Minister.

Please note that decisions on amendments will be taken not in the order on the selection list—the order in which they are debated—but in the order in which they appear on the amendment paper. Decisions on new clauses will therefore be taken after the conclusion of line-by-line consideration of the Bill. Where a group includes the words "clause stand part", Members may make any remarks they wish to make on the content of the clause during the debate, and there will be no separate debate on the question that the clause stand part of the Bill. Where those words are not included on the selection list, Sir Roger and I will use our discretion in deciding whether to allow a separate stand part debate on individual clauses and schedules. Clause stand part debates begin with the Chair proposing the question that the clause stand part of the Bill; there is no need for a Minister or another Member to move that the clause stand part of the Bill.

As I indicated, I will first call the Minister to move the programme motion, as agreed by the Programming Sub-Committee, formally. I will then call Kirsty Blackman to move amendment (a). There will be a single debate on the selected amendments.

Motion made, and Question proposed,

That—

(1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 9 January) meet—

(a) at 2.00 pm on Tuesday 9 January;

(b) at 11.30 am and 2.00 pm on Thursday 11 January;

(c) at 9.25 am and 2.00 pm on Tuesday 16 January;

(d) at 11.30 am and 2.00 pm on Thursday 18 January;

(2) the proceedings shall be taken in the following order: Clauses 1 to 7; Clauses 9 to 11; Schedule 1; Clause 12; Schedule 2; Clause 13; Schedule 3; Clauses 14 to 16; Schedule 4; Clause 17; Schedule 5; Clause 18; Schedule 6; Clauses 19 to 23; Schedule 7; Clause 24; Schedule 8; Clauses 25 to 32; Clauses 34 and 35; Schedule 10; Clauses 36 to 39; Clause 42; Schedule 12; Clauses 43 to 50; new Clauses; new Schedules; remaining proceedings on the Bill;

(3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 18 January.—*(Mel Stride.)*

Kirsty Blackman (Aberdeen North) (SNP): I beg to move amendment (a), leave out line 4.

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

Amendment (b), in line 7, at end insert—

"(1A) The Committee shall hear oral evidence in accordance with the following Table—

Date	*Time*	*Witnesses*
Thursday 11th January	Until no later than 12.15 pm	HM Treasury; HM Revenue and Customs
Thursday 11th January	Until no later than 1.00 pm	The Office for Budget Responsibility
Thursday 11th January	Until no later than 3.30 pm	The Institute for Fiscal Studies
Thursday 11th January	Until no later than 5.00 pm	The Chartered Institute of Taxation"

Amendment (c), in line 15, at end insert—

"(4) The Committee recommends that the programme order of the House [11 December 2017] should be amended in paragraph 7 by substituting '25 January' for '18 January'."

Kirsty Blackman: I appreciate the chance to speak, Mr Owen, and I thank you for being our Chairperson.

Last year, the Chartered Institute of Taxation, the Institute for Government and the Institute for Fiscal Studies produced the "Better Budgets" report about the parliamentary process for dealing with the Budget. They raised a number of concerns, some of which have already been dealt with by the Chancellor, such as the fact that there are two fiscal events a year; he has moved to having one fiscal event a year, which is welcome.

The beginning of the report summary says:

"During conversations with people across the tax system, from officials and experts through to practitioners and representative groups, we have heard that the exceptional processes around tax policy making—in particular, secrecy, more limited scrutiny and challenge, and the power of the Treasury—have led to an ever-lengthening tax code, beset by a series of problems: confusion for taxpayers, poor implementation, political reversals and constrained options."

Some of those are issues with the Budget, but others are issues with the Finance Bill process. One of the report's key suggestions, which I have been pursuing in this House, and will continue to, even if I do not win today, is about the fact that the Finance Bill Committee does not take evidence. We have been told that that is due to lack of time, and that scrutiny of the Finance Bill needs to be curtailed and completed in a very short period. However, measures in the Finance Bill are very technical, and we have a short time in Committee. If we added just one extra day, we could take evidence.

The "Better Budgets" report said:

"The lack of stages in the House of Lords should mean that the Finance Bill is subject to particularly intense scrutiny in the House of Commons. But the reverse tends to be true".

It also said:

"debate on the Finance Bill could be improved by using some of the committee sessions to take oral evidence".

The three programme motion amendments that I have tabled allow us to do that. The Bill has already been in Committee of the whole House. I think it is reasonable, after Committee of the whole House, to take evidence on the generally more technical measures debated in Public Bill Committee.

The three amendments that my hon. Friend the Member for Glasgow Central and I tabled suggest that this Thursday we take evidence from the Treasury, Her Majesty's Revenue and Customs, the Office for Budget Responsibility, the Institute for Fiscal Studies and the Chartered Institute of Taxation. All those organisations will know more about tax, and probably about the impact of the measures, than most of us in this room. Obviously, the Minister will have briefings, and a whole team who can explain the issues to him, but we need to hear from those organisations and to be able to question their representatives. I have been frustrated in the past when asking the Minister questions during debates on the Finance Bill. Perhaps I have had a bit of an answer towards the end of his speech—the Minister is quite good at attempting to give answers—but that is too late. If we had had that conversation with many other people at the beginning, we would all have been in a much better position. That would have meant much better scrutiny.

Alison Thewliss (Glasgow Central) (SNP): My hon. Friend makes a very good point on the need for evidence. Some of the written evidence submitted to the Committee—it was made available very late, I must say; it came yesterday at around 4 pm, which gives us very little time to read a huge amount of evidence—suggested that there are things that need to be changed and that people would like to see tweaked. However, without having oral evidence and being able to interrogate people for it, it is very difficult to weigh up the evidence in the context of the Bill.

Kirsty Blackman: I would go so far as to bet that all Committee members have not read all the written evidence that has been provided. I bet that they have not had time, given that the customs Bill is running at the same time, and the majority of us who are Front-Benching for that Bill are also Front-Benching for today's Bill.

The timescale is not working. If we were to allow evidence sessions this Thursday, and then allowed the Public Bill Committee stage to stretch slightly—I am not sure it would even end up stretching as far as 18 January, because we could have a number of sittings before then—that would be a really positive change for the Committee. We would all be better informed, and it would be a good step for scrutiny and transparency, which the Government and the ministerial code suggest that we should have.

Peter Dowd (Bootle) (Lab): It is a pleasure, as ever, to serve under your chairmanship, Mr Owen. I have sympathy with the Scottish National party on their amendment to the programme motion, which would require the Government to ensure that there was an evidence sitting this week. This is my third Finance Bill since becoming shadow Chief Secretary to the Treasury, and I have made the point on each one that we should have evidence sittings. The argument might be made, "We have had three Bills; what's the point?" However, there is a pretty compelling argument that having had three Finance Bills is all the more reason to not just pause for breath but catch up, and get some people in to give evidence. The point is well made, and it was also part of the context for the debate in the House yesterday.

This is not simply an event; it is part of a process. Most of the traditions or protocols that we follow in the House have a perfectly rational basis, but there are occasions—I think this is one, in the light of the three Finance Bills this year—when we might want at the very least to step back from them. Every other piece of legislation that passes through the House gets its day in court, so to speak, as regards giving evidence, and of course the complex changes made to UK tax laws and systems have far-reaching consequences for everyone and for the economy.

It is important that when matters are incredibly complex—and, let us be frank, many of the matters in question are complex—we should be able to tease out issues with experts. It is not that I do not believe the Financial Secretary to the Treasury and everything that he tells us; I do, implicitly. However, I am sure that he would like us to test his assertions, and we might want to do that with other people—and with other experts.

Several provisions in the Bill, and in previous Finance Bills, rewrite earlier measures and close loopholes. It is important for us to tease out those things, too. Why are we where we are, and what could we have done differently? Possibly we could not have done anything differently,

[Peter Dowd]

but I am sure that if there had been evidence sittings for previous Finance Bills, the experts offering testimony might have pointed out to the Government technical pitfalls in some of the measures they wanted to introduce.

The amendment is in the spirit of attempting to move things on; it is not a wrecking proposal. I acknowledge that we will not win the debate, but it is important to state the need to push for evidence sittings. I do not think that I am alone in that view. Not only does the SNP take it, but so do many outside the House: the Institute for Fiscal Studies, the Institute for Government and the Chartered Institute of Taxation made a similar case in the report "Better Budgets: making tax policy better", published in April 2016. Its authors pointed out that Finance Bills could be improved by oral evidence sittings, with little disturbance to the parliamentary timetable. I am sure that the Opposition would be more than happy to discuss parliamentary timetable issues with the Government.

Dan Carden (Liverpool, Walton) (Lab): Andrew Tyrie, the former Chair of the Treasury Committee, also supports the idea of oral evidence sittings for the Finance Bill. Does my hon. Friend agree that there is widespread support for that across the House of Commons?

Peter Dowd: I think there is. I suspect that there are Members who would like to listen to the views of others besides parliamentarians on occasion. My hon. Friend makes an important point.

The authors of "Better Budgets" comment:

"This could be enhanced by ensuring effective liaison between the experts working to support the three committees that have a role in tax scrutiny—the Treasury Select Committee, which has hearings on the Budget and Autumn Statement"—

as was—

"the House of Lords Economic Affairs Committee and the Finance Bill Committee—to make sure that the results of pre-legislative work inform legislative scrutiny."

That is not an unreasonable position to take.

As my hon. Friend said, the former Chair of the Treasury Committee made the same point, and the Committee's current Chair, the right hon. Member for Loughborough (Nicky Morgan), followed it up in a letter to the Minister on 7 November, in which she wrote that she was not convinced by the point made—namely, that we should not have evidence sessions. She rightly pointed out that the consultation was limited, and that it is important to try to tease some of these issues out separately. She also added that she sees no reason at all why a Finance Bill Committee cannot hear oral evidence, even on clauses that have already been debated in Committee of the whole House. I would appreciate it if the Minister commented on that—I know he will.

There seems to be developing consensus across the House that oral evidence sessions on the Finance Bill would greatly improve the quality of parliamentary scrutiny of it. I think they would do good, but frankly even if they did not, they would certainly do no harm. It is time to move away from outdated and arcane parliamentary measures, especially in this area.

I am not in any way suggesting that the Government have anything to hide. I do not think it is a question of hiding; it is often a case of, "We have always done it this way; let's carry on doing it this way." Maybe it is time for a rethink on this matter. I exhort the Minister to give careful consideration to this. I suspect that we will not get much movement on the issue, because we would be breaking a relatively long-held tradition by having evidence sessions on the Finance Bill, but we have to start pushing the matter at some point, and this is as good a time as any.

The Financial Secretary to the Treasury (Mel Stride): It is a pleasure to serve under your chairmanship, Mr Owen. I look forward to vigorous debate on the Bill, today and in the sittings that will follow, as we take the Bill through the normal process.

The amendments from the hon. Member for Aberdeen South—

Kirsty Blackman: North.

Mel Stride: North; how could I get that wrong? The amendments would introduce a day for oral evidence sessions, and would extend the period over which we debated the Bill in Committee. I understand why the hon. Lady tabled them, but I am afraid that the Government will resist them, for several reasons, not least because there was a Programming Sub-Committee, at which at least Labour party Members were present, in which we discussed the programme motion, and it was agreed unanimously.

Kirsty Blackman: The Government changed the rules because they do not have a majority, so Scottish National party Members no longer have places on Programming Sub-Committees. We were therefore not able to make our case. We opposed that rule change, partly because we want to be on Programming Sub-Committees. If we had had the opportunity to make our case earlier, we would have done so.

Mel Stride: I thank the hon. Lady for her intervention. That is partly why I welcome her having the opportunity to have this debate today, as I said earlier. Let me start with the comment that the hon. Member for Bootle made about the Chair of the Treasury Committee. He urged me to engage with her on this matter, and of course I will do precisely as he asks.

Notwithstanding the fact that we had the opportunity in the Programming Sub-Committee to agree the programme motion or otherwise, several measures already give us a very high level of scrutiny of Finance Bills. We brought in a Government framework in 2010, under which, in a typical cycle, a Budget is followed by policy consultations, and much of the legislation that is to follow is then published in draft. In fact, around 60% of the Bill that we are looking at has been out there for consultation as draft legislation, despite the fact that this has been a rather unique cycle; the hon. Member for Bootle pointed out that this was his third Finance Bill.

These Bills have a very high level of scrutiny. We are moving to the new single fiscal event in the coming year; we will then have even more time to scrutinise Bills, because there will be more breathing space in that process, and obviously we will not have the interruption that we had last year.

9.45 am

There are other reasons why it would be tricky to deliver what the hon. Member for Aberdeen North seeks. For example, the Bill was in Committee of the whole House for two days, so if we had an evidence session here, perhaps the most contentious parts of the Bill, which are typically taken on the Floor of the House, would be absent from that particular element of scrutiny. The IFS, the Office for Budget Responsibility and the other organisations that the hon. Lady rightly raised have plenty of opportunities to scrutinise the Bill. In fact, the OBR, the IFS and others provide an analysis of the Budget and the measures in it. Typically, they give oral evidence to the Treasury Committee before Committee stage.

Wherever we end up is really a matter for the usual channels, among our parties. This relates to parliamentary process; it is not for the Committee to take the kind of decisions and make the kind of moves that hon. Lady and the hon. Member for Bootle seek. I reiterate that the Finance Bills are among the most scrutinised pieces of legislation that go through our Parliament. I therefore resist the amendments.

Kirsty Blackman: I thank the Minister for his response. He did not give a reason not to take evidence; he gave the reason why he thinks the status quo is okay. I still have not heard anybody say why evidence would be a bad thing. The Government have previously said that timescales would be an issue, but they are not. As we have a single fiscal event, putting an extra week—an extra day, actually—on to the Finance Bill Committee would not be a problem. Having evidence sessions would be better for the Committee and for the rotating Back Benchers on the Committee—we have people here who have not sat on a Finance Bill before. As I said previously, having an evidence session after the Committee of the whole House is not a problem, because generally we discuss the more technical parts of the Bill after that. What the Minister said about 60% means that 40% of the Bill has not been consulted on.

Mel Stride: I need to clarify that point. I said that 60% of the draft legislation was out there and was therefore consulted on. That certainly does not mean that 40% of the Bill was not consulted on, albeit that the legislation was not out there in draft.

Kirsty Blackman: In a number of places in the written evidence, various organisations said, "This was not consulted on in draft; we would have suggested these changes, if it had been." The Committee is losing out because it does not take evidence. It would be better if it did. I do not understand why the Government are scared to take evidence.

Peter Dowd: Does the hon. Lady agree that it is important to understand the position that Parliament is in? The Government do not have an overall majority, notwithstanding the arrangement with the Democratic Unionist party. Their position has changed. Given that, and given that the Government have taken control of the Committees, again notwithstanding the fact that they do not have the majority as a party, the question of scrutiny has changed a little.

Kirsty Blackman: Absolutely. An added dimension is that because the Government do not have a majority, and because all the Brexit legislation is going through, there is an incredibly heavy legislative timetable with an incredible number of incredibly technical pieces of legislation. Therefore, it would be better for Members to have the opportunity to inform themselves. I do not think this is about increasing external organisations' scrutiny, because, as the Minister said, there are a number of opportunities to do that. This is about giving Members the opportunity better to inform themselves and ask questions of those incredibly knowledgeable organisations so that we can make better decisions about tax law, and so that the Treasury does not create tax law that is not good and that it has to go back and fix a couple of years later. It would be better for everybody if members of the Committee were more informed and therefore able to take better decisions and make better laws.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 1]

AYES

Blackman, Kirsty
Carden, Dan
Dodds, Anneliese
Dowd, Peter
George, Ruth
Lee, Ms Karen
Pidcock, Laura
Smith, Jeff
Thewliss, Alison

NOES

Burghart, Alex
Chalk, Alex
Clarke, Mr Simon
Graham, Luke
Kerr, Stephen
Maclean, Rachel
Philp, Chris
Stride, rh Mel
Stuart, Graham
Whately, Helen

Question accordingly negatived.

Main Question put and agreed to.

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—*(Mel Stride.)*

The Chair: Copies of any written evidence that the Committee receives will be made available to Committee members.

We now move to the line-by-line consideration of the Bill.

Clause 1

INCOME TAX CHARGE FOR TAX YEAR 2018-19

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

Mel Stride: We come to the first clause of the Bill, which provides for the charge for income tax for 2018-19. That is legislated for annually in the Finance Bill, and it

[Mel Stride]

is essential because it allows for the collection of income tax to fund our vital public services, on which we all rely. The clause ensures that the Government can collect income tax for the tax year 2018-19 to fund key spending commitments, and I therefore commend it to the Committee.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clause 2

Corporation tax charge for financial year 2019

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

Mel Stride: Clause 2 charges corporation tax for the financial year beginning on 1 April 2019. Corporation tax is an annual tax approved by Parliament each year, and this is an essential provision that enables us to collect taxation. I suspect that most Members agree that we ought to charge corporation taxes, so I will not revisit the rationale for the collection of this tax, but I will take the opportunity to set out the Government's corporation tax strategy.

The Government want a fair and competitive tax system, and we want taxes to be paid. Changes to the corporation tax regime since 2010 have enabled us to make progress towards those goals. Corporation tax has been cut from 28% in 2010 to 19% today, delivering the lowest main rate in the G20 and by far the lowest in the G7. The rate is legislated to fall further to 17% in 2020. Low corporation tax rates enable businesses to increase investment, employ new staff, increase wages or reduce prices. The rate cuts make Britain a more competitive place to set up and grow a businesses, and they support the investment that is vital for improving our productivity.

The Government understand that a growing economy means more tax revenues to support our vital public services, and our strategy is working. Since 2010, despite the rate cuts, onshore corporation tax receipts have increased by 50%, rising from £36.2 billion in 2010-11 to £55.1 billion in 2016-17. There are 3 million more people in employment than there were in 2010, and business investment has grown by 25%. However, the Government have always been clear that although taxes should be low, they must be paid where they are due. Those revenues have been supported by the significant measures taken by the Government to clamp down on tax avoidance and aggressive tax planning. The UK has been at the forefront of multilateral action through the G20 and OECD to reform the international tax standards, including through the agreement and implementation of the base erosion and profit shifting project, or BEPS, as it is known.

Building on that, the Government announced a package of measures at the autumn Budget to tackle avoidance, evasion and non-compliance. They included closing loopholes exploited by large businesses—by, for example, tackling avoidance schemes involving transactions of intellectual property—as well as ensuring that large digital multinationals pay their fair share from profits made in connection with UK sales.

The Government are delivering on their objectives for a tax system that is fair and competitive, and in which taxes are paid. I therefore commend the clause to the Committee.

Question put and agreed to.

Clause 2 accordingly ordered to stand part of the Bill.

Clause 3

Main rates of income tax for tax year 2018-19

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

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

Clause 4 stand part.

New clause 10—*Analysis of effect of income tax rates on incentives into employment*—

'(1) The Office for Budget Responsibility must review the impact of the rates of income tax specified in sections 3 and 4 in accordance with this section within six months of the passing of this Act.

(2) A review under this section must consider the impact of the rates of income tax specified in sections 3 and 4 on the incentives for individuals to seek employment, including—

(a) whether those rates create, or detract from, an incentive for those not employed to enter into employment,

(b) whether those rates create, or detract from, an incentive for those currently in employment entering into new employment at a different level of income, and

(c) to what degree those rates create, or detract from, any such incentive.

(3) A review under this section must also consider those rates in the context of—

(a) National Insurance contributions,

(b) tax credits, and

(c) social security benefits.

(4) A review under this section must give separate analyses in relation to the impact of the rates of income tax specified in sections 3 and 4 in different parts of the United Kingdom.

(5) In this section—

"parts of the United Kingdom" means—

(a) England,

(b) Scotland,

(c) Wales, and

(d) Northern Ireland.

(6) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section as soon as practicable after its completion."

Mel Stride: Clauses 3 and 4 set the main, default and savings rates of income tax for 2018-19. The clauses keep the basic, higher and additional rates of income tax at the same level as last year. We are also supporting lower and middle earners by increasing the tax-free personal allowance and the point at which people pay the higher rate of tax in line with inflation next year, locking in previous rises and helping hard-working people with the cost of living.

By keeping rates the same while increasing the personal allowance and higher rate threshold, we are delivering on our manifesto commitment to cut taxes for working people. We are protecting our fair and progressive tax system, in which those who can contribute the most shoulder the greatest burden. The latest figures show that the top 1% of taxpayers contribute nearly 28% of all income tax. We have already cut taxes for 31 million people since 2015 and taken more than 1 million of the lowest-paid out of income tax altogether. We have promised to go even further to increase the personal allowance to £12,500 and the higher rate threshold to £50,000 by 2020.

New clause 10 would require the OBR to analyse the effect of the income tax rates set out in clauses 3 and 4 on incentives into employment. An important part of the OBR's role is to subject the Government's policy costings to detailed challenge and scrutiny at each fiscal event. As the Committee would expect, the impact of tax policy changes on employment is an important judgment that the OBR makes when certifying a costing. The OBR sets out its judgments clearly in its publication "Economic and fiscal outlook". Detailed distributional analysis of the kind requested is not in line with the OBR's remit to examine and report on the sustainability of the public finances. Extending its remit to include undertaking distributional analysis would risk diverting the OBR from an already challenging task. I therefore urge the Committee to resist new clause 10.

Ruth George (High Peak) (Lab): In speaking to new clause 10, I will address the points that the Minister has just made. Employment incentives and employment rates are a key part of our economic outlook and of securing the prosperity of working people throughout the UK. We accept that the headline rate of income tax in the Bill will stay at 20%, and that the personal tax allowance has risen over the last seven years by more than inflation. However, underlying that, and underlying the tax cuts for 31 million people, there have been huge increases in the marginal tax rates that effectively apply to working people. Under the tax credits system, the clawback rate was 39% of gross income, but it has been raised to 41%. The clawback of 63% of net income under universal credit particularly affects people whose income falls below the personal tax allowance rate.

Those are the groups of people whom it is important to encourage into work, such as single parents and second earners in families with children. The Child Poverty Action Group predicts that as a result of the roll-out of universal credit, a further 1 million children will fall into poverty. That increase will mean that 37% of all children in the UK are in poverty. Surely, the best way out of poverty for those children is to ensure that their parents can move into work. That is the best route out of poverty for all those households, in both the short term and the long term.

10 am

At present, a second earner who works in, say, a supermarket could do extra shifts in the run-up to Christmas on at least the minimum wage of £7.50 an hour, and they could keep all that additional income. Under tax credits, there is an exemption for the first £2,500 of additional income, which does not affect tax credits in the current year. Under universal credit, however, there is no such exemption. An employee who does extra shifts and earns £100 extra in the run-up to Christmas may think that they have been able to afford a decent Christmas for their family, but they will be hit hard in their next universal credit payment, which will fall by £63. They will immediately see the impact of that marginal tax rate.

That is why it is extremely important that the OBR does not just look, as it does now, at the headline tax rates that affect people who are not on tax credits, universal credit or any other form of social security. It must also bear in mind that 10 million people are currently on tax credits, and that around 8 million households—not just individuals—will be moved on to universal credit. That will affect between a quarter and a third of the working population. Such rates of impact on employment incentives are an incredibly important part of the economic and fiscal outlook, for so many people.

It is important that individuals can calculate how they will be better off as a result of moving into work, doing extra shifts and undertaking the many forms of work that our flexible employment market now offers. It is also important that we, as Members of this House, have clear information before us to allow us to make decisions not just on tax rates and national insurance, but on social security clawback rates and the full impact of policies on individuals. It is important that we do not silo tax into the Finance Bill and the Treasury and social security into the Department for Work and Pensions. As Parliament, we must consider the full impact of all our policies on working people—all the more so on those who are in danger of falling into poverty—and make decisions based on full evidence.

Peter Dowd: I welcome the opportunity that my hon. Friend's new clause presents to discuss the rate of income tax set by the Government, and its effect on the wider economy and on families.

At the general election, we clearly outlined our position: as a Government, we would not ask ordinary households to pay more. We would guarantee that there would be no rises in income tax for those earning less than £80,000 a year and no increase in personal national insurance contributions or the rate of VAT. Under our plans, 95% of taxpayers would be guaranteed to face no increase in their income tax contributions and everyone would be protected from any increase in personal national insurance contributions. Only the top 5% of earners would be asked to contribute more in tax to help fund our public services. That is in contrast to the Government, who have spent the last seven years offering tax breaks to the wealthy and large multinational corporations, and who continue to do so. That goes to the heart of the difference between the two parties.

In 2012, the former Chancellor declared—I have to say, with a certain amount of alacrity—that he was cutting the 50p rate by 5p. He claimed at the time that it would not cost the Exchequer a penny. In fact, analysis carried out by Unison shows that between 2013-14 and 2017-18, income tax cuts for those earning more than £1 million have saved the nation's super-wealthy on average £554,000 each. Those tax cuts have cost the British taxpayer £8.6 billion over the last five years, in stark contrast to the concerns raised by my hon. Friend the Member for High Peak. The Government have not tackled that.

The money that has been lost could have paid for an extra 20,000 nurses—topical in the current climate, and crucial given the stresses and strains on the NHS; the

[Peter Dowd]

lack of those 20,000 nurses is a proxy for the state of the NHS—as well as 10,000 extra police community support officers, 10,000 extra police officers and 20,000 newly qualified teachers for each of those five years. That money could have paid for 60,000 bursaries for nurses, midwives, other health professionals and so on. Instead, it was used to give a tax cut to the richest 15,000 taxpayers in the country—those who are least in need. In 2013, the cut to the top rate of income tax was the largest tax cut in the world, and as a result the level of income tax in the UK dropped from the fifth highest in the world to the 13th.

As if that cut was not enough, it was paired with cuts to corporation tax, the bank levy, inheritance tax and capital gains tax. Together, they amount to about £70 billion by 2022. In the meantime, public services are beginning to decay and atrophy. As I alluded to earlier, the NHS is in a bit of a state, and the police are in chaos and crisis. That is the context for our debate. Instead of the swashbuckling we see in the Chamber, we must deal with very precise issues.

It is fair to say that since 2010, the Government have made a political choice to pursue austerity at all costs. The hon. Member for Cheltenham may shake his head, but that is the reality. Let us go back to the phrase, "We're all in it together". It is demonstrably clear, and history will show, that we have not all been in it together. It does not matter how much hon. Members shake their heads or roll their eyes; that is the reality, and it is coming home to roost—not on me, but on our public services. We have a social contract with our people across the country to the effect that we will take care of everybody, not just those who have the most.

I will give the Government credit for the fact that they have pursued their policies persistently and doggedly. These policies and choices are the Government's, not mine. The Government have persisted with them, and I think they have to fess up to that. The national debt has ballooned. The cost of household essentials is spiralling, with inflation at 3.1%; I think it is now 4.6% on food. Services across the country are being slashed and the OBR predicts a 17-year period of wage stagnation. That is the high cost of austerity, which is a political choice made without any economic basis.

My hon. Friend the Member for High Peak seeks to highlight the fact that the Government could have made different political choices, and I agree with her on that one. It is a fact that increases to the lower threshold of income tax are no longer targeted towards the poorest in our society, whose earnings have long since been below that threshold. That is the reality. Had the Government changed tack sooner, there would have been little need for the self-defeating cuts to the work allowances of universal credit—those allowances are by far the best way of improving work incentives for the poorest in our society and driving positive employment outcomes, as the new clause alludes to. That is why Labour set aside £10 billion to improve the Government's failing universal credit system at the last election. We have also repeatedly called for change from all four Secretaries of State who have occupied the office in the past two years—there have been four so far and there might be another one; I think that includes the one yesterday, but it might not, as I do not keep up with the machinations that go on in Downing Street. The right hon. Member for Chingford and Woodford Green (Mr Duncan Smith) resigned over the variation, and he was the architect of the plan.

It is clear that, while the Government talk the talk on tackling inequality, they are not capable of matching those words with action. Time and again, the Chancellor has failed to improve work incentives under the programme by investing in the work allowances, and I have no doubt that our demands will continue to go unheard. All that is an opportunity for the Government to change tack, and they will not.

Dan Carden: My hon. Friend is my constituency neighbour in Bootle. He will know that while the tax threshold may have been raised under this Government, an alternative economy has been created in which people have insecure employment, precarious work—sometimes two, three or four jobs on the lowest pay—and no guarantee of a weekly or monthly income to pay the bills or raise a family. While we talk about figures, facts and economic outcomes in this place, the reality of people's lives in north Liverpool, which I represent, and in Bootle, which he represents, is very different. Those words and numbers mean little to them.

Peter Dowd: My hon. Friend makes an important point. The whole point of a social security system in tandem with a tax system is to ensure that those who can afford to pay do so, and those who cannot afford to pay do not. We are now in a topsy-turvy world, where things are being twisted around and the people who can least afford it pay and the people who can most afford it do not pay. That is the direction of travel, and it is affecting people day in, day out. I agree with my hon. Friend.

Ms Karen Lee (Lincoln) (Lab): We hear a lot about the NHS; my hon. Friend has referred to it. I am a nurse, and I did a shift in my local hospital on Saturday. Last Wednesday, I went out for most of the day with the local ambulance service. The NHS is indeed in crisis, and until people pay a proper rate of tax and it is properly funded, that will remain the same. As a new Member, I am a little taken aback at the number of people who are simply not listening to this debate. They are on their iPads and phones. It would be good if people paid attention—

The Chair: Order. Peter Dowd, please stick to the new clause.

Peter Dowd: My hon. Friend the Member for Lincoln makes an important point. Her passion and concern, which many of us share, sometimes stray beyond the remit of our debates, but the point is well made. The bottom line is that my hon. Friend the Member for High Peak makes an important point in her new clause, and no doubt that is something we will come back to in due course.

Mel Stride: I thank the hon. Member for High Peak for speaking so thoroughly to her new clause. While I recognise many of the challenges she has rightly raised, which families up and down the country are facing—

nobody belittles those—I do not recognise the picture she paints of eternal gloom and night of what this Government have achieved with our economy and for hard-working families. We have done a great deal to help those who are less well off. The hon. Lady herself raised the issue of the increase in the personal allowance, which has rocketed since 2010 to over £11,000 today. Indeed, that has taken 3 million low-paid workers out of tax altogether. They pay no income tax at all. Those are 3 million low-paid workers who paid income tax under the last Labour Government and are no longer paying that tax under this Government.

We have just had a Budget in which we took a number of specific measures to help those who are less well off. We froze fuel duty for the eighth year in a row. We increased the personal allowance for the seventh year, as the hon. Member for High Peak pointed out, taking even more people out of tax. We will increase the national living wage, a measure that this Government have brought in, by over 4% in the coming April.

Alison Thewliss: Does the Minister accept that the national living wage is not a real living wage, as set by the Living Wage Foundation, and it is not available to those under the age of 25? How will they be helped?

Mel Stride: I would say to the hon. Lady that it was not available to anybody under the last Government. That is the point—it is available now. One of the consequences of these measures and others the Government have introduced in our stewardship of the economy is near-record levels of employment. That is a staggering statistic: we have the lowest level of unemployment since around 1975, or for over 40 years. We have more women in the workforce than at any time in our history. While the hon. Member for Bootle would say that we do not believe we are all in it together, we do. There is clear evidence for that, as under this Government, the wealthiest 1% pay almost 28% of all income tax. Under the last Labour Government, that figure was lower and that is a demonstrable fact: it was around 23%. There has been a huge proportional increase in the burden carried by the wealthiest in this country.

10.15 am

Dan Carden: What we see under this Government is the rich getting richer, so the fact that they pay more tax is not a great indication of what this Government are doing.

Mel Stride: The level of income inequality is at its lowest in more than 30 years.

Anneliese Dodds (Oxford East) (Lab/Co-op): Not after a housing adjustment, it isn't.

The Chair: Order. If Members wish to intervene on the Minister, they should do so in the proper manner.

Ms Lee: Will the hon. Gentleman give way?

Mel Stride: I will not, and the reason I will not is that we have a great deal of business to cover, as well as the fact that we might be straying slightly broader than the clause. I have given my reasons why I believe we should reject new clause 10—*[Interruption.]*

The Chair: Will you take an intervention?

Mel Stride: Yes, of course.

Anneliese Dodds: Thank you, Chair. I apologise for intervening at the very end of the Minister's speech. I know he is a thoughtful person, and in response to the specific point made by my hon. Friend the Member for High Peak, he maintained that the OBR could not do an analysis of the marginal tax rate on low-income or low-hours working people because it was not the appropriate body. Can he tell us which body would be the appropriate one? I noticed that he did not contest what my hon. Friend said about the marginal tax rate for very low-income people. Which body would be available to do that analysis?

Mel Stride: There are many bodies out there that could take on that kind of analysis, including the Institute for Fiscal Studies. There are many, even the House of Commons Library—

Anneliese Dodds *rose—*

Mel Stride: If I could just finish: a number of bodies might look at those particular issues.

When we look at the marginal rates, under the last Labour Government, if someone worked beyond 16 hours per week they were in a situation where the marginal rate of tax they were facing when going into employment was far greater than under this Government.

Anneliese Dodds: My hon. Friend the Member for High Peak has explained that under the tax credits system, people were able to take home much more of their income. She has also provided a concrete example whereby people could be working for a short period of time and take home very little of that amount under the universal credit system. I was hoping we could get some commitment for a Government body to look at this issue, which has already caused enormous problems and, potentially, poverty for some low-income people. It would be wonderful if the Minister could give us a commitment that he will look into this issue.

Mel Stride: We will always look at the kind of issues the hon. Lady has highlighted. We will do that as a matter of good Government policy and to produce the policies we look at going forward. However, this is not the forum to begin looking for commitments on new reports, new investigations and new analysis. As the hon. Lady will know, there are many bodies out there that conduct that kind of analysis.

Ruth George: I thank the Minister for his response. I am surprised he does not think it is the role of Government or this Committee to ask for reviews on matters as important as a marginal tax rate. Given the limitations on amendments we can make to the Bill, reviews are practically the only thing we can ask for. I am sure the Minister would prefer that no amendments at all could be made to the Bill, because that would make his life an awful lot easier. As that is one of the few things that, under the constitution, we are allowed to do, I hope that the Minister will agree that looking at marginal tax rates for people on low pay is one of the most important things that the Government should be doing to alleviate poverty.

In spite of the numbers that have been taken out of income tax, we have actually seen rising numbers of working people in poverty. The fact that three million

[Ruth George]

people are no longer paying income tax does not offer a lot of comfort to those who cannot afford to pay for food and heating because eight million working people are now in poverty. That has the knock-on effect on children, on households and on long-term poverty.

All we are asking for is some transparency. The Minister says that this Government have brought in a fair and progressive tax system. We simply want the Government and the OBR to be able to show how fair and progressive the system is by producing the figures on the marginal tax rates which affect almost a third of all working people.

The Chair: For clarification, there will not be any votes on new clauses until we reach the end of Bill.

Question put and agreed to.

Clause 3 accordingly ordered to stand part of the Bill

Clause 4 ordered to stand part of the Bill.

Clause 5

Starting rate limit for savings for tax year 2018-19

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

Mel Stride: Clause 5 maintains the starting rate limit for savings income at its current level of £5,000 for 2018-19. As members of the Committee will be aware, the starting rate for savings applies to the taxable savings income of individuals with low earned incomes. The Government made significant changes to the starting rate for savings in 2015, lowering the rate from 10% to 0%, as well as extending the band to which it applies from £2,800 to £5,000. This welcome reform has done much to support savers on low incomes by reducing the tax they pay on the income they receive from their savings. Since then, savers have been further supported by the introduction of the personal savings allowance, which offers up to £1,000 of tax-free savings income.

The changes made by clause 5 will maintain the starting rate limit for savings at its current level of £5,000 for 2018-19 tax year. This change is being made to reflect the significant reforms made to support savers over the last couple of years, in addition to the substantial increases in the personal allowance. Most notably, in April 2016, the Government introduced the personal savings allowance, which will remove 18 million taxpayers from paying tax on their savings income in 2018-19. In April 2017, the annual individual savings account allowance increased by the largest ever amount, to £20,000.

Kirsty Blackman: It is admirable that the Government are making changes to make it easier for people to save. Would the Minster let us know how many people have begun saving as a result, and how much saving has increased for families? If there are now so many people who are employed, and so many who are using the personal allowance, surely they have loads of extra cash that they are now saving?

Mel Stride: The hon. Lady is right: it is certainly the case that the more people there are in work, the better they are supported; and the less tax to which they are subject, the more disposable income they will have with which to save. That is self-evident, which is why it is this Government's mission to keep economic growth going, employment high, and unemployment and taxes low to facilitate exactly the point that the hon. Lady is making.

Taken together, these reforms mean that today, 98% of adults in the UK pay no savings tax. This Government remain committed to supporting savers of all incomes, and at all stages of life. These reforms, coupled with the significant increases to the starting limit in 2015, mean that we do not believe that a further increase in the starting rate for savings is necessary. I therefore commend the clause to the Committee.

Question put and agreed to.

Clause 5 accordingly ordered to stand part of the Bill

Clause 6

Transfer of tax allowance after death of spouse or civil partner

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

The Chair: With this it will be convenient to consider new clause 3—*Review of the effects of changes to the transferable tax allowance for married couples and civil partners*—

'(1) Within six months of this Act receiving Royal Assent, the Commissioners for Her Majesty's Revenue and Customs shall complete a review of the effects and cost of changes made by section 6 of this Act to Chapter 3A of Part 3 of ITA 2001 (transferable tax allowance).

(2) The Chancellor of the Exchequer shall lay the report of this review before the House of Commons.'

This new clause would require HMRC to carry out a review of the effects of changes to the transferable tax allowance for married couples and civil partners arising from changes to Chapter 3A of Part 3 of ITA 2007 made by Clause 6 of the Bill.

Mel Stride: Clause 6 makes changes to allow marriage allowance to be claimed and backdated on behalf of deceased spouses and civil partners. Marriage allowance was introduced in 2015. It allows individuals to transfer 10% of their personal allowance to a spouse or civil partner if they are a basic rate taxpayer. Marriage allowance can currently be claimed and backdated by up to four years if taxpayers meet the qualifying condition. Currently, taxpayers cannot claim after a partner is deceased, even if they may have qualified in the current or previous years since its introduction.

I have heard representations from the Low Incomes Tax Reform Group highlighting the fact that it is unfair that this financial support is not available for people going through a period of considerable distress that accompanies the death of a partner. The changes made by clause 6 will put marriage allowance on a footing with other tax reliefs, where claims can be made by a personal representative after death on behalf of the deceased.

As a result, bereaved partners can now claim on behalf of their spouse or civil partner in the current year and any previous years where they were eligible, up to a maximum of four years. That will enable of thousands of extra people to claim the marriage allowance, worth

£230 this year in tax relief, or up to £662 if backdated to its introduction. That will have a negligible cost to the Exchequer.

New clause 3 would include a review in six months' time of the effects of the costs of the extension of the marriage allowance made by clause 6. It is the Government's view that there is no need for a formal review of these changes. First, the new clause asks for a review of costs. As I have said, clause 6 is forecast to have a negligible cost, a judgment with which the independent Office for Budget Responsibility was content. Her Majesty's Revenue and Customs also publishes the Exchequer cost of the main tax reliefs, including the marriage allowance, on an annual basis. The House will be able to examine the overall change in costs at that time.

Secondly, the new clause calls for a review of the effects of these changes. As the Committee would expect, we keep the effectiveness of the marriage allowance under review. Indeed, the clause was developed in response to concerns raised by the Low Income Tax Reform Group, a sign that the Government are willing to listen when concerns are raised. After six months, it will be too soon to tell how effective the policy has been, so a formal review would be a disproportionate response. I therefore urge the Committee to resist the new clause.

A total of 2.6 million couples have successfully applied for the marriage allowance and thousands more apply each week. That is a tax cut worth more than £400 million to couples on lower incomes. The changes being made by clause 6 mean that thousands more will be able to claim, recognising that bereaved partners going through extremely distressing times deserve all the support that they can get. I therefore commend the clause to the Committee.

Kirsty Blackman: The Scottish National party has a long-documented opposition to the married couples allowance, with which we have disagreed for a long time. The change the Minister suggests makes it slightly better and gets rid of one of our concerns, but it remains a tax relief that overwhelmingly benefits men. It remains a tax relief that leaves abused women out in the cold. Because they have to hand over part of the personal allowance, it is difficult for them to go back to work in some circumstances.

It remains a change that benefits only traditional nuclear families, whether people are in a civil partnership or are a heterosexual couple. Only those couples who choose to live together as married benefit. When the measure was first introduced, it was made clear that couples with children were less likely to benefit, because of the working structure that tends to exist with those couples. Apparently, only 15% of those who benefit from the scheme are women; it may even be less.

This issue has been raised by the Women's Budget Group as one that creates further gender disparity in a society where we are trying to reduce the gender pay gap and make matters better by trying to create a situation where women can more easily go back to work and earn a reasonable amount of money.

The married couples allowance is incredibly flawed. Although this change makes it slightly better, it still has a huge number of problems. We will continue to support new clause 3 and press Government to get rid of the married couples allowance.

Anneliese Dodds: It will not surprise anyone to learn that Labour has similar concerns to the SNP about the married couples allowance. We would obviously all want families who have experienced a bereavement to be supported. The problem remains that bereavement has a severe impact, whether or not a family is composed of two people who are married or in a civil partnership. It also has a huge impact on lone-parent families, or on those who live together but do not have a formalised relationship such as a marriage or civil partnership. We are concerned about the allowance because, as was mentioned, it privileges certain family forms over others, and that is a particular concern when many families are under severe pressure.

10.30 am

We have heard from a number of Labour Members about the problems faced by very low-income families, and I understand that the Child Poverty Action Group has done some analysis into the situation for lone parents, overwhelmingly mothers, with school-age children. It found out that due to changes to social security, and other changes, they are on average around £9,000 worse off. Very large diminutions in people's incomes have occurred recently under this Government, and it therefore seems inappropriate to be targeting a measure universally, including at those who are far better off. As the hon. Member for Aberdeen North said, this measure appears overwhelmingly to be focused financially for the benefit of men, and it benefits higher-income couples and those who tend to work full time, which is not the pattern for many families. For that reason, we are concerned about this measure. We understand the motivation for applying it to bereaved families, but we do not support the provision in the first place.

Mel Stride: I am pleased that the hon. Member for Aberdeen North welcomed the clause in so far as it extends these benefits to those whose partner—either civil partner or married partner—is deceased. I understand that she has fundamental reservations about the entire policy of having such tax reliefs for those who are married, but personally I do not think we should be shy about supporting those who are either married or in a civil partnership. As I said earlier, the problems with the hon. Lady's new clause are, first, that the costs are negligible—the Treasury would view them as being below £5 million in total. As a responsible team in the Treasury we will review the policy in future, and on that basis I would like to think that the clause can be accepted, and I commend it to the Committee.

Question put and agreed to.

Clause 6 accordingly ordered to stand part of the Bill.

Clause 7

Deductions from seafarers' earnings

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

Mel Stride: Clause 7 would provide certainty that employees of the Royal Fleet Auxiliary—the RFA—can claim seafarers' earnings deduction. Most UK residents pay UK tax on all their earned income wherever it arises, but seafarers are entitled to a 100% deduction from income tax for their foreign earnings in certain circumstances. The deduction is available provided that

[Mel Stride]

at least half of the qualifying period of 365 days is spent outside the United Kingdom, and that no more than 183 consecutive days are spent in the UK during that period. The tax treatment recognises the importance of the maritime industry to our country, and helps to maintain the competitiveness of the UK in an international market. Around 20,000 seafarers currently claim the deduction each year, and of those around 900 individuals are from the RFA.

The civilian-manned RFA delivers worldwide logistical and operational support for tasks undertaken by the Royal Navy, and it plays a crucial role supporting counter-piracy, humanitarian relief, disaster relief and counter-narcotics operations. Currently those individuals claim the deduction, but it is on a concessionary rather than a legislative basis. The changes in clause 7 provide certainty that the employees of the RFA are eligible for the deduction by placing it on a statutory footing. The RFA plays a crucial role, and it is right that its employees are eligible for the deduction in the same way as other seafarers. This clause provides certainty for RFA employees. I believe the Committee should welcome it and I commend it to the Committee.

Anneliese Dodds: I am grateful to the Minister for his comments concerning this alteration, but I have a couple of questions. As I understand it, this change largely reflects existing practice in law, specifically the fact that RFA seafarers should be entitled to seafarers' earning deduction. I understand that the seafarers falling into that category have asked the Government to make it clear in this Committee that there will be no detriment for them as a result of this change. They are asking for that because some of them fear retrospective penalties from HMRC or from the employer, given that previously the deduction was practically operated in an informal manner. I hope that the Treasury Minister can make it clear that this measure will not operate to the detriment of the seafarers.

I wanted to make the point that unfortunately this change will not alter the material circumstances of our RFA seafarers; it recognises in law a situation that already exists informally in many cases. We have substantial recruitment issues at the moment with RFA seafarers, and those issues could become more acute because we are going to have 12 vessels when the new ones come on-stream. They will need to be serviced by RFA seafarers, yet the level of pay provided for them has been squeezed because they are covered by the arrangements for public sector employees. Their situation is out of kilter with the situation for seafarers working in the private sector doing comparable jobs, and that is a major concern for them. While we may now see a reflection of the reality when it comes to the tax situation, my concern is that we are not reflecting reality when it comes to recruitment challenges and the need to consider whether current pay levels are appropriate. This should not be viewed as a proxy for the kind of pay lift that at least some of those seafarers are saying they think they need to deal with recruitment challenges. This is rather a cosmetic change.

Mel Stride: The hon. Member for Oxford East raised the issue of whether there will be any detriment, and she specifically mentioned retrospective issues in terms of this formalisation of the relief that has hitherto been available on an informal basis. I can assure her that there will not be any detriment, and I thank her for raising that important matter. As for seafarers' pay, that is probably an issue that is out of scope for this Committee, but I am sure she will raise it in other quarters. Part of the reason for introducing this clause, and for formalising and putting into legislation these particular reliefs, is to make sure that we are as effective as we can be on the tax side when recruiting men and women who do such an important job, and that we remain internationally competitive in our tax treatment of their earnings. I hope that the Committee will accept clause 7.

Question put and agreed to.

Clause 7 accordingly ordered to stand part of the Bill.

Clause 9

Benefits in kind: diesel cars

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

The Chair: With this it will be convenient to discuss new clause 5—*Impact of benefit in kind tax supplement on the use of diesel cars*—

'(1) Chapter 6 of Part 3 of ITEPA 2003 is amended as follows.

(2) After section 141, insert—

"141A Impact of benefit in kind tax supplement on the use of diesel cars

(1) Within six months of the passing of the Finance Act 2018, the Chancellor of the Exchequer must review the effects of the changes to this Chapter made by section 9 of that Act.

(2) The review under this section must consider the effects of those changes on—

(a) the use of diesel cars, and

(b) the Government's emission reduction targets.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section as soon as practicable after its completion.""

This new clause requires the Treasury to carry out a review of the effect of the provisions of Clause 9 on the use of diesel cars and on emission reduction targets.

Mel Stride: Clause 9 provides for a 1 percentage point increase in the company car tax diesel supplement. This modest increase will help to fund the UK's national air quality plan, and is designed to encourage manufacturers to bring forward next-generation clean diesels sooner. There have been significant improvements in air quality in recent years, with nitrogen oxide emissions falling 19% between 2010 and 2015. However, air pollution is still at harmful levels in many of our towns and cities, and road transport is responsible for 80% of nitrogen oxide emissions in roadside tests. Even new diesel vehicles are a significant source of emissions. A test on the 50 best-selling diesel cars in 2016 found that, on average, they emitted over six times more nitrogen dioxide in real-world driving than is permissible under current emissions standards.

Diesel company cars are already subject to an additional supplement, currently at 3%, in recognition of diesel engines producing harmful pollutants in addition to carbon dioxide, including nitrogen oxide, or NOx, gases. The measure increases the diesel supplement from 3% to 4% for all cars solely propelled by diesel for the tax year 2018-19, until a point at which they meet the real driving emissions step 2 standard, known as Euro 6d. RDE2 sets a standard for nitrogen oxide emissions in real-world driving situations, with an emission limit of 80mg of NOx per kilometre. The supplement will not affect diesel hybrids, petrol or ultra low emission vehicles, or drivers of heavy goods vehicles or vans. The measure also removes the diesel supplement altogether for cleaner diesel cars that are certified to the RDE2 standard.

A basic rate taxpayer with a VW Golf will pay an additional £54 in 2018-19 as a result of the change. Company car drivers typically travel more miles, and have therefore benefited greatly from successive fuel duty freezes since 2011; in the autumn Budget, the Chancellor announced the eighth successive fuel duty freeze, saving the average driver £160 a year compared with the pre-2010 escalator plans. The change will encourage manufacturers to bring forward next-generation clean diesel sooner, and will also strengthen the incentive to purchase cars with a lower number of harmful pollutants—for example, ultra low emission vehicles or zero-emissions vehicles.

The measure is designed to work over several years to encourage manufacturers to bring forward the development of cleaner vehicles, so we do not believe that a review after six months, as requested in new clause 5, which was tabled by Opposition Members, would be appropriate. Company car fleets are typically renewed every three years, so we will not see the full impact of any change that takes effect from April 2018 until three years later. We will of course continue to review the uptake of company diesel cars and developments with those vehicles as part of our wider strategy on improving air quality. On that basis, I do not believe that the new clause is necessary, and I ask hon. Members to consider withdrawing it.

Clause 9 makes a small change that will support the UK's transition to less polluting cars, helping to make sure that our towns and cities are clean and healthy places in which to live. I commend it to the Committee.

Anneliese Dodds: I am grateful to the Minister for his comments. However, Labour Members will continue to be concerned about the measure and will continue to ask for a review of its effectiveness. There is obviously a clear rationale for this kind of measure: it follows widespread public and scientific concern about emissions from diesel cars that do not use emission capturing technology to the extent that they might.

There are many examples of this kind of technology-forcing regulation being effective. However, we believe that a review is required—first, because we need to be clear that new technologies will indeed be incentivised through this measure. We do not feel that we have effective evidence to prove that at the moment. The Institute of Chartered Accountants suggests that it is unlikely that any diesel cars will meet the standard required to avoid the supplement until at least 2020, so there is a question about whether distorting decisions could be made that would prioritise petrol vehicles over diesel vehicles in the meantime—especially if appropriate technologies are not introduced as quickly as they should be. I know from discussing this issue with motor manufacturers that they are confident about the roll-out of the new technology, but a review would none the less be appropriate, given the extent of use of diesel technology.

Secondly, it is important that we review the measure's contribution to emissions reductions targets because of the lack of other environmental commitments in the Bill. Sadly, the Bill lacks measures to reduce carbon emissions in order to halt the climate crisis, despite many of us hoping that it would include, for example, more tax breaks for solar technologies, which have sadly been scaled back.

From what I can see, this is also the only measure to promote better air quality, when we know that there are many other sources of pollutants in the air that we breathe. Yes, of course NOx is important, but small particulates and other emissions are important as well. It is absolutely right to mention that NOx pollution from diesel emissions is significant at roadside sites, but petrol emissions are also significant away from direct roadside sites or at particular roadside sites, and industrial sites are also important, in terms of emissions.

10.45 am

Domestic stoves also have an impact. Labour Mayor Sadiq Khan is trying to deal with that in London. It is unfortunate that this is the only flagship measure to try to deal with air quality coming from the Government at the moment. The Minister referred to this as a core element of the Government's air quality strategy. However, the Government have been taken to court repeatedly for not having a strong enough air quality strategy. I was astonished to hear that my city of Oxford was told that even under the latest strategy—which should, in theory, be a tighter one—if it did nothing, its emissions and pollution levels would be the same in future decades. How can I put this kindly? I was surprised by that claim and question the methodology used. We are asking for this review, first, because of concerns about the extent of technological readiness and, secondly, because we feel it needs to be taken in the overall context of the lack of other measures to reduce emissions. The issue needs to be looked at holistically.

Mel Stride: I thank the hon. Lady for her further comments on this matter. I reiterate that we believe that a six-month time horizon is too soon. I have already said that company car fleets, for example, generally turn over every three years, which is well beyond the six-month period that we are considering. She questioned the fact that some of these measures will not fully kick in until as late as 2020. By that time, no fewer than about one million potential drivers of company cars will have taken a decision on what kind of company car they wish to take on—so a million drivers will be directly affected by this measure and will be encouraged to move to less polluting vehicles as a consequence of it. We will keep these measures under review in the light of the progress of the industry in improving the cleanliness of diesel engines and of the new technologies that are developing all the time. I commend the clause to the Committee.

Question put and agreed to.

Clause 9 accordingly ordered to stand part of the Bill.

Clause 10

TERMINATION PAYMENTS: FOREIGN SERVICE

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

Mel Stride: Clause 10 ensures that all employees who are UK-resident in the tax year in which their employment is terminated will be liable to income tax on their termination payment in the same way, regardless of whether they have worked abroad. Foreign service relief allows termination payments for certain qualifying individuals to be completely exempt from income tax. Employees who receive termination payments while working in the UK may be eligible for a 100% reduction in income tax on this payment if they have worked abroad for a qualifying period. An employee has to meet certain qualifying criteria; these include the foreign service covering three quarters or more of the employee's period of employment with an employer. Employees may also be able to receive a smaller relief proportionate to their time worked outside the UK for that employer.

Around 1,000 individuals claim foreign service relief each year. However, this relief has become outdated and it is unfair that some UK residents may receive tax relief simply because they have worked abroad. Today there is a global workforce, and this exceptional treatment is no longer justifiable.

The changes made by clause 10 will ensure that those who are resident in the UK in the year their employment is terminated will be taxed in the same way, whether or not they have worked outside the UK. The statutory residence test will be used to determine which employees are UK-resident in the tax year in which they receive their termination award. These changes will apply to those individuals who have their contract terminated on or after 6 April 2018.

However, the Government will not tax termination payments if an individual receives the award outside the UK and it has already been taxed in another country. Individuals will still benefit from the £30,000 income tax exemption and the unlimited employee national insurance contributions exemption for termination payments. This is a fair and proportionate change. Our tax treatment of termination payments is one of the most generous in the world; that is something of which we can be proud. I commend the clause to the Committee.

Question put and agreed to.

Clause 10 accordingly ordered to stand part of the Bill.

Clause 11

EMPLOYMENT INCOME PROVIDED THROUGH THIRD PARTIES

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

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

Amendment 34, in schedule 1, page 57, line 33, at end insert

"or such higher amount as may be determined in accordance with sub-paragraphs (1A) to (1D).

(1A) This sub-paragraph applies where the loan is between £100,000 and £199,999.

(1B) This sub-paragraph applies where the loan is a multiple of £100,000.

(1C) Where sub-paragraph (1A) applies, the penalty is £600.

(1D) Where sub-paragraph (1B) applies, the penalty is the equivalent multiple of £300."

This amendment provides for higher penalties for failure to comply with paragraph 35C where the amount of the loan is greater.

Amendment 35, in schedule 1, page 57, line 38, after "£60", insert

"or such higher amount as may be determined in accordance with sub-paragraphs (4) to (7)".

This amendment paves the way for Amendment 36.

Amendment 36, in schedule 1, page 57, line 39, at end insert—

'(4) This sub-paragraph applies where the loan is between £100,000 and £199,999.

(5) This sub-paragraph applies where the loan is a multiple of £100,000.

(6) Where sub-paragraph (4) applies, the penalty is £120.

(7) Where sub-paragraph (5) applies, the penalty is the equivalent multiple of £60."

This amendment provides for higher penalties for continued failure to comply with paragraph 35C where the amount of the loan is greater.

Amendment 37, in schedule 1, page 58, line 10, at end insert

"or such higher amount as may be determined in accordance with sub-paragraphs (6A) to (6D).

(6A) This sub-paragraph applies where the loan is between £100,000 and £199,999.

(6B) This sub-paragraph applies where the loan is a multiple of £100,000.

(6C) Where sub-paragraph (6A) applies, the penalty is £6,000.

(6D) Where sub-paragraph (6B) applies, the penalty is the equivalent multiple of £3,000."

This amendment provides for higher penalties for inaccurate information or documents relating to compliance with paragraph 35C where the amount of the loan is greater.

Amendment 38, in schedule 1, page 60, line 20, at end insert—

"17 (1) The amendments made by paragraphs 9 to 12 have effect in accordance with the provisions of this paragraph.

(2) No later than two months after the passing of this Act, the Chancellor of the Exchequer and the Commissioners shall undertake an assessment of the profile of those holding loans to which the amendments made by those paragraphs apply.

(3) A review under this paragraph shall consider what discretionary arrangements it is appropriate for the Commissioners to take in relation those holding such loans who are not higher rate taxpayers.

(4) The amendments made by paragraphs 9 to 12 shall have effect when the Chancellor of the Exchequer has laid before the House of Commons a report of the review under this paragraph."

This amendment provides for commencement of the provisions of Part 4 of the Schedule to take place after the publication of a review of the profile of those affected, and in particular on lower paid taxpayers.

That schedule 1 be the First schedule to the Bill.

That clause 12 stand part of the Bill.

That schedule 2 be the Second schedule to the Bill.

Is that clear?

Mel Stride: I am very clear on my instructions. Thank you, Mr Owen.

Clauses 11 and 12 make changes to ensure that businesses and individuals who have used or continue to use disguised remuneration tax avoidance schemes pay their fair share of income tax and national insurance contributions. Disguised remuneration schemes are used to avoid tax and national insurance contributions by paying individuals and taking profits through third parties in ways that are claimed not to be taxable, such as loans. Such schemes are highly artificial. In the Government's and HMRC's view, they do not produce the declared tax advantage, but that has not stopped their use entirely. The coalition Government first introduced legislation to stop such schemes in 2011. The legislation was successful, and since 2011 HMRC has collected more than £1.8 billion in settlements from scheme users.

Of course, more always needs to be done. The Government continue to tackle disguised remuneration avoidance schemes. The changes announced at Budget 2016 included the 2019 loan charge, which treats all outstanding disguised remuneration loans as taxable income on 5 April 2019. The 2016 package followed the tax avoidance industry's aggressive response to the 2011 changes: it has created and sold more than 70 new schemes. It is claimed that those schemes achieve the same outcome through the addition of even more contrived steps. The Budget 2016 package will bring in more than £3 billion by 2020-21, and will ensure that scheme users pay their fair share of tax.

The changes made by clause 11 will make clear how the disguised remuneration anti-avoidance rules apply to schemes used by the owners of close companies. The clause also introduces a requirement for scheme users to provide information on disguised remuneration loans outstanding on 5 April 2019 to HMRC, which will help HMRC to enforce the 2019 loan charge. The new information requirement includes an additional penalty regime, which is consistent with existing HMRC information powers.

The clause also includes a clarification to the disguised remuneration rules. It puts beyond doubt the fact that anti-avoidance rules apply even if an earlier income tax charge arises. It will prevent any attempts to avoid paying the tax by claiming that HMRC is out of time to collect payment. The disguised remuneration rules prevent any double tax charge on the same income.

Finally, the clause will make a change to ensure that any employee who has benefited from a disguised remuneration avoidance scheme is liable for the tax arising on the 2019 loan charge where the avoidance scheme used an offshore employer. Clause 12 will also introduce a new requirement for self-employed individuals, and partners who have used disguised remuneration schemes, to provide information about loans that are outstanding on 5 April 2019 to HMRC. That will help to ensure that HMRC is able to enforce the loan charge.

Let me turn to the Opposition's amendments. Amendments 34 to 37 seek to include penalties linked to the loan amount for those who fail to comply with the reporting requirement. Amendment 38 seeks to introduce a review to consider the impact of the measure on taxpayers—particularly basic rate taxpayers. It would be inappropriate to introduce a penalty based on the loan amount, as it would be inconsistent with HMRC's other information powers, and a separate penalty regime already does that where a taxpayer does not correctly report the tax due from outstanding loans.

On the proposed review, the Government do not think it is appropriate that avoiders should get a discount, compared with the vast majority of taxpayers, who pay the right tax at the right time. However, the clause may have a significant impact on the users of disguised remuneration schemes. HMRC aims to contact those who are affected and encourages those who are concerned about their ability to make timely and full tax payments to contact HMRC. The Department has an excellent track record of supporting people with financial difficulties who may be finding it hard to pay immediately. The Government believe that the proposed review would not provide any additional benefit, so I urge the Opposition not to press the amendments.

It is right that everyone should pay their fair share of tax and make their contribution towards public services, and the changes will ensure that users of disguised remuneration schemes pay their fair share. I therefore commend clauses 11 and 12 to the Committee.

Anneliese Dodds: May I pose one brief question about clause 12 before speaking to amendments 34 to 38 to schedule 1? I am grateful to the Minister for his clarifications and comments about clause 12 and schedule 2, but a pertinent question has been asked by one of the different interlocutors—one of the taxation organisations—which suggested it might be easier for self-employed people who have used the schemes to report their use in accordance with the self-assessment deadline. Has that been considered, because there could be a helpful reduction in bureaucracy and in the amount of fees paid to accountants and so on were there an alignment with the self-assessment return deadline? Will the Minister respond to that?

Moving on to our amendments, we would obviously welcome tightening in the area of disguised remuneration schemes following widespread concern about practice. There have been some high-profile cases, not least those revealed recently in the Paradise papers or the Rangers football club case, which have shown the lengths to which some people are prepared to go to avoid paying the tax that others view as a normal part of doing business.

We are concerned that the measures in the Bill do not go far enough. Loans, for example, have been taxable since the disguised remuneration rules came into force in 2011. There should be no excuse for people not to be aware of the situation; there should be widespread understanding of the need for employers and employees to comply in the area and not to enter into such schemes. We therefore need to ensure that future penalties are sufficiently dissuasive of other forms of aggressive tax avoidance as well as this one.

The Minister rightly described some of what has gone on as involving excessively contrived steps to avoid tax. He suggested that our additional penalties might somehow be inconsistent with others delivered by HMRC but, for the reasons I have just mentioned, it is important for us to have a strong line on such issues. The consistent policy has been that there should be no disguised remuneration, in particular through loans or connections with third parties in effect—not third parties, but those presented as third parties—and we need to ensure that we dissuade people with appropriate penalties.

I further note that the projected IT cost to HMRC of delivering the measure is about £3.5 million, so it is important to ensure that such costs are covered and that HMRC does not lose out due to the creation of the new penalties, especially when it is already subject to new demands because of the possible shift to a new customs regime, as we were discussing until very late last night. For those reasons we are keen to press ahead with our amendments, despite the Minister's suggestion that we do not press them.

Mel Stride: The hon. Lady asked a specific question about clause 12 and schedule 2, on the timing of the requirement for payment of the loan charge and how that interacts with the self-assessment deadline. I will come back to her on that inquiry with a specific and detailed answer.

The hon. Lady is absolutely right, however, that since 2011 we have been clamping down on avoidance schemes, as I said in my opening remarks, and we have had considerable success, although we feel that the job is not yet done. We made it clear with the Finance Act 2017 and with further tightening in this Finance Bill that we will push even further in that direction, so that those schemes that are not paid off or sorted out with the Revenue before April 2019 will incur a penalty charge. We believe that is certainly the right direction of travel.

11 am

I want to return to my earlier comments about the hon. Lady's amendment. The consistency issue in how HMRC applies penalties for late provision of information is extremely important. We believe that the amount is proportionate. Let us not forget that when we stand back and look at the overall picture of HMRC's success in clamping down on tax avoidance and evasion, as well as non-compliance, we see that since 2010 we have brought in £160 billion that would otherwise not have been available to the Exchequer. We have one of the lowest tax gaps in the world, at just 6%, which is certainly lower than it was under the Labour Government. We are succeeding, albeit that there is more to do.

Anneliese Dodds: At the risk of producing a horrible sense of déjà vu in the Committee, following consideration by the whole House, I will say that assessments of the tax gap do not include the loss of revenue caused by profit shifting internationally. I wanted to clarify that before we get too optimistic about the success of HMRC in that regard.

Mel Stride: I will make two points in response to the hon. Lady: first, she mentioned profit shifting, and we have been in the vanguard of the OECD base erosion and profit shifting project—right at the forefront, driving it forward and, indeed, implementing it in many areas earlier than other countries decided to. Secondly, I believe that our overall record is exemplary and world-class; but of course there is always more to be done. It is absolutely right and proper that those who owe tax pay it, and where HMRC or the Treasury come across schemes that use various artificial devices to avoid and evade tax we will clamp down on those measures with vigour. We have demonstrated our success in doing so in the past, and will continue to do so in the future. The clause is yet another step in pursuing that endeavour.

Question put and agreed to.

Clause 11 accordingly ordered to stand part of the Bill.

Amendment proposed: 34, in schedule 1, page 57, line 33, at end insert

"or such higher amount as may be determined in accordance with sub-paragraphs (1A) to (1D).

(1A) This sub-paragraph applies where the loan is between £100,000 and £199,999.

(1B) This sub-paragraph applies where the loan is a multiple of £100,000.

(1C) Where sub-paragraph (1A) applies, the penalty is £600.

(1D) Where sub-paragraph (1B) applies, the penalty is the equivalent multiple of £300."—*(Anneliese Dodds.)*

This amendment provides for higher penalties for failure to comply with paragraph 35C where the amount of the loan is greater.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 2]

AYES

Blackman, Kirsty
Carden, Dan
Dodds, Anneliese
Dowd, Peter
George, Ruth
Lee, Ms Karen
Pidcock, Laura
Smith, Jeff
Thewliss, Alison

NOES

Burghart, Alex
Chalk, Alex
Clarke, Mr Simon
Graham, Luke
Kerr, Stephen
Maclean, Rachel
Philp, Chris
Stride, rh Mel
Stuart, Graham
Whately, Helen

Question accordingly negatived.

Amendment proposed: 38, in schedule 1, page 60, line 20, at end insert—

"17 (1) The amendments made by paragraphs 9 to 12 have effect in accordance with the provisions of this paragraph.

(2) No later than two months after the passing of this Act, the Chancellor of the Exchequer and the Commissioners shall undertake an assessment of the profile of those holding loans to which the amendments made by those paragraphs apply.

(3) A review under this paragraph shall consider what discretionary arrangements it is appropriate for the Commissioners to take in relation those holding such loans who are not higher rate taxpayers.

(4) The amendments made by paragraphs 9 to 12 shall have effect when the Chancellor of the Exchequer has laid before the House of Commons a report of the review under this paragraph."—*(Anneliese Dodds.)*

This amendment provides for commencement of the provisions of Part 4 of the Schedule to take place after the publication of a review of the profile of those affected, and in particular on lower paid taxpayers.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 3]

AYES

Blackman, Kirsty
Carden, Dan
Dodds, Anneliese
Dowd, Peter
George, Ruth
Lee, Ms Karen
Pidcock, Laura
Smith, Jeff
Thewliss, Alison

NOES

Burghart, Alex
Chalk, Alex
Clarke, Mr Simon
Graham, Luke
Kerr, Stephen
Maclean, Rachel
Philp, Chris
Stride, rh Mel
Stuart, Graham
Whately, Helen

Question accordingly negatived.

Schedule 1 agreed to.

Clause 12 ordered to stand part of the Bill.

Schedule 2 agreed to.

Ordered, That further consideration be now adjourned.—*(Graham Stuart.)*

11.5 am

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE (NO. 2) BILL

(Except clause 8; clause 33 and schedule 9; clauses 40 and 41 and schedule 11; new clauses or new schedules relating to the income tax treatment of armed forces' accomodation allowances, the bank levy, stamp duty land tax, the effect of the Bill on equality, or the effect of the Bill on tax avoidance or evasion)

Second Sitting

Tuesday 9 January 2018

(Afternoon)

CONTENTS

Clause 13 agreed to.
Schedule 3 agreed to.
Clauses 14 to 16 agreed to.
Schedule 4 agreed to.
Clause 17 agreed to.
Schedule 5 agreed to, with an amendment.
Adjourned till Thursday 11 January at half-past Eleven o'clock.
Written evidence reported to the House.

PBC (Bill 134) 2017 - 2019

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 13 January 2018

The Committee consisted of the following Members:

Chairs: † Sir Roger Gale, Albert Owen

† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Burghart, Alex *(Brentwood and Ongar)* (Con)
† Carden, Dan *(Liverpool, Walton)* (Lab)
† Chalk, Alex *(Cheltenham)* (Con)
† Clarke, Mr Simon *(Middlesbrough South and East Cleveland)* (Con)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Dowd, Peter *(Bootle)* (Lab)
† George, Ruth *(High Peak)* (Lab)
† Graham, Luke *(Ochil and South Perthshire)* (Con)
† Kerr, Stephen *(Stirling)* (Con)
† Lee, Ms Karen *(Lincoln)* (Lab)
† Maclean, Rachel *(Redditch)* (Con)
† Philp, Chris *(Croydon South)* (Con)
† Pidcock, Laura *(North West Durham)* (Lab)
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Stride, Mel *(Financial Secretary to the Treasury)*
† Stuart, Graham *(Beverley and Holderness)* (Con)
† Thewliss, Alison *(Glasgow Central)* (SNP)
† Whately, Helen *(Faversham and Mid Kent)* (Con)

Colin Lee, Jyoti Chandola, Gail Bartlett, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 9 January 2018

(Afternoon)

[Sir Roger Gale *in the Chair*]

Finance (No. 2) Bill

(Except clause 8; clause 33 and schedule 9; clauses 40 and 41 and schedule 11; new clauses or new schedules relating to the income tax treatment of armed forces' accommodation allowances, the bank levy, stamp duty land tax, the effect of the Bill on equality, or the effect of the Bill on tax avoidance or evasion)

Clause 13

Pension schemes

2 pm

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

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

Amendment 39, in schedule 3, page 65, line 28, at end insert

"or

(j) the pension scheme is a Master Trust scheme which has not complied with the relevant requirements of section 159E(2)."

This amendment paves the way for Amendment 41.

Amendment 40, in schedule 3, page 65, line 37, at end insert

"or

(i) the pension scheme is a Master Trust scheme which has not complied with the relevant requirements of section 159E(3)."

This amendment paves the way for Amendment 41.

Amendment 41, in schedule 3, page 65, line 37, at end insert—

'(4A) After section 159D, insert—

Additional registration requirements for Master Trust schemes

159E Additional registration requirements for Master Trust schemes

(1) This section establishes additional registration requirements for Master Trust schemes.

(2) In respect of any such scheme, an investment strategy must be presented to the Commissioners prior to registration.

(3) In respect of any such scheme, and in respect of each year of registration, an annual report must be published on administration, fund management costs and transaction costs for each asset class and for active and passive asset management strategies.'

This amendment requires additional information to be provided on investment strategies and costs for Master Trust schemes prior to and in each year of registration with HMRC.

Amendment 42, in schedule 3, page 67, line 14, after "153(5)(i)", insert "and (j)".

This amendment is consequential on Amendment 41.

Amendment 43, in schedule 3, page 67, line 16, after "158(1)(h)", insert "and (i)"

This amendment is consequential on Amendment 41.

Amendment 44, in schedule 3, page 67, line 17, at end insert—

'(ba) sub-paragraph (4A);'.

This amendment is consequential on Amendment 41.

That schedule 3 be the Third schedule to the Bill.

The Financial Secretary to the Treasury (Mel Stride): May I start by saying what a pleasure it is once again to serve under your chairmanship, Sir Roger? Clause 13 makes changes to extend Her Majesty's Revenue and Customs' powers to refuse to register and deregister pension schemes. The changes will enable HMRC to restrict tax registration to those pension schemes providing legitimate pension benefits and support the Pensions Regulator in its new authorisation and supervision regime for master trust schemes. The measure supports the Government's objective of fairness in the tax system by maintaining the integrity of pensions tax relief.

Over the past few years, there have been growing threats to individuals' pension savings, and they come in many forms. Many start with the setting up of a scheme, into which individuals are persuaded to pay their hard-earned savings, with a promise of various benefits. Sometimes these apparent pension schemes are no more than a scam, designed to extract money from unsuspecting individuals who end up with little or no retirement savings as a consequence. The Government are committed to tackling that threat, to ensure that individuals who save in a pension scheme have those funds available to them when they retire.

A master trust scheme is an occupational pension scheme for multiple employers, and clause 13 will extend HMRC's powers to refuse to register and to deregister master trust pension schemes that are not authorised under the Pensions Regulator's new authorisation and supervision regime. Aligning HMRC's registration and the Pensions Regulator's authorisation processes for master trust schemes will provide more effective protection for individuals.

The proposed amendments to schedule 3 would require pension schemes to provide additional information about the investment strategy of the scheme before HMRC decides to register the scheme and require the scheme to publish an annual report of costs in connection with the investments of the scheme to maintain its registration. The Government agree that transparency is integral to good governance and delivering improved member outcomes. However, the amendments would add little and largely duplicate existing requirements. The additional information required would not help HMRC to perform its role in collecting tax and ensuring that pension schemes are adhering to the tax rules. It would duplicate existing requirements by other regulatory bodies and add burdens and costs to pension schemes.

The amendments also propose that an annual report of costs in connection with the investments of the scheme be published. The Government consulted last year on legislation requiring transaction costs and other charges to be published for every investment option offered by defined contribution schemes, not just master trust schemes, and given to members. We plan to bring regulations for that into force in April this year.

The clause will ensure that HMRC can prevent scam pension schemes from being established and that it has the powers to take action where an existing scheme is discovered. That enables HMRC to protect people who have saved money for their retirement from the threat of pension scams. It supports the Government's efforts to tackle abuse across the tax system, and I therefore commend the clause to the Committee.

Peter Dowd (Bootle) (Lab): It is a pleasure to see you in the Chair, Sir Roger. The Minister referred to scams. To some extent, I am glad that he used the word "scam", because I suspect that if I had used it, people would have said it was Labour again attacking companies, pension companies and investments. It is not the word I would have used, but I understand the point he makes, and it goes to the heart of what we want to discuss today, which is transparency.

Amendment 41 seeks to improve the transparency of master trust pension schemes, to ensure that they are at the forefront of changes taking place across the defined contribution sector. There is an argument to say that one cannot be transparent enough in these sorts of situations. We have had all sorts of institutional dodginess—let us put it no stronger than that—in the past, and whether through endowment schemes, personal protection plans, or the stuff now going on with leaseholds and property, people's faith in some institutions is, I suspect, being challenged a little. That is why we want to push the envelope, so to speak.

The changes proposed in the amendment are twofold: first, it would ensure that a clear and coherent investment strategy is presented to HMRC before registration, which would go beyond the Government's proposal; secondly, a clear annual report on the costs and charges being applied to saver pots must be presented to the trustees and, we hope, be made available to savers. We think that that will modernise the approach towards the fiduciary management of savers' assets, updating the statement of investment principles approach that is currently required by master trusts. It will also bring master trusts in line with wider Government policy on reporting costs and charges—we are finally beginning to see some progress on that, following many years of campaigning by various bodies and organisations, as well as by many Members on both sides of the Committee and by other organisations.

Subsection (2) of amendment 41 requires a master trust to include an investment strategy in its application for registration to HMRC. Until now, every occupational pension scheme has been legally required to prepare and maintain a statement of investment principles, and that is expected to cover the trustees' plans for securing compliance with their statutory duties, and their policies on investments, risks, returns and how they will exercise their voting rights. The amendment would ensure that such practice is embedded in the master trust sector, and enhanced to encourage trustees to strategically consider—a split infinitive there—factors that they believe will influence the financial performance of their investments, as well as, importantly, looking more closely at socially responsible investment.

We know that companies with strong environmental and social governance credentials have better long-term performance—that goes without saying. A company that is committed to environmental sustainability, and which cares about its staff and is well run and managed should, in the long term, always profit over a company that does none of those things. We have only to look at the Sports Direct share price over the past two years, or at Volkswagen following the 2015 emissions scandal. People react to what they perceive as non-environmentally friendly, or non-socially friendly approaches to their staff or product. Of course, Her Majesty's Revenue and Customs has an interest in ensuring that the schemes that register with it for taxation purposes have a clear and transparent strategy for guaranteeing pension scheme members a secure retirement. That is a big responsibility for HMRC, and we should support it with the appropriate resources.

As long as pension funds can show that any investment or policy decision was made on a fiduciary basis and consulted on with members, they can avoid the charge that they have not considered their members' best interests. The amendment will help HMRC to feel confident that the scheme being registered is legitimate, and it will also have secondary effects. Public opinion tends to position the average citizen as a helpless bystander in this drama, when in fact public money underpins the entire system. Anyone with a pension is indirectly an owner of Britain's biggest companies, and the amendment envisions a world in which people feel that their savings give them a positive stake in the economy, and a voice in how the companies that they invest in are run.

The rise of private pension savings has led to a democratisation of company ownership, but when it comes to control of ownership rights the reverse is true. Power has become increasingly concentrated in the hands of a relatively small number of opaque and unaccountable financial institutions. As the Kay report showed, these institutions often face systematic pressures to act in ways that may not serve savers' best interests. Direct accountability to savers is therefore a vital component of a healthy economic and financial system. As millions of savers have entered the capital markets through pension auto-enrolment, now is the right time, in our opinion, to build a more accountable system. We are talking 10, 20, 30 or 40 years ahead—let us start now.

In June 2011 the Government invited Professor John Kay to conduct a review into equity markets and long-term decision making. As I recall, the final report was published in July 2012. His review considered how well equity markets were achieving their core purposes: to enhance the performance of UK companies and to enable savers to benefit from the activity of these businesses through returns to direct and indirect ownership of shares in UK companies. The review identified the fact that short-termism is a problem in UK equity markets. Professor Kay also recommended that company directors, asset managers and asset holders adopt measures to promote both stewardship and long-term decision making. In particular, he stressed:

> "Asset managers can contribute more to the performance of British business (and in consequence to overall returns to their savers) through greater involvement with the companies in which they invest."

He concluded that adopting such responsible investment practices would prove beneficial for investors and markets alike. When it is put in those simple terms, who could argue? It seems to me axiomatic.

In practice, responsible investment could involve making investment decisions based on the long term, as well as playing an active role in corporate governance by exercising shareholder voting rights. Master trusts will want to consider the Kay review's findings when developing

[Peter Dowd]

their proposals, including what governance procedures and mechanisms would be needed to facilitate long-term responsible investing and stewardship through the funds they choose for members to save in.

The UK stewardship code, published by the Financial Reporting Council, has seven principles and also provides master trusts with guidance on good practice when monitoring and engaging with the companies in which they invest. Amendment 41 seeks to make sure that the trustees are cognisant of these issues, and we hope that where possible they will engage with their scheme members during the decision-making process.

In recent decades, efforts to improve the way in which companies are run have focused heavily on making directors more accountable to their shareholders—for example, the recent introduction of a binding say on pay—but this job is only half done. Ownership rights are exercised largely by institutions that are themselves intermediaries and accountability to the underlying savers who provide the capital remains weak. The logical next step must be for institutional investors to extend the same accountability that they expect from companies to the savers whom they represent. Indeed, such accountability is essential to the success of recent measures to encourage more engaged and responsible shareowners.

The UK stewardship code was introduced in the aftermath of the financial crisis to address concerns that shareholders were behaving as—I think this was the quote—"absentee landlords". Rather than being enforced by regulators, it is a voluntary code that relies on scrutiny from below to promote compliance, mirroring the corporate governance code for companies. Yet while shareholders are given extensive rights to hold companies to account for their governance practices, savers are not equipped to play the same role in relation to institutional investors. The investment regulations currently require master trusts to set up, within the statement of investment principles, the extent to which social, environmental or corporate governance considerations are taken into account in the selection, retention and realisation of investments, and these policies should be developed in the context of consultation with the scheme members and should enhance the engagement with them over these crucial issues.

Ruth George (High Peak) (Lab): Does my hon. Friend agree that this helps to encourage workers to engage with pension investment, in particular those on low pay for whom auto-enrolment and pension contributions can require a substantial portion of the earnings that they have left over after essential bills? Before coming here, I was engaged in setting up a pension scheme for low-paid nursery workers. It was important to them that they could see how their money was being invested, because they did not have very much of it. The more transparency we have, the more it will encourage such low-paid workers to feel secure that their money is safe and to make the investments that they need to make for their retirement.

2.15 pm

Peter Dowd: My hon. Friend makes an important point. We want to move away from the passivity and disempowerment that people in that situation feel and towards their having the confidence to engage, if they so choose. We have to ensure that the mechanisms are there for them to choose. It is a little bit like democracy at the end of the day: we have elections, and if someone does not want to participate in them, that is a matter for them, but at least we have them. People are given the capacity to participate, which is no different, in principle, from the point my hon. Friend was making.

As well as better protecting savers' long-term financial interests, this will be good news for those who believe that part of the current system of capitalism has lost a little bit of its moral compass in certain situations; I alluded to that a little earlier with some of the scams that the Minister referred to. It is a bit like this House, where we have to feel accountable to the people who send us here. Whatever the system is—politics, business or pensions—we have to feel accountable, and more importantly, we have to be accountable.

In addition, savers who feel connected to their money are more likely to see it as a medium for the expression of their values. That goes to the heart of what my hon. Friend touched on, and indeed to the point I made earlier about how transparency and accountability should matter to those whose only concern is making markets work more efficiently. It has to go beyond that. Efficient market theory presumes that consumers act in their own interests. However, in the capital markets, decisions are being made not by consumers but by intermediaries acting on their behalf, so there is a disconnect to some degree there as well.

Moreover, consumers themselves are deeply disconnected from their money, and the opt-out mechanism of pensions auto-enrolment is predicated on that fact. That means that intermediaries themselves are subject to limited market discipline. The pensions market may never be dominated by active and engaged consumers, which comes back to the point I made before, but the more consumers are active and engaged, the better the market will work. I do not think there is any question about that.

In addition, accountability should build trust in the system, even among those who choose not to engage, thus encouraging people to keep saving in effect. This is an important consideration in a market in which just 70% of retail investors trust investment firms to "do the right thing" and consumers cite lack of trust as the No. 1 reason for opting out of private pension saving, which is a real shame.

Ruth George: My hon. Friend makes excellent points that are absolutely true while auto-enrolment contributions are 1%, and will be even more true when they rise to 3% and then 5%. We are looking to individuals, often on low pay and often at quite an early stage in their working life, to contribute a substantial sum towards their pension, which is for a time they cannot see, so it is vital that these are transparent decisions for them.

Peter Dowd: My hon. Friend again makes an important point, and that arrow goes to the heart of things.

There are practical objections on the grounds that savers are not interested in, or capable of, engaging with their money, which simply perpetuates a vicious circle of disengagement. That is the passivity I talked about earlier—almost an institutional passivity on the part of savers. Savers may be put off by the language of investment, but that does not mean that they are not interested in where their money goes; they are.

Likewise, savers may lack understanding of the technicalities of investment, but there are many matters on which they are qualified to comment, including the way the scheme behaves as an owner of major companies, or its policies on social, environmental and governance issues. We see that to an extent, in an institutional way, in the Church of England, among other organisations; it puts those things at the heart of its approach. Savers should be allowed to do that as well. Indeed, emphasising the positive contribution that schemes are making to a better economy, through their exercise of ownership rights, could be a way to engage people with saving money more widely.

The onus must be on the master trusts and the wider investment sector to take the lead in developing a clear and engaging investment strategy. Making such a strategy a requirement of registration with HMRC will ensure that no master trust will slip through the net. The recent local government pension scheme regulations follow a similar path and require the administration authorities to create investment statement strategies. There is no reason why that good practice cannot be extended to defined contribution schemes.

I turn to the reporting of costs and charges—a subject that my hon. Friend the Member for High Peak touched on, and which is addressed in proposed new subsection (3) in amendment 41. For far too long, the pensions market has had a single glaring dysfunction: no one knows how much a pension pot costs. Members of this House would not go into a marketplace to buy anything without understanding the basic information relating to a product: its price, its essential properties, and the promises made about it. Strangely, this information, which is so fundamental to consumer choice and the operation of any market, remains largely absent in the pension market. Master trusts must establish what each investment choice costs and what their drawn-down product costs. Anything short of that is not helpful for millions of citizens.

We have a duty to ensure that a reporting line is open between a master trust, HMRC regarding a trust's tax affairs, and the trust's members on the costs they incur while saving for retirement. Again, Labour Members have campaigned for many years on this issue and it seems that the Government are beginning to catch up, not simply because of what we have been doing but also because of what Government Members and other organisations have been doing. We are not trying to claim all the credit; to some extent, this has been a team effort, right across the piece.

In the consultation on defined contribution pension schemes, under which master trusts operate, the Government requested evidence on how they might improve transparency in reporting information on the transaction costs and charges for members of workplace pension schemes. Amendment 41 would be a clear step forward, in line with the calls that we have been making alongside the industry, trustees, savers and Government Members, for transparency of costs and charges when it comes to pension savings. This issue affects us all.

I am afraid to say that the Government have seen fit to replace action with rhetoric here—a pattern that we see a little bit too often. However, I do not want to push that argument too much. We have to encourage and prod. The architecture to get the data, analyse it and present it is being discussed, with a view to its being built. It can be a platform from which other projects, including the value-for-money analysis needed for all workplace pensions, can be developed—and it can be delivered.

Amendment 41 helps to embed a process that is already under way, thanks in no small way to years of campaigning by many organisations and political parties. There is no reason why the Government should not take this opportunity to do something that is in line with their stated objectives. We must ensure that every person auto-enrolled into a master trust is given the opportunity to understand what pension system they are going into, how much it will cost and how much they will get. To do otherwise would be a clear breach of the fiduciary duty owed to scheme members.

The Financial Conduct Authority's asset management market review said that evidence suggests that

"there is weak price competition in a number of areas of the asset management industry",

which has a material impact on investors' returns through their payment for asset management services. One of the FCA's conclusions was that there should be a requirement for increased transparency, and standardisation of costs and charges information for institutional investors. That word "transparency" crops up time after time, for good reason.

The Government have agreed to implement the FCA's recommendations in full. We can enshrine that guarantee in the Bill. Quite frankly, it is a fundamental market failure that no pension fund can understand its cost basis. If one does not understand costs, the investment strategy set out in proposed subsection (2) of amendment 41 cannot be evaluated.

It is also a sensible proposition that a scheme's outgoings on costs and charges be evaluated during the process of tax registration by HMRC. The risk and responsibility will continue to rest with the pension saver; charges for ongoing administration and investment management will be deducted from their account—another reason why transparency and low charges are important.

If a scheme member loses money in retirement, it is extremely difficult—if not impossible—to get it back again, as their sources of income may be limited and a return to work might not be an option. Ultimately, members could run out of money. That has happened before with some of these schemes. The member is responsible for their decisions and the outcome the scheme generates. It is therefore essential that the member can see the cost of their pension pot. The efficient management of pension funds is critical to ensuring that we stave off a pensions crisis.

Dan Carden (Liverpool, Walton) (Lab): My hon. Friend is making an excellent contribution. Pensions are incredibly complex; I am sure that most of us would be happy to admit that we do not have any great understanding of their workings. When we speak to our constituents, we hear that this is about confidence. Many people choosing between taking money home and investing money for the future—we look at this money as deferred wages—do not have confidence in the system because it is not transparent. Anything that we can do, through the amendment, to make the Government act sooner and not engage in more consultations on what is a rather obvious solution, which is to open up the industry to scrutiny and to give greater understanding to our

[Dan Carden]

constituents of how their pensions are invested, is a good thing. We ask the Government to agree to this amendment, so that we can get there quicker.

Peter Dowd: My hon. Friend makes a very important point.

To draw to a conclusion, I reiterate the point that I was making when my hon. Friend intervened. The efficient management of funds is critical to ensuring that we stave off a pensions crisis that citizens will be forced to endure in their retirement if we are not careful. The Government will fail in their duty of care if we do not get cost reporting on to the statute book. Transparency—there is that word again—is now an objective of all parties across the House. In our view, the Government must back this amendment and replace a little bit of rhetoric with action to protect pension savers.

Mel Stride: The hon. Gentleman has set out a comprehensive set of reasons for supporting his amendment. He will be pleased to know that I wholeheartedly agree with many elements of what he shared with us. Both sides of the Committee agree on our enduring belief that we should ensure that sufficient transparency is available and that we should do all we can to protect the life savings—in many cases—of those who invest in any form of pension, let alone master trust schemes, some of which have fallen foul of the kind of issues that we have been debating.

Unfortunately, I cannot agree with all the hon. Gentleman's assertions. He spoke about the importance of transparency—I have said that I agree with that—but he also said that we cannot be transparent enough. That is an important maxim to operate by, but that cannot allow us to be led into a situation where we have overly burdensome additional costs as a consequence. That is the nub of our objection to his amendment.

The amendment would bring in a duplication of the regulatory body's function of reviewing investment plans at the time that schemes are set up. The kinds of issues that the hon. Gentleman wants to be addressed are being addressed; I would be happy to share that information with him at a future date. The Financial Conduct Authority is consulting at the moment; the consultation closes on the 12th of this month—a few short days away. We have regulations planned for April that will ensure that we look into these issues and move into the area of the publication of costs and the way these schemes are run.

Returning to the clause, I hope we are united in believing that HMRC should be given additional powers to refuse the registration of schemes where it feels that they are deficient, and to withdraw registration where that is appropriate. I ask the hon. Gentleman to consider not pressing his amendments, and commend clause 13 to the Committee.

2.30 pm

Peter Dowd: We have taken considerable time in outlining our proposal, which the Minister was gracious enough to say was comprehensive. The onus is on us to push the matter to the vote. We want to put down a marker. I am sure the Minister and his colleagues will appreciate that there are no traps here, or attempts to force the Government down paths that they do not want to go down; I suspect that they would in due course like to go down these paths. Like John the Baptist, we are laying out that path before them. *[Interruption.]* Yes, and look what happened to the guy who followed him. I will push the matter to a vote in due course, Sir Roger. I hope that the information I have provided will resonate with hon. Members.

Question put and agreed to.

Clause 13 accordingly ordered to stand part of the Bill.

Amendment proposed: 39, in schedule 3, page 65, line 28, at end insert

"or

(j) the pension scheme is a Master Trust scheme which has not complied with the relevant requirements of section 159E(2)."

This amendment paves the way for Amendment 41.—(Peter Dowd.)

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 4]

AYES

Blackman, Kirsty
Carden, Dan
Dodds, Anneliese
Dowd, Peter
George, Ruth
Lee, Ms Karen
Pidcock, Laura
Smith, Jeff
Thewliss, Alison

NOES

Burghart, Alex
Chalk, Alex
Clarke, Mr Simon
Graham, Luke
Kerr, Stephen
Maclean, Rachel
Philp, Chris
Stride, rh Mel
Stuart, Graham
Whately, Helen

Question accordingly negatived.

Schedule 3 agreed to.

Clause 14

EIS, SEIS AND VCT RELIEFS: RISK TO CAPITAL

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

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

Clause 15 stand part.

Clause 16 stand part.

That schedule 4 be the Fourth schedule to the Bill.

Clause 17 stand part.

Government amendment 1.

That schedule 5 be the Fifth schedule to the Bill.

New clause 6—*Review of risk to capital changes—*

'(1) Within fifteen months after the first exercise of the power to make regulations under section 14(4), the Chancellor of the Exchequer must review the effects of the changes made by section 14.

(2) The review under this section must consider—

(a) the revenue effects of the changes, and

(b) the effects on the long-term growth and development of companies.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section as soon as practicable after its completion.'

This new clause provides for a post-implementation review of the changes in Clause 14.

New clause 7—*Review of changes to EIS and VCT reliefs for knowledge-intensive companies*—

'(1) Within fifteen months after the first exercise of the power to make regulations under paragraph 10 of Schedule 4, the Chancellor of the Exchequer must review the effects of the changes made by that Schedule.

(2) The review under this section must consider—

(a) the revenue effects of the changes, and

(b) the effects on the policy objective to facilitate and encourage additional investment in innovative companies developing and exploiting new technologies.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section as soon as practicable after its completion.'

This new clause provides for a post-implementation review of the changes in Schedule 4.

New clause 8—*EIS, SEIS, SI and VCT reliefs: review of operation*—

'(1) Within twelve months after the passing of this Act, the Chancellor of the Exchequer must review the operation of the reliefs established under Parts 5, 5A, 5B and 6 of ITA 2007.

(2) The review under this section must consider—

(a) the revenue effects of the reliefs and changes made to those reliefs since the passing of the Finance Act 2012,

(b) the employment effects of the reliefs and those changes,

(c) other economic effects of the reliefs and those changes, and

(d) the extent to which trusts or other entities have been created to secure benefits from the reliefs and those changes without providing wider employment or economic benefits.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section as soon as practicable after its completion.'

This new clause provides for a review of the operation of the enterprise investment scheme, the seed enterprise investment scheme, income tax relief for social investments and venture capital trusts income tax relief.

Mel Stride: Clauses 14 to 17 and schedules 4 and 5 make changes to the tax-advantaged venture capital schemes as part of the Government's response to the patient capital review. They also correct minor technical flaws in the legislation, to ensure that the legislation works as intended. The changes aim to drive more than £7 billion in new and redirected investment into high-growth companies over the next 10 years.

Responses to the patient capital review consultation pointed to the continuing importance of these schemes in incentivising investment in early-stage companies that would otherwise struggle to receive investment to help them grow and develop. However, evidence provided during the consultation, backed up by Sir Damon Buffini's industry panel, suggested that knowledge-intensive companies, which are particularly research and development-intensive, still struggle with some of the most acute funding gaps, despite their growth potential. This is because they often require a large amount of capital up front to fund their growth, and it can be many years before their products can be brought to market. Evidence provided through the consultation also highlighted a large subset of low-risk capital preservation investments structured around the tax reliefs. One response showed that £467 million of funds raised by enterprise investment scheme funds in 2016-17 were aimed at schemes that could be described as capital preservation.

Clause 14 introduces a new "risk to capital" condition for the enterprise investment scheme, the seed enterprise investment scheme and venture capital trusts, in response to evidence of continuing capital preservation investments using the venture capital schemes. The condition takes a principles-based approach to deny tax relief to these investments. Investments will be excluded where it is reasonable to conclude that the company does not have the objective of growing and developing its trade in the long term and there is no significant risk that any loss of capital will be greater than the net return on the investment. The measure would take effect from Royal Assent.

Clause 15 makes technical changes to ensure that the rules on determining the amount of funding a company may receive in its lifetime, under the EIS, VCTs or social investment tax relief, work as intended. The clause ends certain transitional provisions introduced in 2007 and 2012, which excluded certain investments from counting towards the lifetime limit, and ensures all risk finance investments are counted towards the lifetime funding limits for the EIS, VCT and SITR schemes. This will apply to new investments on or after 1 December 2017.

Clause 16 and schedule 4 make three changes in response to the patient capital review. The changes will significantly expand the support offered to knowledge-intensive companies through the EIS and VCTs. The annual limit on how much an investor can invest through the enterprise investment scheme will be raised from £1 million to £2 million. Any investment over £1 million must be invested in knowledge-intensive companies.

Knowledge-intensive companies often need large funding rounds as they are highly capital-intensive. With this in mind, we are doubling the annual investment limit for knowledge-intensive companies using the EIS and VCT schemes to £10 million. Under the current EIS and VCT rules, knowledge-intensive companies must be broadly under 10 years of age when receiving their first qualifying investment. The clock starts when the company makes its first commercial sale. Knowledge-intensive companies sometimes find this point difficult to identify. Clause 16 introduces flexibility to this rule by allowing knowledge-intensive companies to choose to start the clock at the point they reach an annual turnover of £200,000.

Before I turn to Government amendment 1 to schedule 5, I will give some background, if I may, to introduce clause 17 and the schedule. Clause 17 and schedule 5 make changes to the VCT rules. Schedule 5 corrects a technical flaw and changes some of the rules to encourage VCTs to invest more of their funds in qualifying growth companies and to invest those funds more quickly. Government amendment 1 introduces new rules on qualifying loans to encourage VCTs to make longer-term investments in higher-risk companies. Some VCTs have used loan structures as a method of capital preservation, charging prohibitively high interest rates and including other conditions in the terms of the loan. The effect is to secure a return of capital well before the end of the five-year minimum period. Amendment 1 is intended to prevent the use of low-risk loans to minimise risk to the VCT and to its investors, including where the terms

[Mel Stride]

involve very high interest rates, redemption premiums and other charges. I commend Government amendment 1 to the Committee.

I turn to the rest of the provisions in schedule 5. The schedule corrects a flaw in an anti-abuse rule introduced in 2014 to prevent investors from being punished for mergers they did not know were about to occur. The changes will apply retrospectively, from the introduction of the anti-abuse rules in April 2014. The proportion of VCT funds that must be invested in qualifying companies will be raised from 70% to 80%. This will ensure that a greater proportion of VCT funds reaches the target companies. Once a VCT realises a gain by disposing of an investment, it must reinvest that gain within six months. Many VCTs currently pay out the proceeds as a dividend instead. To encourage more reinvestment by VCTs, schedule 5 raises the reinvestment period to 12 months. These last two changes take effect from April 2019 to allow VCTs time to adjust their investment portfolio.

VCTs currently have up to three years to invest funds after those funds are raised. A new rule will require them to invest at least 30% of funds in qualifying companies within one year of the end of the accounting period in which they were raised. This will accelerate investment of money raised from investors and will apply to funds raised from 6 April 2018.

Many previous changes to the VCT rules have been grandfathered. This means new investments can still be made under the old rules that applied when the money was originally raised. These transitional provisions enable some VCTs and their investors to access a range of generous tax reliefs on low-risk investments. The schedule will ensure that all VCT investments meet the current rules, regardless of when the original money was secured. These changes will take effect for investments from 6 April 2018.

New clauses 6 to 8 call for reviews into some of the changes made in this legislation, as well as a review of the efficacy of the venture capital schemes as a whole, but the changes made in the legislation are the result of a thorough review of all the venture capital schemes as part of the patient capital review. The review concluded that the schemes did vital work in providing capital for high-growth companies but that certain changes would make the schemes more effective and fairer for the taxpayer. Because we are committed to making the schemes work better, the Government have already committed to a report on the changes. An initial report to the Chancellor of the Exchequer for Budget 2018 will set out how the different measures in the Government response are being implemented. Then, in autumn 2020, a report will assess the impact of the policies set out in the Government response, including the clauses in this Finance Bill.

A review of this condition any earlier than 2020 would not be able to make any reasonable assessment of the effect of the changes on the scheme. It would be working from a single year's data on the impact on Government revenue and would be unable to assess the impact on the long-term growth and development of businesses. In the meantime, HMRC publishes statistics on the use of venture capital schemes every year. The information includes details of amounts invested and company activities. The first figures reflecting the effect of the new changes for the tax year 2018-19 will be available in April 2020. These will be closely monitored. I therefore urge the Committee to reject the new clauses.

Sir Roger, these changes significantly expand the venture capital scheme's innovative, knowledge-intensive companies while reducing the scope for low-risk investment within them. They will drive more than £7 billion of investment towards high-growth companies over the next 10 years and ensure the smooth operation of these important schemes. I therefore commend clauses 14 to 17 and schedules 4 and 5 to the Committee.

Peter Dowd: I will speak to our amendments to schedule 4, which also affect clauses 14, 15, 16 and 17.

May I start by telling the hon. Member for Middlesbrough South and East Cleveland, who was slightly confused as to which way he should vote, I am not sure whether if I had a spoken a little less he might have come our way, or perhaps he would have done so if I had spoken a little longer. We will never know, alas.

Clause 14 seeks to amend the requirements for investment to qualify for relief under the enterprise investment scheme, seed enterprise investment scheme or the venture capital trust scheme. As indicated, it also introduces an overarching risk-to-capital condition to deter investment companies whose activities are mostly geared towards protecting capital through minimising risk rather than supporting long-term growth and development of UK enterprise. It is important to start with that proposition.

Clause 14 also introduces a new principle-based risk-to-capital test that would change the current regime in which HMRC provides assurances for investments in advance. In the not too distant future, I am also going to introduce the T word—the transparency factor—I am giving notice of that.

Under this measure, HMRC would no longer provide advance assurance for investments that would appear not to meet the terms of the new rule. The Treasury has stated that if the new test proves effective in simplifying the conditions, this approach may be used to simplify further aspects of venture capital schemes legislation. It is clear that the current legislation is a maze of complexity that makes it difficult for businesses and advisers to establish that qualifying conditions are met with certainty, and also for HMRC to ensure that the reliefs are being used correctly and are not subject to abuse.

2.45 pm

The current complexity creates a scenario whereby cash-strapped start-up companies have to use their limited funds to purchase professional advice on how to access the relief. The Chartered Institute of Taxation, for example, has argued that this creates a conundrum, where ultimately the success of the start-up and its ability to access these funds is simply down to whether it can afford professional advice.

The new principle-based risk-to-capital test will mean that start-up companies are largely dependent on the guidance issued directly by HMRC on its website. This guidance will be wholly dependent on whether HMRC decides to update the website. It may also be contingent on the fact that HMRC has seen funding and staffing levels cut consistently in the past few years. I have referred to my own constituency as a victim of that practice. I think those cuts will continue. This is why the advance assurance service currently in use is under pressure and it appears that the Treasury is seeking to pursue a cheaper option that will ultimately require fewer staff and, importantly, result in a lower-quality service.

The very people the relief is intended to help struggle to access it. The changes outlined will only make it harder. In my experience, and I suspect the experience of many members of the Committee, very few start-ups can afford the expensive and technical financial advice that will be needed to access this cash. Therefore, it is more likely to be taken up by companies that are established and may be in less need of the relief.

That poses a particular concern for tax accountants who will have to interpret the guidance on the HMRC website and make a judgment call as to whether the client is entitled to the relief. The withdrawal of the advance assurance service in relation to the new test has the potential to undermine certainty and practicability for these tax advisers, unless there is detailed guidance from HMRC that provides real-life examples. There appears to be a lack of confidence among professional bodies representing tax accountants on the reliability of HMRC in issuing this guidance. There is a fear that investors and accountants could contravene the conditions for the relief and have to pay expensive penalties.

Those conditions lead to the wider question that underpins new clauses 7 and 8 on the operation of the reliefs. As we were told by the Chancellor in the Budget, the UK's public finances are in a precarious place. Our finances are so limited that we must expect a further decade of belt tightening and more cuts to public services. With that economic background in mind—low growth, all the stuff we have discussed before, and so on—it is only right for the Opposition to ask the Government to provide a review of the operation of these reliefs and their effectiveness against the stated aims.

The Minister talks about 12 or 19 months not being an appropriate period of time. The problem with that is that if we had said two, three or four years, I suspect the Government would still have declined our generous offer for a review, but there we are. The Minister may not have the figures to hand—he often does, I must say—but I would like to try to establish how many individuals have benefited from the EIS, SEIS, SI and VCT reliefs since their introduction; the value of these reliefs in terms of the tax breaks given; and in what sectors these reliefs have been made, as well as any economic assessment of their impact on the economy. To be fair, I think the Minister touched on some figures.

New clause 8 raises those questions, which go to a deeper question of tax transparency for the Government. The Government have been handing out millions of pounds each year in tax breaks and what has become known as corporate welfare to private companies, wealth corporations and wealthy investors who operate in the UK economy yet refuse to publish a clear list of where that money has gone, to whom it has been given and its direct impact on the economy. That is particularly important, given the fact that some of these investors will take their profits and put them offshore. It is a strange set of circumstances where the ordinary taxpayer is held to a higher level of transparency through the disclosure of huge amounts of detail to HMRC than wealthy investors who are able to gain large tax reliefs through investing in venture capital trusts.

New clause 7 seeks a review of changes to EIS and VCT reliefs for knowledge-intensive companies. That review would require the Minister to report to Parliament on whether those tax reliefs have been effective in encouraging more investment in innovative companies that exploit new technologies which have ultimate benefit for the UK economy—and, importantly, for UK taxpayers and workers. As the Opposition made clear in our response to the Budget, we do not believe that these measures alone represent anything near the level of investment we are going to need if we are to revitalise the economy, and trickle-down economics is not working. The Government have argued that tax cuts and tax reliefs will somehow generate growth and wealth for all; yet living standards continue to fall. Some 7.4 million people in working households live in poverty; they work harder and longer, on lower wages, and have little money of their own to invest, yet they will not receive such a generous tax break from the Government. It is imperative that their tax money is used responsibly and that there is transparency over who benefits from these reliefs and what effect, if any, they have on the wider economy and the ordinary person's daily life.

Mel Stride: Briefly, the hon. Gentleman raised a few points, including one being about HMRC and its effectiveness, particularly in advance assurances. As we know, advance assurances are a service provided on a non-statutory basis by HMRC, where a company can be given assurance on proposed investments that qualify for relief, unless the circumstances of the investment or, indeed, the law were to change. Here, assurance is being provided for investments that have not yet occurred. Clearly, HMRC cannot provide assurances for investments which, by the time they are made, may not meet a new condition that is going through Parliament. That has been a situation recently. HMRC has published a response to its advance assurance consultation, which sets out the steps it is taking with the aim of dealing with the vast majority of cases in 15 working days by this spring. That includes taking the action that we have been discussing on capital preservation.

In terms of reviews, assessments and the new clauses that are proposed, I come back to my earlier points that this whole set of changes that we are looking at around VCTs, EIS and so on, have come out of an extensive period of consultation led by Sir Damon as part of the patient capital review, in which the very questions that the hon. Member for Bootle was rightly asking in his speech were asked and consulted on in great detail. As I said earlier, there will be a report to the Chancellor on the implementation of these measures. That will happen in the Budget this year, in 2018. By autumn 2020, we will have the assessment report on the policies, including the measures that are covered in the Bill. For those reasons, I urge the Committee to reject the new clauses, and I commend clauses 14 to 17 and Government amendment 1.

Question put and agreed to.

Clause 14 accordingly ordered to stand part of the Bill.

Clauses 15 and 16 ordered to stand part of the Bill.

Schedule 4 agreed to.

Clause 17 ordered to stand part of the Bill.

Schedule 5

Venture capital trusts: further amendments

Amendment made: 1, in schedule 5, page 75, line 36, at end insert—

"Non-qualifying loans

6A (1) Section 285 of ITA 2007 (interpretation of Chapter 3 etc of Part 6) is amended as follows.

(2) In subsection (2)—

(a) omit "(whether secured or not)";

(b) at the end of paragraph (b) insert ", or

(c) any liability of the company in respect of a loan to which subsection (2A) applies that has been made to the company."

(3) After that subsection insert—

"(2A) This subsection applies to a loan if—

(a) the return on the loan represents more than a commercial rate of return, or

(b) the loan is made on terms which grant to a person or allow a person to acquire—

(i) any security or preferential rights in relation to assets of the company, or

(ii) the ability to control the company.

In sub-paragraph (ii) "control" has the meaning given by sections 450 and 451 of CTA 2010.

(2B) The return on a loan is not to be treated as representing more than a commercial rate for the purposes of subsection (2A)(a) if—

(a) the return on the loan during the period of 5 years from the making of the loan does not exceed 50% of the amount lent, and

(b) the total return on the loan does not exceed—

where—

N is the number of years (including any fraction) in the term of the loan;

A is the amount lent or, in a case where some of the loan is repaid during the term of the loan, the average amount outstanding during that term.

(2C) The Treasury may by regulations substitute a different figure for a figure that is at any time specified in subsection (2B)(a) or (b).

(2D) In subsections (2A)(a) and (2B) "return" means interest, fees, charges and other amounts payable in respect of the loan.

(2E) Where it is to any extent not known, before the end of the term of a loan, what amounts will be payable in respect of the loan—

(a) subsections (2A)(a) and (2B) apply, until the relevant matters are ascertained, on the basis of what amounts can reasonably be expected to be payable;

(b) when those matters are ascertained, any necessary adjustments must be made by making or amending assessments or by repayment or discharge of tax (regardless of any limitation on the time within which assessments or amendments may be made).""—*(Mel Stride.)*

Schedule 5, as amended, agreed to.

Ordered, That further consideration be now adjourned.—*(Graham Stuart.)*

2.54 pm

Adjourned till Thursday 11 January at half-past Eleven o'clock.

Written evidence reported to the House

FB01 Association of Accounting Technicians

FB02 LEVC

FB03 Institute of Chartered Accountants in England and Wales (clause 10)

FB04 Institute of Chartered Accountants in England and Wales (clauses 11 and 12 and schedules 1 and 2)

FB05 Institute of Chartered Accountants in England and Wales (clause 23 and schedule 7)

FB06 Institute of Chartered Accountants in England and Wales (clause 35 and schedule 10)

FB07 Institute of Chartered Accountants in England and Wales (clause 38)

FB08 Association of Taxation Technicians (clause 14)

FB09 Low Incomes Tax Reform Group (clause 6)

FB10 This person wishes to remain anonymous

FB11 This person wishes to remain anonymous

FB12 Peter Lamberti

FB13 Chartered Institute of Taxation (clauses 7 to 17)

FB14 The Association of Member Nominated Trustees

FB15 Chartered Institute of Taxation (clause 18)

FB16 Chartered Institute of Taxation (clause 38)

FB17 Institute of Chartered Accountants in England and Wales (clause 18 and schedule 6)

FB18 Chartered Institute of Taxation (clauses 19 to 32 and related schedules)

FB19 This person wishes to remain anonymous

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE (NO. 2) BILL

(Except clause 8; clause 33 and schedule 9; clauses 40 and 41 and schedule 11; new clauses or new schedules relating to the income tax treatment of armed forces' accomodation allowances, the bank levy, stamp duty land tax, the effect of the Bill on equality, or the effect of the Bill on tax avoidance or evasion)

Third Sitting

Thursday 11 January 2018

(Morning)

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No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Monday 15 January 2018

The Committee consisted of the following Members:

Chairs: Sir Roger Gale, † Albert Owen

† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Burghart, Alex *(Brentwood and Ongar)* (Con)
† Carden, Dan *(Liverpool, Walton)* (Lab)
† Chalk, Alex *(Cheltenham)* (Con)
† Clarke, Mr Simon *(Middlesbrough South and East Cleveland)* (Con)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Dowd, Peter *(Bootle)* (Lab)
† George, Ruth *(High Peak)* (Lab)
† Graham, Luke *(Ochil and South Perthshire)* (Con)
† Kerr, Stephen *(Stirling)* (Con)
† Lee, Ms Karen *(Lincoln)* (Lab)
† Maclean, Rachel *(Redditch)* (Con)
† Philp, Chris *(Croydon South)* (Con)
† Pidcock, Laura *(North West Durham)* (Lab)
† Rutley, David *(Lord Commissioner of Her Majesty's Treasury)*
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Stride, Mel *(Financial Secretary to the Treasury)*
† Thewliss, Alison *(Glasgow Central)* (SNP)
† Whately, Helen *(Faversham and Mid Kent)* (Con)

Colin Lee, Jyoti Chandola, Gail Bartlett, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 11 January 2018

(Morning)

[ALBERT OWEN *in the Chair*]

Finance (No. 2) Bill

(Except clause 8; clause 33 and schedule 9; clauses 40 and 41 and schedule 11; new clauses or new schedules relating to the income tax treatment of armed forces' accommodation allowances, The bank levy, stamp duty land tax, the effect of the Bill on equality, or the effect of the Bill on tax avoidance or evasion)

Clause 18

PARTNERSHIPS

11.30 am

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

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

Amendment 50, in schedule 6, page 88, line 32, at end insert—

"PART 6

RETURNS: PAYMENT ON ACCOUNT

16 (1) TMA 1970 is amended as follows.

(2) After section 12AC (notice of enquiry), insert—

"12AD Review of proposal for power to require payment on account

(1) Within one month of the passing of the Finance Act 2018 the Chancellor of the Exchequer must commission a review into the effects of introducing a power to allow HMRC to require payment on account for returns where an enquiry has been given under section 12AC(1) in respect of a return.

(2) The review under this section must consider—

(a) the administrative implications for HMRC,

(b) the impact on the taxation regime for partnerships, and

(c) the potential revenue effects of the change.

(3) The Chancellor of the Exchequer must lay the report of this review before the House of Commons within six months of the passing of the Finance Act 2018.""

This amendment requires the Chancellor of the Exchequer to review the effects of introducing a power to require partnerships to make a payment on account in respect of a return when there has previously been a notice of an enquiry in connection with a return.

That schedule 6 be the Sixth schedule to the Bill.

The Financial Secretary to the Treasury (Mel Stride): A very good morning to you, Mr Owen. Once again, it is a pleasure to serve under your chairmanship. It is a great pleasure to be again in the company of the Opposition Front Benchers. On Monday we debated the customs Bill; on Tuesday we had the Finance (No. 2) Bill Committee here; on Wednesday we debated a statutory instrument, which was quite interesting; today we have the Bill again; and on Monday we will meet again to consider a statutory instrument. I am delighted that we are all here.

Before I address the Labour amendment, I will set out the general background and aims of the clause. Clause 18 and schedule 6 provide additional clarity about aspects of the taxation of partnerships. The changes and clarifications in the clause seek to address areas of uncertainty and complexity identified as problematic by stakeholders, and to reduce the scope for non-compliant taxpayers to avoid or delay paying their tax. The changes also facilitate the digital transformation of partner taxation using information in the partnership return.

Partnerships in the UK are required to file a partnership tax return in the UK once a year. This partnership return ensures that Her Majesty's Revenue and Customs has the information it needs so partners are correctly taxed on the profits and losses allocated to them. The return should summarise the profits and losses allocated to each partner, and HMRC uses it to audit the tax returns made by the partners.

The clause changes the partnership return in the following ways. First, it clarifies the treatment of partners who are in bare trust arrangements—trusts in which the beneficiary has the absolute right to income and capital from the trust—by confirming that beneficiaries of such trusts are treated as partners for tax purposes. It also clarifies the tax treatment for partners who are themselves partnerships, by providing a statutory definition of an indirect partner and setting out the basis period rules—the basis period being the period for which a partner pays tax each year—and how they apply to indirect partners.

To ensure all partners can complete their returns accurately, and to facilitate HMRC's assurance work, a partnership that has indirect partners will be required either to report details of all the indirect partners or to submit the four possible profit calculations for UK resident and non-UK resident companies and individuals. The clause simplifies the rules for investment partnerships in the UK that already provide the information that HMRC requires under the common reporting standard or the Foreign Account Tax Compliance Act; it reduces the reporting requirements for investment partnerships where the information has been reported under those other international obligations. Finally, it introduces a new process to allow disputes over the correct allocation of profit for tax purposes to be referred to the first-tier tax tribunal to be resolved. That will ensure that partners have a dedicated method for resolving disputes that does not rely on HMRC assurance processes.

On the amendment, I assure hon. Members that the Government have carefully considered the risk of non-compliance in drafting this legislation. In addition to the clarifications that the clause provides to address areas of uncertainty for partners, HMRC already has the power, subject to certain conditions, to require payment on account, in the form of an accelerated payment notice, from taxpayers who are involved in schemes disclosed under the disclosure of tax avoidance schemes rules or counteracted under the general anti-abuse rule.

HMRC has issued more than 79,000 accelerate payment notices since 2014, which have brought in more than £4 billion to the Exchequer. They have changed the economics of tax avoidance, and there is strong evidence that they have had significant impact on marketed avoidance, as the Office for Budget Responsibility noted in its September 2017 report. The Government do not consider it necessary or proportionate to extend such notices where there is no clear indication of avoidance and a partnership's tax returns are simply the subject of an inquiry. It is therefore equally unnecessary to review the effect that such an extension would have.

I hope that reassures hon. Members that HMRC has sufficient powers to address non-compliance by partners, and that the amendment calling for a review on whether to extend those powers is neither necessary nor proportionate. The clause provides additional clarity about aspects of the taxation of partnerships; I therefore commend it to the Committee.

Anneliese Dodds (Oxford East) (Lab/Co-op): It is a pleasure to serve under your chairmanship, Mr Owen. I am grateful to the Minister for his kind comments, and look forward to future iterations of our debates, on other matters.

I want to give some context on the use of partnerships in the UK economy. Obviously, in some sectors they have proliferated, especially in forms such as limited liability partnerships. There is a broad question about unintended consequences of the proliferation of limited liability partnerships, particularly in accountancy, but I am well aware that that form of governance was created in 2001, so that growth can hardly be viewed as the result of the Government's activity.

There are ways in which we can and should seek to ensure that partnerships are put on to as equal as possible a footing with other corporate forms. I appreciate that the package of measures on partnerships in the Bill is intended to do just that, as well as to simplify tax law on partnerships. However, our amendment would revive a measure that was initially floated by the Government, but appeared to have been rejected later: the notion of introducing, where one partner is absent, a payment-on-account system in relation to partnerships whose income is derived from trading or property, as described by the Minister.

The proposal would be similar to the system used for the self-employed, in which half the previous year's tax bill is due in advance, and payable in July, to protect HMRC's revenue. The proposal was No. 4 in a consultation document set out by HMRC. It received some negative responses in the consultation, I admit; however, some respondents were positive about its potential. We agree with them. It is important properly to incentivise the reporting of partners.

The Government maintain that the existence of penalty provisions for incomplete and late submission of partnership returns would be sufficiently dissuasive to prevent the non-reporting of partners to HMRC. They maintained that in the response to the consultation, and the Minister has done so again now. Our concern is that the penalty or fine could be lower than the tax due, and that could potentially open a loophole that we would rather was closed.

Our amendment would require the Government to rethink their position. However, I took on board the Minister's comments just now, particularly about the applicability of the general anti-avoidance rule in this context. Because of that, we are willing not to push the amendment to a vote, but I hope that in the light of our discussion, the Minister will keep the matter under informal review in the Treasury.

Mel Stride: I thank the hon. Lady for those comments and for not pressing the amendment to a vote. I shall certainly keep the matters under review, as she urged, and would be happy of course to take directly any representations that she may want to make on them in future.

Question put and agreed to.

Clause 18 accordingly ordered to stand part of the Bill.

Schedule 6 agreed to.

Clause 19

RESEARCH AND DEVELOPMENT EXPENDITURE CREDIT

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

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

New clause 4—*Review of the impact of increasing Research and Development Expenditure Credit—*

'(1) Within one month of Royal Assent to this Act, the Chancellor of the Exchequer shall commission a review of the impact of increasing the Research and Development Expenditure Credit from 11% to 12%.

(2) The review shall consider—

(a) the effect of the 1% increase on companies' research and development spending in the UK, and

(b) what effect the increase in Research and Development Expenditure Credit will have on changes to companies' research and development spending in the UK as a result of leaving the EU.

(3) The Chancellor of the Exchequer shall lay the report of this review before the House of Commons within six months of this Act receiving Royal Assent.'

This new clause would require the Chancellor of the Exchequer to commission a review of the effect of the increase in Research and Development Expenditure Credit from 11% to 12% on companies' research and development spending and what effect the increase will have on any changes to companies' R&D spending as a result of the UK leaving the EU.

New clause 9—*Review of change to level of research and development expenditure credit—*

'(1) No later than 31 March 2019, the Chancellor of the Exchequer must review the effects of the change to the level of research and development expenditure made by section 19(1).

(2) The review under this section must consider—

(a) the revenue effects of the change, and

(b) the effects on levels of research and development expenditure.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section as soon as practicable after its completion.'

This new clause provides for a review of the change to the level of research and development expenditure credit.

Mel Stride: Clause 19 makes changes that support the Government's ambition to drive up research and development investment across the economy to 2.4% of GDP by 2027. R and D tax credits are a key element of the Government's support for innovation and growth. To support businesses further, the Government will increase the rate of R and D expenditure credit from 11% to 12%. Investment in R and D is vital for increasing productivity and promoting growth. R and D tax credits support businesses in investing, by allowing companies to claim an enhanced corporation tax deduction or a payable credit on their R and D costs.

Laura Pidcock (North West Durham) (Lab): Will the Minister explain the severe imbalances in research and development across the country and how he will address them?

Mel Stride: As the hon. Lady knows, several announcements were made in the Budget about productivity, not least of which was the announcement about the national productivity investment fund; billions more pounds will be put in, raising its total investment level to around £30 billion. Initiatives such as the northern powerhouse and the infrastructure that will be put in place in the north and the midlands are evidence of our intent to make sure that productivity is levelled out across the country. We recognise that productivity is stronger in London, the south and the south-east, so particular attention is being placed on the midlands and the north of England.

There are two schemes for claiming R and D tax credits: the research and development expenditure credit—RDEC—scheme, and the small and medium-sized enterprise—SME—scheme. The SME scheme is more generous than the RDEC. The RDEC was introduced in 2013, featuring a new above-the-line credit. Businesses value it for several reasons, including because they can benefit from it whether or not they make a profit in the year in which they claim the credit. As R and D is often risky or pays back years after investment, this is a well targeted initiative. In 2015-16, the Government provided innovative businesses with more than £1.3 billion through the RDEC, which supported almost £16 billion of research and development.

In spring Budget 2017, it was announced that a review of the R and D environment had concluded that the UK's R and D tax credits regime is an effective and internationally competitive element of the Government's support for innovation. The changes made by clause 19 will provide around £170 million of additional support for innovative businesses every year from 2019-20. Increasing the rate of RDEC will make the UK even more competitive.

New clause 4 seeks to commission a review of the effect of this change on companies' research and development spending, and of the effect of the increase on any changes to companies' R and D spending as a result of the UK leaving the European Union. Since 2010, the amount of support that the Government have provided through R and D tax credits overall has more than doubled, reaching £2.9 billion in 2015-16.

Dan Carden (Liverpool, Walton) (Lab): What research has been done on the potential loss of EU investment in scientific research funding? I understand that the review will be forthcoming, but this is a modest increase from 12% to 13%. Does the Minister think that gets anywhere near to plugging that hole?

Mel Stride: The hon. Gentleman raises an important issue; inevitably, as we leave the European Union there will be economic consequences in both directions. He will be aware that a motion was recently passed in the House requesting various assessments. Those have been delivered to the Exiting the European Union Committee, so I point him in that direction. If he is implying that it will all be disaster once we exit the European Union—

Dan Carden *indicated dissent.*

Mel Stride: The hon. Gentleman is shaking his head; I am pleased, because there will be many opportunities as we go forward. Of course, one of the reasons why the question of impacts is difficult and challenging is that, at this stage, we do not know exactly where the negotiation will land, exactly what the treaty arrangements will be between us and the European Union after our exit, and what our customs arrangements and new trading arrangements with the rest of the world will be, and so on. We await those details.

Returning to the Bill, the amount of R and D expenditure supported through the tax credits doubled to £23 billion between 2010 and 2015-16. At the autumn Budget 2017, the Government announced a further £2.3 billion of additional direct R and D spending in 2021-22. That is on top of the record investment of £4.7 billion by the national productivity investment fund in R and D that was announced in the autumn statement 2016. Taken together, total Government support for R and D will increase by a third from 2015-16 to 2021-22. I am clear that the change in this Bill, along with the wider support that the Government are providing, will give valuable help to businesses investing in R and D in the period in which we will leave the EU. The change reaffirms our ambition to increase total UK investment in R and D to 2.4% of GDP.

Alison Thewliss (Glasgow Central) (SNP): The briefing from the Chartered Institution of Taxation points out that there may be merit in expanding R and D relief to product commercialisation, because we do lots of development in the UK but not necessarily all the commercialisation, and some of that benefit goes overseas. Will the Minister explore whether that might be possible?

11.45 am

Mel Stride: The hon. Lady makes an extremely important point about the development of innovation and new ideas, and about ensuring that they are capitalised on in our country, rather than perhaps being bought up to a certain stage and developed further elsewhere, as she suggests. The patient capital review under Sir Damon Buffini was very much focused on ensuring that those important schemes—venture capital trust schemes, enterprise investment schemes and so on—moved away from being what we might call capital preservation schemes, in which money does not go into high-flying businesses but which are simply ways of preserving capital while reaping the rewards of the tax benefits, into more innovative, higher-growth and more risky ventures, of which we need more in this country. In answer to her well made question, I point her towards that patient capital review and our work there, which we continue to do and to monitor, to address precisely the concerns she expresses about companies as they go from small to mid-cap and further on in their lifecycle.

New clause 9, however, seeks to commission a review of the revenue effects of the change and the effects on R and D expenditure. When the RDEC was last increased in 2015, innovative businesses benefited from an additional £200 million, and that supported an extra £1 billion in R and D expenditure. Furthermore, a recent valuation conducted by HMRC in 2015 found that for every £1 of tax forgone, between £1.53 and £2.35 of additional R and D is stimulated. That shows that R and D tax credits are effective at encouraging additional investment in R and D. I commend the clause to the Committee.

Kirsty Blackman (Aberdeen North) (SNP): It is a delight to be in Committee discussing a Finance Bill again, although we seem to be discussing one every week. I hope we can move to a single fiscal event, and that we will have a single fiscal event this year, and not an extra one or two, as we have previously.

On the change to research and development expenditure credit, I completely agree with the comments about the need to encourage our companies to create good research and to develop excellent and innovative products. That need can be clearly shown by the lack of productivity growth in the UK in relatively recent years by comparison with our international comparators. Part of that is because companies have not been able to create or bring forward changes, including in how they run themselves, in order to improve productivity; and part is because the Government have been good at increasing employment, but those jobs are low paid and have low productivity. Increasing research and development is therefore a very positive thing.

As was mentioned by the hon. Member for Liverpool, Walton, the UK leaving the EU comes with an awful lot of added negatives, particularly in the area of research and development. One is to do with universities and their research. A lot of our universities do absolutely excellent research that brings forward products. A number of universities have spin-off companies that have been innovated as a result of research, and they are brilliant places for such research to be developed. A lot of that could not have happened without the level of international collaboration that has been possible. A big concern is that there could be a backward step.

Another thing is that companies will find it more difficult to export to the EU. Although the Government are clear that we will have frictionless borders, a very small number of people believe that. There will instead be more barriers to exports, whether tariff or non-tariff, so companies will struggle to find the profitability and extra cash to put money into research and development that they do now. That is a big concern for the future. Frankly, increasing research and development expenditure credit by 1% will not cut it as the fix, to make that change that we need.

My hon. Friend the Member for Glasgow Central mentioned the issue of ensuring that research and development can be monetised by companies. It is not good enough simply to create an excellent product; that excellent product or innovation needs to be brought to market and exported. Companies in my area have struggled with taking that step. They have got to the stage where they have been able to innovate, but either their intellectual property has been bought or they have not managed to get encouragement from banks to increase their capital. I appreciate what the Minister says about the patient capital review, which is a welcome step because of the funding gap. Companies being able to convert their excellent research into a product that can be sold and exported is a really positive thing.

Companies around Aberdeen in my constituency are involved in the research and development of oil and gas initiatives, particularly in the super-mature basin that we have in the North sea. We are one of the first oil and gas basins to reach the super-mature stage. We have the ability to innovate, and to do research and development that creates products that can be exported around the world when other basins come to that mature stage. It is appreciated that there is a research and development credit, but the Government need to continue to work to support businesses in making the next leap, so that they can take advantage.

Dan Carden: Does the hon. Lady agree that membership of the European Union has fostered a culture of research and development? We have innovation cities and other such initiatives. A 1% increase from 12% to 13% is not enough. We need the Government to show how they will innovate and work with companies to rebalance the economy from south to north when it comes to research and development and other such issues.

Kirsty Blackman: I agree with the hon. Gentleman. We have had many benefits from the EU, and just one of them is the level of innovation. As a result of the level of free movement that we have had, we have been able to get excellent people in to improve our research and development, and to collaborate with places overseas. Our universities, companies and hubs of expertise have been an incredible success story in recent years in terms of the research that they have been able to do. There is a brilliant hub around Edinburgh that is involved in robotics. It is hugely important to take those steps.

The Government need to ensure that they continue to foster that culture. Leaving the EU is a big problem, in terms of us not being able to bring those people here. The Government need to not only increase the research and development expenditure credit by 1%, but make changes so that the UK can be a nation that welcomes scientists and encourages them to come here and make a positive economic contribution, as they already do. We do not want to lose those people.

Alison Thewliss: The point about not losing what we have is absolutely crucial. The Strathclyde Technology and Innovation Centre at the University of Strathclyde in my constituency has had £89 million, including money from the European regional development fund, to set up cutting-edge industries. Anything that loses that or puts it at risk will have a hugely detrimental effect on Glasgow and Scotland's wider economy.

Kirsty Blackman: I very much agree with my hon. Friend. A lot of these projects have been brought to fruition because of the benefits of EU money. The UK Government have not committed to filling the EU funding gap that there will be, particularly for universities and for the research and development of vital products that UK companies can sell on.

It is welcome that the Government are putting some focus on research and development expenditure. That is a positive thing. However, it is not in any way the end of the story. To simply stand still, the Government need to make significantly more commitments. We would appreciate the Westminster Government being much more positive about the innovation culture. They need to put their money where their mouth is and make sure they fund these things more appropriately.

Peter Dowd (Bootle) (Lab): Again, it is a pleasure to serve under your stewardship, Mr Owen. I want to speak first to the points made by the hon. Member for Aberdeen North and then go on to my substantive comments on

[Peter Dowd]

our amendment. It is worth noting what the hon. Lady says about funding research. Bill Gates, who knows a thing or two about research and development, said:

"I believe in innovation and that the way you get innovation is you fund research and you learn the basic facts."

Are the Government funding research and development sufficiently? The answer, quite simply, is no. Neil Armstrong said:

"Research…is creating new knowledge."

When set against that, the amount of research and development that the Government are funding, or indeed encouraging, is not creating that much more new knowledge.

Following on from the comments of the hon. Member for Aberdeen North about new clause 4, I am deeply concerned about the level of the Government's research and development expenditure, particularly once we have left the European Union. The important question is not whether we are in or out—we are moving out; we recognise that—but how we fill that gap.

There is a rightly held concern that as a result of Brexit, the UK risks losing its reputation as a scientific powerhouse. In November, the Chair of the Public Accounts Committee stated that we are "sorely lacking" in leadership from the Government to maintain Britain's position as a leader in robotics and in research to tackle climate change. She was responding to a National Audit Office report that highlighted that between 2007 and 2013, the UK was a "net recipient" of EU research funding and received more than £7.9 billion. In 2015, the UK Government's expenditure on research and development was £8.7 billion, so it is almost equal.

The Government will have to make up the funding shortfall once we leave the European Union if the UK is to keep its status as a world leader in research and development.

Laura Pidcock: Even within the European Union, the north-east has suffered grave inequalities when it comes to research and development jobs, of which there are 5,300 compared with 36,000 in the south-east. Does the hon. Gentleman agree that the Bill does nothing to get rid of that disparity? The worry is that outside the European Union, it will be further exacerbated.

Peter Dowd: That is an important point. As I said, it is irrelevant—academic—where someone stands on Europe or whether they were in or out, because we are moving out of the European Union. There are all sorts of debates about the customs union, the single market and all the rest of it, but the bottom line is: what will the Government do to plug that gap? Will they give the commitment that they have given to other industries, such as agriculture, to plug that gap?

Dan Carden: One of the reasons that there is scepticism on this side of the Committee Room is because European money has been funnelled towards cities such as Liverpool. We have seen great investment from Europe, whereas this Government have cut council budgets in Liverpool and across the north by more than 70%. Does my hon. Friend share my scepticism?

The Chair: We are tending towards a general debate about the European Union rather than a specific debate about the Bill. Please keep to the amendments and new clauses under discussion.

Peter Dowd: I appreciate that reminder, Mr Owen. My hon. Friend the Member for Liverpool, Walton makes a good point that goes to the heart of our wish to have a review of how the Government's proposal will affect research and development. That is absolutely crucial.

Research and development expenditure credit is used to encourage companies to invest in technology and research in the UK. Will the Bill do enough for that? The 1% increase announced in the autumn Budget will not be enough. Historically, the Government's investment in research and development as a proportion of GDP has been woeful. The UK spends less on research and development than many comparable nations do, which is why we need a review of the implications of the Government's proposal.

12 noon

Our expenditure on R and D last year was 1.7% of GDP, while the EU average was 2%. That is a significant difference. Denmark, Austria and Sweden spend more than 3%, and Finland and Germany are not far behind. The CBI argues that the Government should commit to spending at least 3% of GDP on research and development, particularly as a way—these are the CBI's words, not mine—of "Brexit-proofing" our economy. In a report last year, it highlighted key areas in which the UK should invest, including gene editing, space tourism, self-driving vehicles, robotic limbs, floating farms and travel methods that will enable people, for example, to fly from London to Sydney in four hours. There is a genuine fear that we will be left behind if we do not invest in cutting-edge research and in the first-rate scientific researchers that our universities produce. Will clause 19 actually help with that? On the basis of evidence and history, no, it will not. That is why, as I will keep reminding Members, we want a review.

There is of course the added factor of international science collaboration, particularly our continued collaboration with EU countries on research and development once we leave the EU. International collaboration has become increasingly important in science. In fact, its importance to the development of our industries is axiomatic. The requirement for multidisciplinary approaches and the combination of intellectual and physical resources means that more than half of the UK's research output is the result of international collaboration. Will the Government's proposals help that collaboration to continue once we are outside the EU—or, indeed, if we are still in the EU? No. They just do not go far enough.

Some 60% of the UK's internationally co-authored papers are authored with EU partners. Although the United States is the most frequent partner for UK-based researchers, seven of the top 10 strongest collaborators are EU countries. We must ask ourselves how the proposals in the Bill will help that to continue. I am genuinely not convinced that they will.

No one is criticising the Government for putting some inducement in their proposals, but is that inducement enough? No, it is not. Although increasing the research and development expenditure credit will encourage companies to use the cutting-edge research that is formulated in UK universities to create jobs for the future, the quality and quantity of that research will dry up if grants are cut. That is another factor that the Bill does nothing about.

The UK has long been a hub for worldwide talent in the scientific community, which produces research that allows companies to invest in cutting-edge research and development projects. Will the Bill do anything significant to help that continue? No. We cannot escape the fact that the UK's scientific community is dependent on international talent, both European and non-European. For example, 28% of academic staff in UK universities are non-UK nationals—16% are from the European Union and 12% are non-EU citizens—half of PhD students in the UK are non-UK nationals, and 30% of UK Nobel prize winners are non-British. That talent pool will be at risk if the Government do not get their skates on and provide further support for research and development.

The Government must do more to encourage and incentivise the best scientists in the world to continue to work in the UK and collaborate with UK universities and research facilities, otherwise there will be a brain drain, which will have a direct impact on the number of companies that choose to invest in research and development projects in the UK. Again, is there anything in the substance of the Minister's proposals that will help with that? No. That is why we want a review. We need to look at this area in more detail. I imagine it will be a far bigger factor than whether the Government increase the research and development expenditure credit by one percentage point. The question of the workforce—the scientists who will undertake the research and eventually work on the projects—is very important, because without them, the UK will be a far less attractive place to invest.

Dan Carden: This relief means a hell of a lot, especially to some larger companies, which sometimes make hundreds of millions of pounds from it. We have seen artificial schemes designed to secure the tax relief whereby it has not been appropriately used. Would not a review also help to sort out that problem?

Peter Dowd: It would, and I will come to that in my final comments in relation to the speech by the hon. Member for Aberdeen North. There is a wider point, which the hon. Lady has highlighted perfectly. How much difference will raising the expenditure credit by one percentage point make to companies investing in the UK? That is the question, and we need to know the answers to it, hence the proposal for a review. I sound like a stuck record, but this issue is very important. It is only right that the Minister should come back to the House at a later stage and provide it with that information.

Laura Pidcock: Does my hon. Friend think that the Government have calculated the one percentage point figure on the basis that we are exiting the European Union and on formal calculations about what the net consequence of removal from the EU will be, or is this just an arbitrary figure?

Peter Dowd: The honest answer is that I do not know. If I can be the postperson for that question, I will pass it on to the Minister and perhaps he will answer it. I am sure that he will be able to do so, if not today, certainly in due course.

On new clause 9, the research and development expenditure credit gives corporation tax relief to companies that undertake research and development, as the Minister said, as well as to small and medium-sized enterprises subcontracted to undertake work of that nature. The current rate of relief for those companies is, as everyone knows, 11% of their qualifying expenditure, through either reduced liabilities or cash payments. As the Minister set out, clause 19 increases that to 12% of qualifying expenditure.

On Second Reading and today, the Minister has talked about the contribution that research and development makes to our nation's productivity. It is worth our while to reflect on the Government's record when it comes to productivity, because that goes to the heart of the matter. If we are to raise productivity, how do we know that it is linked somehow with research and development, or vice versa? If the figure is being moved from 11% to 12%, how do we establish the interaction, the causal links and the correlations? How do we do that? We do not do it, which is why we need a review.

As you know, Mr Owen, productivity has flatlined, and it has remained lower than its peak under the last Labour Government for the full eight years of the current Government and the coalition. The Office for National Statistics has found that since this Government took office, they have presided over the worst period of productivity growth since the Napoleonic wars. I think that was the last time we came out of Europe—well, perhaps not the last time, but one of the times. *[Laughter.]* That was a dodgy link, I have to say.

At present, UK productivity lags behind that of most of the G7 nations, notably the United States, France, Germany and Italy. What the Germans produce in four days, Britain achieves in five. We have heard that so many times, and the question that arises is: does the Government's proposal do anything to enhance productivity? We do not know. Do the Government have any proposals for us to suggest how they might do that via a review? No, they do not. That is why we want a review.

This is not a mere technicality; it has serious consequences. As the Nobel prize-winning American economist Paul Krugman once said,

> "Productivity isn't everything, but in the long run it is almost everything."

More than many other indicators, our productivity has a huge impact on both our future economic growth and the living standards of millions of British workers, who rely on productivity gains to improve their pay and conditions. We know that investment in research and development can, and does, enhance productivity. The question is: do the proposals do that? We do not know. Why do we not know? Because the Government—I suspect—will not agree to our review today. We will persist on that. As far as I can see, we do not have any information from the Government on the correlation.

Sadly, we are heading in the wrong direction. The Office for Budget Responsibility predicts that the Government's plans will leave us with a 17-year period of wage stagnation. The Institute for Fiscal Studies agrees, arguing that we face two decades of lost pay growth. Will the Government's proposals do anything significant to deal with that? We do not know, but we do not think so.

Time and again, the Chancellor has watered down the Government's promise of increases in the wage floor. That will not help, either. We know that the most sustainable way to ensure a return to wage growth is to boost productivity, as well as ensuring that there is a

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strong framework of other worker representation to make sure that gains are shared evenly across any enterprise. That is also important. Research and development not only helps companies to grow, helps profits and helps income tax and tax generation, but helps workers and wage growth. Are the Government doing anything in the proposals to assist with that? No.

The Prime Minister recognised the importance of economic democracy and worker representation all the way back when she became Prime Minister. It is also important that workers can see what research and development investment there is, and what the Government's proposals on it will do to help. It is difficult to establish what gains there will be under the proposals, and that is why we need to check and challenge the Government time after time on this one.

Of course, while research and development investment is not going into businesses, companies can rely on large pools of pretty cheap and expendable labour. That is important. In the past, the Minister has referred to us having quite high levels of employment, but we come back to the issue that the levels of employment per se—

The Chair: Order. We are straying a little bit and having a general discussion on the economy rather than on research and development expenditure credit under new clause 9.

Peter Dowd: I appreciate that, Mr Owen. The point I am trying to make is this: in relation to the increase from 11% to 12%, what will the Government's proposals do that will help any of these elements of the economy? We must set it in this context. What is the purpose of the increase from 11% to 12% if not to increase economic growth? We are trying to establish what the link is, and we cannot find it at this stage, hence the need for a review of the proposals. We fear that, unless we have significant increases in research and development, we will not get out of the difficult economic circumstances we face.

There is the further issue of regional research and development, which my hon. Friends have alluded to. A recent report from Sheffield Hallam University shows vast regional disparities in research and development funding. Today, we are asking the Government to produce a review that would also cover those regional disparities, because that is crucial. None of the Bill's proposals come in isolation. We acknowledge that the report from Sheffield Hallam included universities and charity sector organisations, which, of course, are exempt from the research and development expenditure credit. It is nevertheless pertinent to highlight that in relation to regional disparity and overall Government research and development expenditure. The university also demonstrated that the Government expenditure on research and development is spent in the south-east, which employs 36,500 people in research and development, compared with the west midlands, which employs only 3,100. We propose including that in any review of the impact of the increase from 11% to 12%.

12.15 pm

Laura Pidcock: That disparity in investment does not make sense, because economic growth, employment rates and average earnings are all worse than average in the north-east. I do not see any mechanism to redress that disparity; I wonder whether my hon. Friend does.

Peter Dowd: Again, I do not think there is anything in the Government's proposals that helps to address that disparity. We do not know. That is part of our reason for making our proposal, and I suspect it is also the reason behind the proposal made by the hon. Member for Aberdeen North: to try to tease out those particular issues and get information from a review that would help us to determine that. It is important to make the point that we are restricted by the amendment to law proposals and can only ask for reviews. It is a concern that we are not able to push this more. That is why, to some extent—with your consent, Mr Owen—we are slightly widening the debate. We need to widen it out to be able to focus, in a bizarre sort of way, on the specifics of the Government's proposals and how they might enable research and development, and the 11% to 12% increase, to help.

In talking about regions and trying to make those important comparisons, the question is what the 11% to 12% increase will do for those regions. The Cambridge area has twice the research and development jobs of the entire north-west, for example, where my Bootle constituency is. Even when we exclude Cambridge University, as this credit does, the Cambridge area has twice as many such jobs as the midlands, more than Scotland and Wales combined, and only 2,000 fewer than the north of England. One has to ask the question, "What do the Government's proposals do to help that?" We cannot see what they are doing to help it, hence the need for a review. I persist with the issue of the review, hence the new clause. We can push on and increase the 11% to 12%, but what is the evidence that it will be not only evenly spread across the country, but rebalanced? I do not see that at all in the proposals, which is why we must look at them in more detail.

To take another example, we talk about the northern powerhouse, but eight years on the economy is still not rebalanced and there is nothing in the proposals to help with that. In that regard, it is difficult not to comment on Lord O'Neill's resignation over that particular matter, because he did not see the Government in any way pushing the issue of research and development in some of the regions. Take, for example, the fact that only two of the 20 most expensive infrastructure projects being financed by the Government are in the north-east, the north-west or Yorkshire and the Humber. We could look at all the other cities in the broader sense—I will not go there—but the point is that research and development expenditure does not seem be going to the areas that perhaps need it most to help their economy.

I have asked the Minister, as have other hon. Members, whether the Government plan to redress that imbalance in regional research and development expenditure. If the extended credit being debated today might contribute to rebalancing, will he tell us the percentage change in regional distribution that that might account for, rather than generalisations? We need details. Some regions right across the country are calling out to know what this will do specifically for the regions. We have heard a lot from the Government about rebalancing, but that has not yet been translated into action.

That is why we tabled the new clause: to enable us to review the change and better to understand both the revenue effects of the proposal and its effects on research and development expenditure more generally. Should the new clause succeed—we will press it to a vote—we hope it will encourage the Government to reflect on the scale of the productivity challenge and the action required to address it properly. We hope that, if the Government agree to the review, it will also give us some insight into the revenue forgone in specific parts of the country.

I hope that hon. Members consider supporting the new clause for the reasons I have set out. If they will not support it, I exhort them to push the Government to give us more detail about how this is going to impact on all the regions and nations of the United Kingdom. There will be a consistent and persistent belief that we are not a one-nation country and that not everybody is in it together. An awful lot of people are out there on their own, and the Government must give us information through a review to show in solid terms how this increase from 11% to 12% is going to help those communities.

The Chair: I call the Minister to respond within the parameters of the three proposals under discussion.

Mel Stride: Thank you for calling me to speak, Mr Owen. You have been very generous in your interpretation of the scope of the debate.

The Chair: I am going to be equally generous with the Minister.

Mel Stride: I am sure you will be entirely obliging. This has been a wide-ranging debate, covering just about everything. We have had an absence of the biblical references and classical quotations that normally enliven our discussions at this time of the day.

We all agree about the essential role that productivity plays, and, in turn, the essential role that R and D plays in driving productivity. Paul Krugman is entirely right that, in the long run, productivity is almost everything, because if we do not get a rise in productivity we do not get a rise in real wages, living standards and all the things that Governments ensure happen. It is not just our country that has had a productivity challenge since the crash in 2008. The productivity rates of most of our competitor countries are all well down on where they were prior to that point. We certainly have a particular challenge in the United Kingdom, which is why we are doing so much in the productivity space. R and D tax credits are but one element of that. We have now set an R and D target: as I said earlier, 2.4% of GDP will be R and D expense by 2027.

It is useful to note that much was made of how this Government are performing relative to the past, as if in the past we were doing incredibly well with R and D. The reality is that over the past 30 years there has never been a single year in which R and D expenditure as a proportion of GDP has exceeded 2%. That is a simple fact. That goes for this Government, the coalition Government and the Labour Governments who preceded them, so in a sense we are all in the same boat.

I do not accept that we are not doing enough in this area. R and D tax credits are but one example. The amount going in since 2012-13 has doubled to £2.9 billion. In 2016, we announced direct R and D expenditure of £2.3 billion by 2020 to 22. We have had major announcements on infrastructure and roads and rail. As I said in my opening remarks, in the previous Budget we expanded the national productivity investment fund to £31 billion.

On the specific issue that the hon. Member for Aberdeen North—and others, by way of intervention—raised, we totally accept that support for our universities is absolutely critical. That is why we are doing things on the immigration side. We are seeking to get the balance right to attract the right kind of talent. Equally, we are underwriting the Horizon 2020 programme, such that any Horizon 2020 projects agreed by the European Union prior to our departure will be underwritten by the UK Government, irrespective of whether that money is being spent at the time that we exit.

Alison Thewliss: Some of the money for Strathclyde University is coming through the European Regional Development Fund, rather than Horizon 2020. Will ERDF money also be guaranteed?

Mel Stride: The hon. Lady knows that we are reviewing that specific point in the context of the negotiations. Those are decisions, among others, that we will have to take in future. My point is about that critical flagship programme, Horizon 2020. The hon. Member for Bootle suggested that we have not treated universities in the way that we have the agricultural sector, to which guarantees have been provided, but this is a clear example in the universities sector of where we are doing precisely that.

I will not dwell on those matters; I am aware that they are more directly related to R and D tax credits, but the patient capital review is a commitment that we put a lot of money, effort and research and development into. The intellectual property issue was mentioned in the debate. There is the patent box, which provides a lower rate of taxation for those businesses that develop intellectual property, so that we make sure that that is developed and exploited in this country.

The hon. Member for Aberdeen North quite rightly mentioned the North sea, which is absolutely critical to her part of the United Kingdom. There are measures in the Bill that we will come to shortly that further ease tax pressures in that sector, and certainly there were measures in the last Finance Bill, when she and I both served on the Committee.

Peter Dowd: I know that the Minister is aware that the Public Accounts Committee reported that the cost of R and D tax relief increased from around £100 million in 2001 to more than £1 billion in 2011 and 2012, while the actual amount of business expenditure on research and development stayed more or less the same. We have seen large increases in the costs as a result, potentially—I am not saying there was, but potentially—as a result of some abuse. The question I want to try to tease out is, how do the Government know that the increase in research and development reliefs will achieve the desired result, without having a proper review?

Mel Stride: In my opening remarks—I will not re-rehearse them—I talked about the evidence of the amount of money going into R and D and the return per pound. There is a relationship between the amount that goes into R and D tax credits and the amount of R and D spend that is occurring, but the one does not solely cause the other. Many externalities impinge upon why companies may or may not invest in research and development, the most obvious being the general state of the economy and business confidence. That should not take away from the fact that it is demonstrably the

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case and will continue to be the case that if we provide attractive taxation reliefs aimed at encouraging companies to invest in research and development, we will see a displacement of activity towards those activities, which is what we so strongly want to see in our country.

I shall leave it there and say that we have had an extremely wide-ranging and interesting debate. I hope that we can move on to put the question.

Question put and agreed to.

Clause 19 accordingly ordered to stand part of the Bill.

Clause 20

Intangible fixed assets: realisation involving non-monetary receipt

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

The Chair: With this it will be convenient to discuss clause 21 stand part.

Mel Stride: Clauses 20 and 21 will prevent companies from claiming unfair tax relief on their intellectual property. Clause 20 will ensure that income received in non-monetary form is fully taxed under the intangible fixed asset regime, and clause 21 will amend the rules where a licence in respect of intangible fixed assets is granted between related parties.

The clauses tackle arrangements where companies sell intellectual property assets or grant a licence in respect of intellectual property, and try to gain a tax advantage by receiving shares or some other form of consideration—what is known as money's worth rather than cash. Accounting rules can mean that a disposal is accounted for by the seller at the original or base cost of the asset disposed of—effectively, the book value of the asset disposed of—rather than the actual value of what has been received.

That type of accounting is used by related parties in what are known as step-up avoidance schemes to create a difference between one company's taxable income and another company's tax deduction. In step-up schemes involving licensing arrangements, the licensor accounts for the disposal at the lower net book value and is not taxed on the full value of the consideration, while the licence recognises the higher or stepped-up commercial value of the asset acquired and claims tax relief on the higher amount. Such transactions can occur commercially when setting up joint ventures but can also be used for avoidance and can involve intellectual property leaving the United Kingdom.

There are several reasons why multinational enterprises may move their intellectual property between companies in a group. The Government's view is that the rules should ensure that the right amounts are taxed and deducted when intellectual property is moved. Clause 21 will ensure that that always happens, including when intellectual property leaves the United Kingdom.

The changes that clauses 20 and 21 will make are fairly simple. They will counter step-up avoidance schemes by ensuring that all non-cash disposals and related party licensing arrangements are taxed fairly, consistently and in line with cash transactions. They will have no effect on the vast majority of trades because transactions set up in such a way are rare; in many cases they are set up to gain an unfair tax advantage. The clauses will apply retrospectively from 22 November 2017. I commend them to the Committee.

12.30 pm

Anneliese Dodds: The Opposition have not tabled any amendments to clauses 20 and 21, but I have a question for the Minister about a specific matter that I raised briefly on Second Reading. It was not satisfactorily resolved at the time, so with the Committee's permission I will raise it again.

I am grateful to the Minister for his explanatory remarks, but a pertinent question remains. As I said on Second Reading, the clauses essentially grab at what in many cases may be the holy grail: the assigning of market value to certain kinds of intangible for tax purposes. In that regard, the clauses seem to contradict the direction of travel in the Finance (No. 2) Act 2017, in which the tax impact of intra-group transactions was limited rather than regulated—I refer specifically to the measures to restrict the tax deductibility of interest payments to intra-group companies. Hon. Members will remember that the Government decided on a limit of 30% of earnings before interest, taxes, depreciation and amortization, which was the upper bound of the OECD's suggestion. We questioned that, but at least they adopted the OECD position of restricting such payments. However, rather than limiting the admissibility of intra-group payments as a means of reducing tax, the Bill attempts to regulate their calculation. I think such an attempt may be flawed.

The Minister has covered this to some extent, but let me provide some further background. Related parties, including subsidiaries, affiliates, joint ventures or associated companies, may transfer among themselves intangibles such as patents, know-how, trade secrets, trademarks, trade names, brands, rights under contracts or Government licences and other forms of intellectual property. The attempt to regulate market value may be flawed because it assumes a market value for such intangibles. For most people, the image underlying such a view is one of an active market with buyers and sellers in it, but there is often no such market for intangibles that are transferred—sometimes entirely legitimately, but sometimes as an attempt to pay less tax by shifting to a lower-taxed or differently taxed jurisdiction. For example, I have been looking at statistics on global biotech. As I understand it, about 10 corporations control two thirds of the industry, including the intellectual property in it, so there is no normal market and enormous mental gymnastics are necessary to determine the market value of intangibles.

Firms that wish to exploit the situation can make rather wild claims. I hope Committee members will remember as a particularly egregious example the facts revealed by the European Commission's case against Starbucks, in which vastly inflated assessments were made of the value of intellectual property held by a firm that had no employees. However, the Starbucks case was unusual in the sense that such manipulations of the value of intangibles normally remain, sadly, unchallenged. In connection with that, I understand that HMRC had, as of 2016, just 81 transfer pricing specialists. Surely that is dwarfed by the number of advisers employed by the big four firms who, potentially, would advise large companies that might well seek to reduce their tax perfectly legally by manipulation of the location of intangible assets into lower-tax jurisdictions.

Clauses 20 and 21 do not define intangible fixed assets. In accounting terms, of course, an asset is something that generates future cash flows, revenues or benefits, but there are no other qualifying criteria. The woolliness of such a definition has been recognised in the courts as problematic. For that and many other reasons, the European Union is moving towards a unitary system of corporate taxation. I appreciate that that is a matter for another day, so I will not open a discussion on it now—probably no political party would want to state its position on it in a Finance Bill Committee. We should note it here, however, because it indicates how our country may be merely entrenching problems that the EU27 are moving towards resolution.

Will the Minister introduce legislation to provide clearer guidance about how an intangible asset should be defined for tax purposes? Will he give us any further information about how he will prevent the measures from being exploited and alleged market value from being manipulated to avoid tax?

Mel Stride: I thank the hon. Lady for her speech. She raised the interplay of the corporate interest restriction and various rules, including the 30% EBITDA rule in the Finance (No. 2) Act 2017. As I am sure she appreciates, there is a distinction between that legislation and what we want to do in the clauses before the Committee. In the case of the corporate interest restriction, we are thinking about making sure that groups of companies do not abuse the borrowing of money by moving it around the group, thereby artificially reducing their tax burden. The clauses that we are considering are about regulating inter-group transfers of intangible assets, and getting the right values imputed in the circumstances.

The hon. Lady is right to say that assessing and establishing true market value is extremely complicated. A market value rule is applied in the relevant circumstances. As to whether we shall return to the matter in future and address in legislation questions of guidance and of definition of the value of intangible assets, I am happy to ask officials to look at various no doubt deep and dark parts of the UK tax code, where such definitions and other useful information may lurk, and provide the hon. Lady with what I can.

Overall, despite the complexities of the clauses and their deeply technical nature, they are important and worthy anti-avoidance measures, which we need to add to those—more than 100 of them—that the Government have introduced since 2010, saving the taxpayer £160 billion and giving us one of the lowest tax gaps in the world, and in the history of our recording such gaps.

Question put and agreed to.

Clause 20 accordingly ordered to stand part of the Bill.

Clause 21 ordered to stand part of the Bill.

Clause 22

Oil activities: tariff receipts etc

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

Mel Stride: Clause 22 amends the definition of tariff receipts that are taxable to ring-fence corporation tax and the supplementary charge. Tariff receipts are income that oil companies receive from third parties for the use of their oil and gas assets. It is common for oil and gas producers to share the use of pipelines, terminals and other facilities, and tariffs are one type of commercial arrangement used in those cases.

The clause clarifies the fact that activities by petroleum licence holders in the UK and on the UK continental shelf that give rise to tariff income are oil extraction activities. That ensures that their treatment is in line with current industry practice. As a result of the change, oil and gas companies will have the certainty they need to continue investing in infrastructure. The change will also ensure that the Government can deliver on the Budget 2016 commitment to expand the investment and cluster area allowances so that they can be activated by tariff receipts. Delivering that commitment will encourage more investment in the strategic infrastructure that is crucial to the longevity of our vital national industry.

The Government introduced the investment and cluster area allowances at Budget 2015, simplifying the system for investors and driving new investment. The allowances replaced the complicated system of bespoke oil and gas field allowances. They give oil and gas companies tax relief by reducing the amount of profit that is taxable to the supplementary charge. The allowances are generated on investment expenditure on UK oil and gas assets and can be activated by income from the oilfield. The allowances therefore reward successful investment in UK oil and gas production.

At Budget 2016 the Government went further, announcing that they would expand the scope of the investment and cluster area allowances so that they could be activated by tariff receipts, in addition to the production income from the field. Including tariff receipts within the scope of the investment and cluster area allowances will encourage infrastructure owners to continue investing in the North sea's vital infrastructure, for the benefit of third parties and to support the "Maximising Economic Recovery" strategy. Before the Government can deliver that commitment, however, it is essential that the current law is consistent with the objective of the policy.

Following an informal consultation with industry and analysis of the legislation, a degree of ambiguity was found in the current legislation, making it difficult to deliver the expansion as intended. The measure will resolve that ambiguity by clarifying that tariff receipts are treated in line with broad industry practice. The Government's intention to clarify the legislation has been welcomed by the industry.

The changes made by clause 22 will provide oil and gas companies with the right conditions that they need to continue investing in the industry's infrastructure. The clause amends the existing definition of tariff receipts to confirm that all tariff income earned by UK licence holders is an oil extraction activity, and therefore in the scope of the oil and gas ring fence tax regime. The clause also confirms that for ring fence corporation tax and supplementary charge purposes, there is no distinction between tariff receipts arising from old oilfields that are subject to petroleum revenue tax and new, non-PRT oilfields.

The UK oil and gas industry makes a significant contribution to the UK economy, supporting more than 300,000 jobs and providing about half our primary energy needs. To date, it has paid about £330 billon in production taxes. By clarifying the tax treatment in law for tariff receipts, whether they are generated from new

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or old oilfields, the clause will allow the Government to deliver their Budget 2016 commitment. That should encourage investment in the UK continental shelf. I therefore commend the clause to the Committee.

Kirsty Blackman: I congratulate the Minister on getting through that speech, because the subject of oil and gas taxation is incredibly technical and complicated. As the Minister has said, the clarification is welcome. Also incredibly welcome was the promise in the Budget this year to institute the transferable tax history changes that are required, and I appreciate the fact that that has happened. Industry has been calling for that for a while, as I have done quite a number of times in this room and in the main Chamber.

On "Maximising Economic Recovery", which the Minister mentioned, it is two years since former Prime Minister David Cameron came to Aberdeen and said that an oil and gas ambassador would be appointed, but we still do not have that ambassador. Will the Minister let us know when we are likely to get the ambassador, or has the idea been shelved permanently?

Mel Stride: I thank the hon. Lady for her recognition of the moves that we are making on transferable tax history. I agree that they are important for the sector, particularly given its current state of development. It is important to make sure that we keep the oil industry going in her part of the country. On her question about the oil and gas ambassador, I will make inquiries and come back to her. In terms of industrial strategy, as I mentioned in detail in my opening remarks, her part of the world and the oil and gas sector are extremely important to the Government and will remain so.

Question put and agreed to.

Clause 22 accordingly ordered to stand part of the Bill.

Clause 23

HYBRID AND OTHER MISMATCHES

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

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

Amendment 49, in schedule 7, page 96, line 22, at end insert—

"Review of operations

18A After section 259M, insert—

'259O Hybrid and other mismatches measures: review of operation

(1) Within 12 months after the passing of the Finance Act 2018, the Chancellor of the Exchequer must review the operation of the measures in this Part.

(2) The review under this section must consider—

(a) the impact of the measures on the use of hybrid transfer arrangements;

(b) the impact of the measures on the revenue effects of the use of hybrid transfer arrangements to reduce a person's tax liability;

(c) possible alternative or additional measures to reduce the use of hybrid transfer arrangements to reduce a person's tax liability;

(d) whether the measures constitute application of EU Directive 2016/1164 ("The Anti Tax Avoidance Directive"), including in what ways the measures do not constitute an application of that directive.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section as soon as practicable after its completion.'"

This amendment provides for a review of the measures against hybrid transfer arrangements to reduce a taxpayer's tax liability, and that this review consider whether alternative or additional measures would be more appropriate, and how these measures compare to the EU Anti Tax Avoidance Directive.

That schedule 7 be the Seventh schedule to the Bill.

12.45 pm

Mel Stride: Clause 23 makes changes to ensure that the hybrid and other mismatch rules introduced in 2016 operate as intended. It does so by introducing a small number of technical amendments to those hybrid rules.

The hybrid and other mismatches regime was introduced in the Finance Act 2016 and deals with mismatches involving entities, permanent establishments and financial instruments. The regime is a set of anti-avoidance rules that tackle certain tax planning arrangements by multinationals. The regime addresses arrangements that give rise to hybrid mismatch outcomes and generate a tax mismatch. In doing so, it fully implements and, as a matter of policy, in some areas goes further than the OECD base erosion and profit shifting action 2 recommendations.

Mismatches can involve either double deductions for the same expense or deductions for an expense without any corresponding receipt being taxable. A consultation with stakeholders identified some practical and technical changes necessary to ensure that the UK regime fulfilled the policy intention. The clause amends the UK hybrid rules to clarify how they should be applied.

The changes made by the clause ensure that the hybrid and other mismatch rules operate as intended. Those changes and the hybrid regime in general will affect multinational groups with UK parent or subsidiary companies involved in cross-border or domestic transactions involving a mismatch in tax treatment within the UK or between the UK and another jurisdiction. The changes do not alter the overall effectiveness of the hybrid regime and will protect the expected yield from that regime. In some cases, as a matter of policy, the UK regime goes beyond OECD recommendations.

The detailed changes set out in schedule 7 to the Finance Bill make it clear that withholding taxes are to be ignored for the purposes of the regime, disregard taxes charged at a nil rate, ensure that capital taxes can be taken into account in appropriate circumstances, ensure that a counter-action in relation to partnerships will be proportional, clarify the scope of the rules in relation to companies with overseas branches, provide for certain intra-group transactions to be taken into account when quantifying mismatches, ensure that in appropriate circumstances income taxed in two jurisdictions can be taken into account in relation to imported mismatches, and provide for accounting adjustments that reverse or reduce mismatches to be taken into account.

Amendment 49 asks for a review into the hybrid and other mismatches legislation, focusing particularly on the rules that deal with hybrid transfer arrangements. Hybrid transfers are one of the several types of hybrid and other mismatch arrangements within the scope of the hybrid mismatch rules introduced by the Finance Act 2016. The rules that deal with hybrid and other tax mismatches, including hybrid transfer arrangements, have been implemented in line with the OECD BEPS recommendations. Likewise, the hybrid rules within the EU anti tax avoidance directive were designed to be consistent with, and no less effective than, the OECD BEPS recommendations on hybrid mismatches. The UK was instrumental in ensuring that the ATAD rules met that requirement, and the UK rules on hybrid transfers are consistent with the ATAD requirements.

In broader terms, the expected yield from the hybrid and other mismatches regime has been certified by the Office for Budget Responsibility, and those figures will be kept under review as part of the normal process for fiscal forecasting and monitoring of receipts. A review, in short, is unnecessary and will not strengthen our understanding of the legislation. As clause 23 demonstrates, the Government are already monitoring the operation and impact of the hybrid mismatch rules and making any changes necessary to ensure that they work as intended. I therefore commend the clause to the Committee.

Anneliese Dodds: I am grateful to the Minister for his explanation of the measures. As he explained, hybrid mismatch arrangements exploit differences in the tax treatment of instruments, entities or transfers between two or more countries. Sadly, those arrangements have proliferated in a number of countries, as sophisticated taxpayers and tax advisers have spotted opportunities to reduce the tax payable by what might otherwise be profitable companies.

The result has often been double non-taxation, whereby neither country involved in the arrangement can receive revenue, or the deferral of tax over many years, which is in practical economic terms similar to double non-taxation. That is just one part of the international dimension of tax avoidance that is, sadly, generally not picked up in statistics on the UK's tax gap, but which experts maintain runs at a high level, denying our public services the revenue they need and placing small and medium-sized British businesses at a tax disadvantage.

Hybrid mismatch arrangements not only deny countries tax revenues but distort economic activity. They mean that investment decisions can be driven by tax-related criteria, not by effectiveness and efficiency. They can also lead to financial instability by encouraging tax-favoured borrowing and by reducing the transparency of company and taxation structures.

The Minister rightly referred to the groundswell of activity against these hybrid mismatch arrangements over recent years, from within the EU code of conduct group when it was chaired by the Labour MP Dawn Primarolo, and from 2013 onwards in the OECD and G20's base erosion and profit shifting action plan. As colleagues will know, action 2 of the BEPS project, as referred to by the Minister, is focused on neutralising the effects of hybrid mismatch arrangements. The Minister referred to the fact that the most recent changes in this Bill build on those from last year. They were originally tweaks to the 2016 Bill, which amended the Taxation (International and Other Provisions) Act 2010, as I understand it.

I think we in the Opposition would agree that the general direction of travel appears to be the right one—considering the tax treatment in our own country and the corresponding jurisdiction, aligning our roles with the OECD's approach and ensuring that measures have direct effect. As I understand it, in the past any measures had to be initially notified to the company before HMRC could take action. It is good that we now have a different approach. Above all, it is important that the new measures relate the tax treatment here to that in the corresponding jurisdiction. That means we need a more complex set of rules, but they are more appropriately targeted at dealing with the scourge of hybrid mismatch arrangements. It is precisely because of the need to continue to eliminate these arrangements that we believe a review is necessary.

I will quote here from an OECD report from 2012. It is, admittedly, from just before the BEPS process started, but I think it is still relevant. The report was specifically on hybrid mismatch arrangements, and it stated:

> "Country experiences…show that the application of the rules needs to be constantly monitored. Revenue bodies have noticed that arrangements may become more elaborate after the introduction of specific rules denying benefits in the case of hybrid mismatch arrangements."

The OECD report offers the example of Denmark, which in 2011 was required to amend its rules as sophisticated taxpayers and their advisers wised up to previous attempts to close loopholes.

I know that these specific rules are the result of successive rounds of finessing, from 2016 and through last year until now, but we would like a commitment to ensuring that the process continues through the mechanism of a review. I note that in discussions about the BEPS process, participating countries have expressed concern that without widespread acceptance and implementation of the new rules, the difficulties could be exacerbated by them. We really need more information about how they will operate in practice.

Of course, we must also bear in mind that the operation of these rules is affected by the foreign tax treatment of any companies concerned. In some ways, the Minister was absolutely right to say that such problems may have been reduced with the engagement of the OECD and EU in the adoption of consistent approaches to the treatment of hybrid mismatches. However, I note that there has been some suggestion that there is a different approach in the EU rules, as compared with the OECD rules, to the specific issue of which country is responsible for characterising the entity or instrument in the member state where the payment has its source. If that is still the case, our Government need to indicate to what extent our rules comply with the measures in the EU's winter 2016 tax package relating to hybrid mismatches. The Minister stated that he felt that those measures were coherent, but we would like to see a more thorough assessment of that.

On a related note, I refer to my previous comments. It would be helpful for the Government to indicate the relative merits of their current approach to hybrid mismatches compared with formula-based approaches—or at least to reflect on that, given that the EU's common consolidated corporate tax base programme is continuing at EU level. For all those reasons, I hope that the Minister and Government Members will agree to our sensible demand for a review of the effectiveness of these measures 12 months after their introduction.

Mel Stride: Once again, I thank the hon. Lady for a thoughtful contribution. I think we agree that hybrid mismatches are a form of avoidance and we need to clamp down on them as they operate between different tax jurisdictions. That is precisely why we are debating

[Mel Stride]

these measures today. She has reflected on the fact that they have come out of OECD and BEPS project activity, in which we have been absolutely at the forefront.

The hon. Lady said that she was satisfied with the general direction of travel. She made the important point that the work is, in effect, never done, because whenever we come up with new legislation to clamp down on loopholes, other, more ingenious, individuals out there come up with ways of working around it. By way of example, she raised the issue of identifying the effective country of origin for the hybrid mismatch and the different approaches that the OECD and the EU might have.

I reassure the hon. Lady that we agree with her on everything up to that point, and that we will continue to monitor the measures. There is no necessity to have some wide-ranging review that will go into things over time and report back while we wait for the outcome, because day in, day out we are monitoring exactly what is happening. The best evidence that I can provide for our approach and its efficacy is the fact that we have this clause at all. It is a perfect example of the way in which Government have put out some legislation to clamp down on tax avoidance—we are determined to do that—watched what has happened, identified some issues and come back to legislate quickly and in a timely way to ensure that we close new loopholes as they occur.

I ask the hon. Lady to withdraw her amendment and the Committee to accept the clause.

Question put and agreed to.

Clause 23 accordingly ordered to stand part of the Bill.

Amendment proposed: 49, in schedule 7, page 96, line 22, at end insert—

'*Review of operations*

18A After section 259M, insert—

"**259O Hybrid and other mismatches measures: review of operation**

(1) Within 12 months after the passing of the Finance Act 2018, the Chancellor of the Exchequer must review the operation of the measures in this Part.

(2) The review under this section must consider—

(a) the impact of the measures on the use of hybrid transfer arrangements;

(b) the impact of the measures on the revenue effects of the use of hybrid transfer arrangements to reduce a person's tax liability;

(c) possible alternative or additional measures to reduce the use of hybrid transfer arrangements to reduce a person's tax liability;

(d) whether the measures constitute application of EU Directive 2016/1164 ('The Anti Tax Avoidance Directive'), including in what ways the measures do not constitute an application of that directive.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section as soon as practicable after its completion."'—*(Anneliese Dodds.)*

This amendment provides for a review of the measures against hybrid transfer arrangements to reduce a taxpayer's tax liability, and that this review consider whether alternative or additional measures would be more appropriate, and how these measures compare to the EU Anti Tax Avoidance Directive.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 5]

AYES

Blackman, Kirsty
Carden, Dan
Dodds, Anneliese
Dowd, Peter
George, Ruth
Lee, Ms Karen
Pidcock, Laura
Smith, Jeff
Thewliss, Alison

NOES

Burghart, Alex
Chalk, Alex
Clarke, Mr Simon
Graham, Luke
Kerr, Stephen
Maclean, Rachel
Philp, Chris
Rutley, David
Stride, rh Mel
Whately, Helen

Question accordingly negatived.

Schedule 7 agreed to.

The Chair: Does the Government Chief Whip wish to make a remark?

The Lord Commissioner of Her Majesty's Treasury (David Rutley): Chief Whip? *[Laughter.]*

Ordered, That further consideration be now adjourned.—*(David Rutley.)*

12.58 pm

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE (NO. 2) BILL

Fourth Sitting

Thursday 11 January 2018

(Afternoon)

CONTENTS

Clause 24 agreed to.
Schedule 8 agreed to, with amendments.
Clauses 25 to 29 agreed to.
Adjourned till Tuesday 16 January at twenty-five minutes past Nine o'clock.
Written evidence reported to the House.

PBC (Bill 134) 2017 - 2019

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Monday 15 January 2018

The Committee consisted of the following Members:

Chairs: Sir Roger Gale, † Albert Owen

† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Burghart, Alex *(Brentwood and Ongar)* (Con)
† Carden, Dan *(Liverpool, Walton)* (Lab)
† Chalk, Alex *(Cheltenham)* (Con)
† Clarke, Mr Simon *(Middlesbrough South and East Cleveland)* (Con)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Dowd, Peter *(Bootle)* (Lab)
† George, Ruth *(High Peak)* (Lab)
† Graham, Luke *(Ochil and South Perthshire)* (Con)
† Kerr, Stephen *(Stirling)* (Con)
† Lee, Ms Karen *(Lincoln)* (Lab)
† Maclean, Rachel *(Redditch)* (Con)
† Philp, Chris *(Croydon South)* (Con)
† Pidcock, Laura *(North West Durham)* (Lab)
† Rutley, David *(Lord Commissioner of Her Majesty's Treasury)*
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Stride, Mel *(Financial Secretary to the Treasury)*
† Thewliss, Alison *(Glasgow Central)* (SNP)
† Whately, Helen *(Faversham and Mid Kent)* (Con)

Colin Lee, Jyoti Chandola, Gail Bartlett, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 11 January 2018

(Afternoon)

[ALBERT OWEN *in the Chair*]

Finance (No. 2) Bill

(Except clause 8; clause 33 and schedule 9; clauses 40 and 41 and schedule 11; new clauses or new schedules relating to the income tax treatment of armed forces' accommodation allowances, the bank levy, stamp duty land tax, the effect of the Bill on equality, or the effect of the Bill on tax avoidance or evasion)

2 pm

Clause 24 ordered to stand part of the Bill.

Schedule 8

Corporate interest restriction

Amendments made: 46, in schedule 8, page 100, line 24, at end insert

"or held for distribution to owners".

Amendment 47, in schedule 8, page 100, leave out lines 27 to 29 and insert

"each of the following expressions has the meaning given by international accounting standards—

"held for distribution to owners"

"held for sale"

"subsidiary"."—*(Mel Stride.)*

Schedule 8, as amended, agreed to.

Clause 25 ordered to stand part of the Bill.

Clause 26

Freezing of indexation allowance for gains chargeable to corporation tax

Peter Dowd (Bootle) (Lab): I beg to move amendment 48, in clause 26, page 18, line 35, at end insert—

'(7A) Within 12 months of the passing of this Act, the Chancellor of the Exchequer must review the impact of the provisions of this section.

(7B) A review under subsection (7A) must consider the revenue effects of freezing indexation allowance for gains chargeable to corporation tax.

(7C) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under subsection (7A) as soon as practicable after its completion."

This amendment provides for a review to be undertaken on the revenue effects of freezing indexation allowance for gains chargeable to corporation tax in Clause 26 of the Bill.

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

Peter Dowd: The measures in clause 26 are aimed at aligning and consolidating tax and accounts. This clause will freeze the indexation allowance currently in place for companies' gains that are chargeable to corporation tax. As things stand, companies do not have to pay tax on the proportion of their capital gains attributable to inflation. Instead, as hon. Members know, what happens is that when calculating a gain on the disposal of an asset, companies apply an indexation factor on the acquisition, enhancement or disposal of the asset that reflects movements in the retail prices index over the period since the expenditure occurred.

This system is different from the treatment of individual taxpayers, for whom the allowance was first frozen in March 1998 and then abolished in April 2008. That prompts the question: why was the allowance for companies not reformed and abolished at the same time, to avoid the situation that we have had for the past nine years, whereby there has been one set of rules for individual taxpayers and another for companies? However, we are where we are. It is another example of a needless complication in the tax system that causes problems for lawmakers, tax accountants, financial advisers, Her Majesty's Revenue and Customs and taxpayers alike.

The indexation allowance is in effect a tax relief from capital gains tax on inflation. The allowance may have been minimal before the drop in the pound, but with inflation at 2.8%, 3% and so on, it is potentially becoming a substantial amount of money. According to the Treasury's estimates, the change could be a significant revenue raiser. It estimates that it will raise £30 million this year alone, and that that will go up to £525 million for 2022-23. Of course, that revenue would be a welcome addition to the public coffers, but we have a degree of scepticism about the figures, because in the past we have had from the Government figures and costings for measures that have been out of kilter quite heavily.

The most recent example was the revenue to be raised from the soft drinks industry levy, which was introduced in the first Finance Bill last year. Hon. Members may recall that that was dealt with in the wash-up. Opposition Members agreed to it going through its stages pretty smoothly. We always have concerns when there is a question about whether we can sufficiently challenge Government proposals, but as this was the sugar tax, and it was not just a tax-raising measure but had broader public health benefits, we were happy to allow it to go through. It was suggested in the draft proposals that the levy would raise an ambitious £520 million. However, the Chancellor announced in the 2017 spring Budget that its estimated revenue had been revised down to £380 million, and the Office for Budget Responsibility forecast in December, on the basis of the Government's Red Book for the autumn Budget, that it would raise only £300 million. That is a whopping £220 million less than the Government's original forecast, and a further £80 million less than the revised figure that the Chancellor provided in the spring Budget.

It is important for us to be clear. If the Government provide us with figures—I believe that they did so in good faith—we have a duty to challenge them. That miscalculation—I use that word rather than any other—only adds to the growing hole in the public finances. It is important for us to challenge the Government's figures and assumptions.

That is why the Opposition tabled amendment 48, which would require the Government to commission a review of the revenue effects of freezing the indexation allowance for gains chargeable to corporation tax. I am sure that the Minister is sympathetic to our concern that some companies may still seek a way round the change, rather than paying an increasing amount on the inflationary element of gains. The amendment is an attempt by the Opposition to say, "Fine, the Government's indexation proposal is okay—but let's test the figures a little more." Let us have a review. Let us ensure that we are not in the same situation as we were with the soft drinks levy, which does not raise as much revenue as we thought it might.

Alison Thewliss (Glasgow Central) (SNP): The Minister will be aware that the insurance industry has raised concerns about the impact of the clause on fairly small savers, such as people with endowments that were sold door to door. There is a report on the BBC website that quotes Steve Webb, a former Minister who now works with Royal London, on the impact that the clause will have on Royal London's savers. Standard Life is also reported to have concerns. We are therefore not entirely content with the clause. We will not oppose it at this stage, but we reserve the right to look at it again on Report.

We would like the Government to address the industry's concerns, and I have a few questions for the Minister. It is estimated that the clause will affect 11.6 million policyholders, most of whom are basic rate taxpayers, and the industry estimates that the impact will be in excess of £250 million per year—double the figure implied by the Chancellor at the Treasury Committee in December. Individual life insurance policyholders may pay an average of £21, and in some cases up to £150, per policy per annum. That is a considerable impact given that such people have relatively small savings.

The Chancellor said in December in response to my hon. Friend the Member for Dundee East (Stewart Hosie), who sits on the Treasury Committee, that the change will have a "modest impact", but that is not a modest impact for those savers—it is significant. The policies that the clause will affect include non-pension unit-linked, non-pension with-profits and whole-of-life policies, as well as endowments, which I mentioned. On what basis did the Government reach the conclusion that the change will have a modest impact and affect a relatively small number of policyholders? We are talking about 11.6 million people—not a small number by any manner or means. Those policies may represent a relatively small amount of money to the Government, but the change will have a significant impact for those people.

Have the Government made an assessment of the number of policies affected? Have they produced a detailed impact assessment that can be shared with members of the Committee? Will the Minister commit to providing further information on the impact of the policy on individual savers? The coverage in newspapers at the time of the Budget and since raises concerns that more policyholders will be affected than the Government at first assumed.

I would like as much clarification as the Minister can give us today. If he could write to me later with more detailed information, that would also be welcome. We want to put on record our concerns about the impact there might be; perhaps there will be unintended consequence, and maybe the impact has not been fully considered. Given the concerns that the industry is raising, it would be good get a commitment from the Government on how those will be addressed.

The Financial Secretary to the Treasury (Mel Stride): The clause freezes the indexation allowance—a relief for inflation—for a company's chargeable gains for disposals on or after 1 January 2018. It may be useful for the Committee if I set out the background to the clause, although other Members have touched on it, before I turn to amendment 48 and the questions posed by the hon. Member for Glasgow Central.

Removing this outdated allowance supports the UK's competitive rate of corporation tax by removing a relief that is not available consistently across corporation tax to individuals, as the hon. Member for Bootle pointed out, or in most major comparable economies. In doing so, the Government recognise the importance of being fair and proportionate. As companies may have factored in relief for inflation before the autumn Budget, relief will remain available for inflation before January 2018. However, it will no longer be available from 2018 onwards.

Companies pay tax on the capital gains they make on the disposal of certain assets, such as property. In most circumstances, the capital gain is based on the rise in value of the asset over the period of ownership. Indexation allowance relieves a proportion of that gain from the charge to tax, based on the rise in the retail prices index, during the same period. Companies therefore pay tax only on the gains they make over and above inflation.

The economy and tax system have changed substantially since the allowance was introduced in 1982, when the rate of corporation tax was 52%; inflation in the preceding decade had been in double digits. While I certainly take on board the hon. Gentleman's point about the current level of inflation owing to the depreciation of the pound and other factors, the Office for Budget Responsibility projects that inflation will peak at 3.1% and tail off towards 2% across the period. While there used to be a rationale for such an allowance, it has become something of an anachronism.

The amount of indexation allowance due is calculated by multiplying the purchase price of the assets by the indexation factor. As I set out, that is currently based on the increase in the retail prices index over the period an asset is owned, from the date it is acquired to the date it is disposed of. Going forward, the allowance will no longer be calculated by reference to the date an asset is sold; instead, it will be calculated by reference to the final month before the relief is removed—in other words, December 2017. That means that, where a company acquired an asset before 2018, relief from inflation will be available from the date the asset was acquired up to December 2017. The indexation allowance will not be available for assets acquired from January 2018 onwards.

I turn to the questions posed by the hon. Member for Glasgow Central. I recognise the points that she makes. While these changes affect corporation tax, they do, in the context of life assurance policies, have potential impacts on individuals and their income net of tax. I do not recognise the large number of 11 million policyholders that she mentioned. I am not sure what the source of that figure was. However, as she requested, I am happy to hear from her, speak to her or have a letter from her on any of the aspects she may have an interest in.

Kirsty Blackman (Aberdeen North) (SNP): It would be welcome if the Government could offer clarification on the numbers before Report, because that will affect what we do on the clause then.

Mel Stride: That is perfectly reasonable. I am sure my officials are listening carefully, and we will ensure that we give a prompt response to the letter, which we await.

[Mel Stride]

Opposition Members have requested a review of the revenue effects of this change. I am happy to say that the revenue forecast for the measure was confirmed by the OBR at the Budget as £30 million in 2017-18; it will raise £1.77 billion over the scorecard period. As per routine procedure, we will keep the measure under review through communication with affected taxpayer groups. I commend the clause to the Committee.

2.15 pm

Peter Dowd: I hear what the Minister says. I am sure that he will appreciate that the figures produced by the OBR are different from those produced by the Chancellor of the Exchequer. None the less, in the spirit of co-operation, I am happy to withdraw the amendment and keep tabs on this. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 26 ordered to stand part of the Bill.

Clause 27

Assets transfer to non-resident company: reorganisations of share capital etc

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

The Chair: With this it will be convenient to discuss new clause 11—*Review of financial impact of postponement of charge on share exchange in overseas transferee company*—

'(1) Within twelve months after the passing of this Act, the Chancellor of the Exchequer must review the financial impact of the changes made by section 27 of this Act to section 140 TCGA.

(2) The review under this section must consider—

(a) the revenue effects of the change made, and

(b) the extent to which the change has supported UK companies to conduct international business.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section as soon as practicable after its completion."

This new clause provides for a review of the revenue impact and the impact on business of the change to TCGA to prevent a postponed chargeable gain from becoming chargeable following further restructuring of a UK Company's overseas business.

Mel Stride: Clause 27 will ensure that where a series of changes have been made to the corporate structure of a group, the rules for taxing the capital gain at the final stage of the change work as the Government intend.

The situation that the clause addresses is where a group reconstruction involves a part of the business that has previously converted from a branch operation into one carried on by a separate overseas company. That is done through an exchange of the foreign branch business and assets for shares in the overseas company. If the assets have increased in value, the group may be liable for tax on the capital gain. The tax system allows it to defer paying that until either the assets of the business or the shares in the overseas company are sold or otherwise disposed of outside the group. That is a sensible approach. It means that groups pay tax on the full level of gains when they realise them through selling an asset and generate a profit to pay the tax with, but they are not charged on a purely internal restructuring.

The introduction of the substantial shareholding exemption in 2002 affected those rules in a way that was not intended, meaning that the tax on the earlier capital gain may become payable if there is a later restructuring, even if that does not involve a sale outside the group. The need to undertake such reconstructions has been rare since 2002, so the anomalous tax outcome was not identified as problematic until recently. However, it is now a cause for concern to some businesses, mainly due to changes in regulatory requirements of some overseas tax jurisdictions. The clause corrects that anomaly.

The change made by the clause will affect groups that commonly operate overseas through branches. It will be welcomed by them, as it will give them certainty in arriving at their commercial decisions when considering restructuring. It is a wholly relieving measure with negligible fiscal impact, as the groups that were affected by the problem would either have found other ways to deal with it or simply not have proceeded with the proposed transaction.

Opposition Members have requested a review of the revenue effects of this change and of the extent to which it has supported UK companies in conducting international business. I am happy to provide them with further information on those points. The OBR has agreed that there will be no revenue effects, because if the changes were not made, the companies concerned would either not undertake the reorganisation or would reconstruct in a way that did not create a tax charge. In either case, they would have to suffer a less than ideal commercial structure because of an anomaly in the tax rules.

This change will help a small number of businesses. On its own, it will not make a big difference, but it will contribute to our wider approach of encouraging UK businesses to conduct international business. The purpose of the change is to remove an anomaly at no cost to the Exchequer. On that basis, I hope that the hon. Member for Bootle will not press the new clause to a vote, and I commend clause 27 to the Committee.

Peter Dowd: Clause 27 amends the Taxation of Chargeable Gains Act 1992 to ensure that tax postponed does not become due on the occasion of a subsequent corporate restructuring involving the exchange of shares in an overseas transferee company where the substantial shareholding exemption applies to the share exchange. The Government's explanation for this change is that the measure removes an unintended tax barrier to commercial restructuring of groups. I will not go into the ins and outs of this, which the helpful explanatory notes set out.

The argument for this change is that currently, companies that use the substantial shareholding exemption can treat the gain or loss on a disposal of shares as exempt from corporation tax on chargeable gains. A by-product of that is that a chargeable gain could be chargeable on a further restructuring of the company, with the old shares of the securities treated as new ones, despite the same corporate group continuing to own them. The new clause seeks to track that unintended change.

Clearly, the Government's case is that the unintended tax change creates barriers, particularly for financial sector businesses that have traditionally operated through a network of foreign branches and need to restructure, for example to meet changing regulatory requirements in the territories where they conduct their business. That seems perfectly reasonable, but will the Minister give us a few examples, now or in due course?

While we accept the Government's argument about the unintended consequence of correcting the tax change, we do not necessarily accept the costings put out by the Treasury, which argues that the change would in effect have zero impact on its finances. In our view, there is a lack of information from the Treasury and the OBR about the revenue that the unintended tax change has raised. I press the Minister to, if possible, publish those figures.

That is why we have put forward new clause 11, which would require the Minister to report back to Parliament on the revenue implications, on the impact on the Exchequer and on the restructuring of UK companies' overseas business. If the Opposition are to accept the Government's case that the current measures are a barrier to restructuring, leading to lost revenue for UK companies and lost investment in the UK, it is only reasonable that the Minister should produce evidence to that effect.

We are also interested to know whether there are any losses of revenue to the Exchequer. The Minister says they are "negligible". It is not that I do not accept that; I am just trying to be clear about this. The Minister should explain, if there is a loss of revenue, how that loss will be filled, how much it is, whether he will be clear in keeping tabs on the process—for example, through the review we want—and how the measure will be implemented.

Mel Stride: The first point to make is that the measure will affect an extremely small number of businesses. We are talking a multiple of handfuls. That is one of the drivers for the negligibility of the costs. I am pleased that the hon. Gentleman appears broadly to welcome the thrust of what we are doing. On the issue of cost that he raises, the figures have been verified by the Office for Budget Responsibility, so an independent organisation has had a look at them, and we are not relying on the Treasury. By "negligible", I mean that we are looking at an impact of less than £5 million in any one year across the scorecard period.

The figures would be relatively negligible not just because of the small number of businesses involved, but because, in the absence of the changes, we would expect those companies either not to restructure in the way we are now facilitating, or to find different ways of approximating the same thing without incurring the tax disadvantages that we seek to remove through this clause.

Question put and agreed to.

Clause 27 accordingly ordered to stand part of the Bill.

Clause 28 ordered to stand part of the Bill.

Clause 29

First-year tax credits

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

The Chair: With this it will be convenient to discuss new clause 12—*First Year Tax Credits: Review of effectiveness*—

'(1) The Chancellor of the Exchequer must commission a review of the effectiveness of First Year Tax Credits.

(2) The review under this section must consider—

(a) the effectiveness of First Year Tax Credits on—

(i) encouraging investment in efficient plant and machinery,

(ii) reducing the consumption of energy by business,

(iii) aiding the UK's carbon reduction obligations, and

(b) the impact on revenue of the tax credits.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section within twelve months of the passing of this Act."

This new clause would require the Chancellor of the Exchequer to commission and lay before the House of Commons a report into the effectiveness of First Year Tax Credits.

Mel Stride: Clause 29 will extend the first-year tax credit scheme to 2023 and reduce the rate of eligible claims to two thirds of the corporation tax rate. That will ensure that loss-making companies are appropriately incentivised to invest in energy-saving equipment following reductions in the corporation tax rate.

As the Committee will be aware, first-year allowances allow companies immediately to deduct the cost of qualifying energy-efficient and water-efficient equipment from their tax liability. However, loss-making businesses are not able to benefit from tax deductions, so in 2008 the first-year tax credit was introduced, which provided loss-makers with a payable credit to ensure that they were still incentivised to invest in energy-efficient equipment. The original legislation was amended in 2013 to include a sunset clause that stipulated that the scheme would expire in March 2018 unless the Government legislated to extend it.

The first-year tax credit scheme helps as many as 100 loss-making companies annually to invest in energy-saving and water-saving equipment. It enables a business to bring forward its investment to get the machinery it needs when it is needed. The changes made by the clause will extend the life of the policy to 2023 to ensure that that support continues.

Since 2008, the tax credit rate has been fixed in law at 19%, but over the same timeframe the corporation tax rate has been reduced from 28% in 2008 to 19% today, and it is legislated to fall to 17% in 2020. Therefore, the incentives for profit-making and loss-making companies have become misaligned from their original policy intention.

The clause will therefore peg the tax credit rate to two thirds of the corporation tax rate, as opposed to a specific percentage. That will ensure that the policy is in line with its original intention by ensuring that the incentive to invest in energy-saving equipment is not disproportionately greater for loss-making companies than for profitable companies that can deduct their expenses from their tax bill. Pegging the tax credit rate to the corporation tax rate will also ensure that the scheme operates as intended when powers to set the corporation tax rate are devolved to Northern Ireland.

New clause 12 would require a review of the effectiveness of first-year tax credits in encouraging business energy efficiency and of their impact on tax revenues. As with all aspects of the tax system, the Government regularly review tax reliefs to ensure that they are effective in fulfilling their objectives. In line with that practice, and to allow an opportunity fully to evaluate the relief, the legislation includes a sunset clause that means that it will expire in 2023 unless renewed.

[Mel Stride]

In addition, first-year tax credits are available only for investments made on qualifying equipment published on the energy technology list or the water technology list, which are routinely updated to ensure that the technologies listed meet efficiency criteria. The reviews of qualifying products are administered by the Department for Business, Energy and Industrial Strategy and the Department for Environment, Food and Rural Affairs respectively. The performance criteria for each review and the products that meet those criteria are publicly available.

To conclude, extending the policy will ensure that loss-making companies remain incentivised to invest in equipment with the greatest environmental benefits. Following the reduction in the corporation tax rates, the changes in the clause will also ensure that the scheme remains in line with the original policy intention.

Anneliese Dodds (Oxford East) (Lab/Co-op): I am grateful to the Minister for his summary of the background to the measures and their purpose. I certainly agree that their initial purpose was to mitigate the barrier of high purchase costs where the efficiency of a product might provide savings to business and wider environmental benefits. The measures were introduced under a Labour Government in 2008 before being reintroduced in 2013. The Committee is considering their extension and some recalibrations, as the Minister set out.

None the less, we have tabled an amendment requiring a review of first-year tax credits as they currently exist. As the Minister stated, our review would examine the extent to which they encouraged investment in efficient plants and machinery, reduced the consumption of energy by business, and aided the UK's carbon reduction obligations. We would also like the review to assess their impact on revenue. After all, as is the case with every tax relief, the tax credits amount to forgone tax.

Looking at this issue as a Member of Parliament, it does not appear to me—perhaps Conservative Members have had different experience when investigating this change in readiness for the Committee—that a huge amount of information is available on the current impact of the tax relief. It is not clear exactly who is using it, the average size of the companies or their sector. From what I can gather from the experts I have asked, the overall cost of the tax relief seems to be bundled up in HMRC's summary of the estimated cost of all capital allowances, within its overall summary of the estimated costs of principal tax reliefs.

2.30 pm

Incidentally, if colleagues are interested, the estimate for the cost of all capital allowances for 2016-17 is £22.5 billion.

The Government have stated that they will keep the measure under review through regular communication with affected taxpayer groups—the Minister has just explained how, in particular, the list of products that can be supported through the scheme is kept under review—but there is no commitment publicly to review the revenue impact of the relief as it operates at the moment, or to review exactly what its incidence is in terms of different sectors, firms, their size and so on. We believe that that is necessary.

From what I understand, the only formal attempt to review the tax credits' use and cost is through boxes on tax returns. I am unclear how the evidence from filling in those boxes is collected and collated and whether it is then publicly reported anywhere; it does not seem to be. It is essential that we understand the extent and impact of the expenditure. To put this in context with the Government's cuts to environmental efforts in other areas, colleagues will be aware, for example, that the energy company obligation has been reduced to £640 million a year from £860 million a year under the previous obligation, which itself was a reduction from the ECO in its original form, which came to £1.2 billion. There has also been a reduction of about 88% in the installation of major insulation measures compared with rates under the Labour Government.

Part of that context is that the Government released their strategy for clean growth—more than a year after their initial commitment to do so—only after coming under significant pressure within and outside Parliament and, apparently, breaking a commitment under the Climate Change Act 2008 that required them to produce a climate change plan, to be published as soon as its order had been laid. That has not come as a surprise to those of us who follow the issue of air quality, which has already been mentioned in the Committee, on which the Government have repeatedly been taken to court successfully.

We need to be able to assess the efficacy of the first-year tax credits in generally boosting water quality and efficiency and reducing carbon emissions against measures that could be introduced but have not been and those that this or previous Conservative Governments have cut. Many of us had hoped that the Office of Tax Simplification would be able to undertake just such a detailed analysis for us, but that has not yet happened for environmental measures. Therefore, I repeat our request for a proper review of the tax reliefs.

Ruth George (High Peak) (Lab): The total corporation tax take in the last year was £56 billion and capital allowances reduced that bill by £22.5 billion—almost half as much again of the total bill. Does my hon. Friend not agree that that makes it even more important that we review such a substantial area of reduction in corporation tax?

Anneliese Dodds: I thoroughly agree with my hon. Friend. I must admit that the UK is not alone in its general lack of consideration of the incidence of tax reliefs and their impact on forgone expenditure, but surely we need to be at the forefront of public administration and public policy globally. We should be considering the issue. As my colleagues mentioned, we are talking about not small amounts of money but very substantial amounts, which to all intents and purposes are forgone tax, although they are classified differently from expenditure within Government accounts. For that and many other reasons, I commend the amendment to the Committee.

Mel Stride: It is pleasing to see that the hon. Lady and I can agree on a measure that was introduced under a Labour Government. It is something good that we are keeping going, but improving at the same time. That is our mission.

I will be brief, and will not go into all the discussions around the climate change arguments put by the hon. Lady; I will focus on the amendment specifically and the review that it calls for. The measure affects only a small number of businesses, in the order of about 100. We will, of course, keep this tax measure under review, as we do all tax measures. On the basis of the size of the measure and the universe to which it applies, I feel strongly that it would be disproportionate to introduce a full review of its effects.

On that note, I urge the Committee to agree to the clause. I think that the Chief Whip—sorry, I mean the Whip—will intervene shortly to suggest that the Committee adjourn. With that information in mind, I thank the Committee for its deliberations today and look forward to further deliberations on Tuesday. I wish everybody an enjoyable weekend when it comes.

The Chair: I am grateful to the Minister, who is on top form. For clarification, we are not considering an amendment; it is a new clause. The vote on it will be held at a later stage, so I will put the question that clause 29 stand part of the Bill.

Question put and agreed to.

Clause 29 accordingly ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—*(David Rutley.)*

2.35 pm

Adjourned till Tuesday 16 January at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

FB20 WTT Consulting Ltd

FB21 This person wishes to remain anonymous

FB22 WTT Consulting Ltd—further submission

FB23 Chartered Institute of Taxation (clause 35 and schedule 10)

FB24 This person wishes to remain anonymous

FB25 This person wishes to remain anonymous

FB26 James D Jones-Tinsley FPMI APFS, for and on behalf of Barnett Waddingham LLP

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE (NO. 2) BILL

(Except clause 8; clause 33 and schedule 9; clauses 40 and 41 and schedule 11; new clauses or new schedules relating to the income tax treatment of armed forces' accommodation allowances, the bank levy, stamp duty land tax, the effect of the Bill on equality, or the effect of the Bill on tax avoidance or evasion)

Fifth Sitting

Tuesday 16 January 2018

(Morning)

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No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 20 January 2018

The Committee consisted of the following Members:

Chairs: † Sir Roger Gale, Albert Owen

† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Burghart, Alex *(Brentwood and Ongar)* (Con)
† Carden, Dan *(Liverpool, Walton)* (Lab)
† Chalk, Alex *(Cheltenham)* (Con)
† Clarke, Mr Simon *(Middlesbrough South and East Cleveland)* (Con)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Dowd, Peter *(Bootle)* (Lab)
† George, Ruth *(High Peak)* (Lab)
† Graham, Luke *(Ochil and South Perthshire)* (Con)
† Kerr, Stephen *(Stirling)* (Con)
† Lee, Ms Karen *(Lincoln)* (Lab)
† Maclean, Rachel *(Redditch)* (Con)
† Philp, Chris *(Croydon South)* (Con)
† Pidcock, Laura *(North West Durham)* (Lab)
† Rutley, David *(Lord Commissioner of Her Majesty's Treasury)*
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Stride, Mel *(Financial Secretary to the Treasury)*
† Thewliss, Alison *(Glasgow Central)* (SNP)
† Whately, Helen *(Faversham and Mid Kent)* (Con)

Colin Lee, Jyoti Chandola, Gail Bartlett, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 16 January 2018

(Morning)

[Sir Roger Gale *in the Chair*]

Finance (No. 2) Bill

(Except clause 8; clause 33 and schedule 9; clauses 40 and 41 and schedule 11; new clauses or new schedules relating to the income tax treatment of armed forces' accommodation allowances, the bank levy, stamp duty land tax, the effect of the Bill on equality, or the effect of the Bill on tax avoidance or evasion)

Clause 30

Reduction of relief in cases where losses relieved sideways etc

9.25 am

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

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

Clause 31 stand part.

New clause 13—*Review of effectiveness of limit to double taxation relief*—

"(1) No later than 31 March 2019, the Chancellor of the Exchequer must review the effects of the limit to double taxation relief made by section 30.

(2) The review under this section must consider—

(a) the effects of the change on annual revenue, and—

(b) the size and type of companies benefiting from the relief and the impact of the changes on them.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section as soon as practicable after its completion."

This new clause provides for a review of the new limit for double taxation relief available to companies for foreign tax paid on income of a foreign permanent establishment.

The Financial Secretary to the Treasury (Mel Stride): Good morning, Sir Roger. As ever, it is a great pleasure to serve under your chairmanship.

Clauses 30 and 31 will ensure that companies operating overseas cannot benefit from tax relief twice for the same loss. Many UK companies operate overseas through branches. To prevent double taxation on the profits of those branches—tax payable both in the UK and overseas—rules exist that provide relief in the UK for foreign tax paid. However, we are aware that some companies with foreign branches set losses incurred by those branches against the profits of other overseas group companies, rather than against the future profits of the branch. As a result, foreign tax is paid on future branch profits without taking into account past losses. That foreign tax is then used to claim double tax relief against UK tax on the branch profits.

Relieving foreign losses in that way creates an unfair outcome for the UK Exchequer. UK companies effectively get tax relief twice in the UK—once as a deduction from their taxable UK profits for the loss, and again by way of double tax relief. Clause 30 will address that by restricting double tax relief when the losses of an overseas branch have been used to relieve foreign tax paid by other overseas group companies. The clause will stop companies exploiting the UK's double tax relief system to disadvantage unfairly the UK Exchequer. The measure will apply only to future claims for double tax relief. However, to be effective and protect significant revenues, it will apply where losses have already been relieved against the profits of other group companies.

The Opposition's new clause 13 calls for a statutory review of the impact of that restriction of double tax relief. I think it would be useful, in response, to review the processes and track record of Her Majesty's Revenue and Customs in this area. First, the costings of the measure were prepared by HMRC's central analytical team, which specialises in quantifying the impact of changes to tax legislation. Secondly, HMRC has significant experience in amending tax legislation to restrict opportunities for companies unfairly to reduce the tax they pay. For example, an amendment to the double taxation relief for loan relationships income in the 2014 Finance Act successfully protected tax revenue. Thirdly, HMRC regularly carries out reviews of tax legislation to ensure that it continues to meet its objectives, and the assessment of tax receipts is an important part of those reviews. The Opposition's proposed review would not add to that analysis, and it is therefore unnecessary.

Clause 31 will amend the targeted anti-avoidance rule, which protects against certain ways of artificially creating or increasing a double tax relief claim. At present, the obligation to apply the TAAR lies with HMRC, not with the taxpayer. That puts HMRC at a disadvantage. In some cases, HMRC does not have sufficient information to identify, within the relevant statutory time limit, whether the TAAR is applicable. To address that, we are updating the double taxation relief TAAR to align it with more recent TAARs. The clause will remove the requirement for HMRC to give notice that the TAAR is being applied. Instead, the onus will be on the taxpayer to consider, during their self-assessment, whether the TAAR is applicable. We are also slightly extending the scope of the TAAR to ensure that it applies to double taxation relief schemes that involve transactions across a group.

Clauses 30 and 31 will ensure that companies pay a fair amount of tax in the UK and will protect significant tax revenue. I therefore urge the Committee to support them.

Anneliese Dodds (Oxford East) (Lab/Co-op): It is good to be here under your chairmanship, Sir Roger. I appreciate the Minister's explanation of clauses 30 and 31, but the Opposition request a review of their effectiveness in deterring the inappropriate use of double taxation relief, particularly as they relate both to funds received by the Exchequer and to the companies potentially affected by them.

Colleagues will be aware that, as the Minister said, double taxation arrangements have been under discussion for an extremely long time—effectively since the beginning of globalisation, if we take that term as referring to the proliferation of multinational companies. The international finance conference in Brussels in 1920 raised the need to consider the impact of double taxation on firms, and from 1923 to 1927 some of the first agreements to avoid double taxation came into force. Such agreements have been under continual discussion in more recent years within the OECD, as have been provisions to prevent the contrary: double non-taxation, which we are discussing today.

The extent of double non-taxation is believed by many commentators to be extremely significant, which is part of the reason why the Opposition are not convinced by claims that the tax gap has recently reduced; that tax gap does not include international profit shifting, such as that obtained by manipulating double taxation rules. That is why Labour's tax transparency and enforcement programme offers a series of measures to deal with profit shifting.

The measures under discussion follow on from attempts made in the 2009 Finance Bill to clarify measures in the Finance Act 2005 that examine double taxation relief specifically for banks. That Act limited credit for foreign tax paid on trade receipts of a bank to no more than the corporation tax arising on the relevant part of the trade profits. Changes were made after the Act to prevent income being artificially diverted to non-banking companies in bank groups. That loophole, which was being exploited, was shut down by ensuring that the restriction applied to all relevant receipts going across a group. Such profit shifting was therefore prevented. The clauses under discussion will offer a similar tightening for non-bank companies, as well as other alterations and restrictions on the use of double taxation relief.

The Opposition are asking for a review for a variety of reasons. First, it would be helpful to understand from the banking sector's experience whether the new rules are likely to have a positive effect, and what the magnitude of that effect is anticipated to be. Secondly, alternative approaches are available, and it would be helpful to assess the Government's approach against those. In particular, I understand that the US has adopted a different approach to limiting the benefits of relief from double taxation. The UK's approach, which I accept is in common with the OECD's, is to focus the dissuasion from using an appropriate double taxation relief on the transaction and its nature. By contrast, the US approach relates to those entities that can benefit from favourable tax treatment; it focuses on the entity, rather than the transaction. As I discovered when looking at the debates on the 2003 agreement between the UK and the US on double taxation and non-taxation, the two approaches have to come together when we have a treaty with the US on tax matters. It would be helpful to know whether the Government have considered the apparently more restrictive approach adopted by the US.

It would also be helpful to know more about the removal of the counteraction notice specified in the clauses. Colleagues may remember—though they probably have more important things to think about—that in the discussion on hybrid mismatches, I asked whether a counteraction notice was still required. I do not recall receiving a totally clear answer, although the Minister offered many other helpful clarifications. Clause 31 removes the requirement to give a notice to trigger the double taxation relief targeted anti-avoidance rule, as the Minister mentioned. That seems to follow an approach of amending provisions to remove such notices when the measures concerned are otherwise under review, as part of a wholesale approach to reviewing the measures. The explanatory notes state that the approach follows that adopted under new TAARs, but it is not clear that there has been a more holistic investigation by the Government of this issue. It would be interesting for us to know whether the Government plan to review the existing use of any remaining requirements for counteraction notices in the area of international profit shifting.

The Minister can correct me if I am wrong, but the principle seems to have been accepted that such counteraction notices are no longer necessary before HMRC is able to act, at least in relation to this kind of international artificial profit shifting. He gave us quite a strong rationale for that when he indicated the problems with having to issue a notice when time limits can be relatively tight: it could impact on HMRC's ability to take appropriate action against those engaging in international profit shifting.

It would be useful to know whether there is a broader review of the use of counteraction notices in this regard, but as I said, we are also calling for a review of the effectiveness or otherwise of the measures in deterring the manipulation of double taxation relief, and of whether the measures will deal with the international profit shifting that existing practices seem to be promoting.

Mel Stride: I thank the hon. Lady for her characteristically thorough dissection of the clause. She gave us something of a history lesson about double taxation agreements going back to the 1920s, before we came into the era of the OECD and more recent activities.

This is not directly relevant to the clause, but the hon. Lady mentioned the tax gap and the veracity or otherwise of the figure for it. The figure is produced by HMRC on an annual basis and audited by the National Audit Office. It is a statistic described by the International Monetary Fund as one of the most robust of its kind in the world. We are very proud of the fact that we have, at 6%, one of the lowest tax gaps in our history.

Interestingly, the hon. Lady introduced the subject of the movement of losses out of branches overseas by way of a discussion of the profits under the banking arrangements, and the shifting from banking to non-banking entities as an approach to avoiding tax. That approach, which certain corporations have taken to avoid tax, is long-established and lies at the heart of the measures that we, the OECD and others have been pursuing to clamp down on avoidance.

This measure is very important. As I described, overseas entities with branches are able to move losses into other overseas entities and claim a tax benefit there, but equally gain a double tax benefit with the UK authorities by way of double tax relief and the impact of the losses on profits that would otherwise fall to corporation tax. We do not believe that the review that new clause 13 calls for is necessary, largely for the reasons I gave in my opening remarks, and in particular because we keep all these measures under review. Indeed, the measures are a product of a review of earlier approaches to clamping down on avoidance, evasion and non-compliance.

The hon. Lady raised several questions that I will attempt to address. The first was whether we had considered the US model and focusing more on entities, which is an interesting point. I would be interested to take any

[Mel Stride]

representation from her, and to look at that in more detail with my officials. I do not have a comprehensive answer to her point at the moment, but my door is open for us to look at that in greater detail.

The hon. Lady also mentioned the operation of counteraction notices. As she recognised, the main thrust of the changes to the TAAR is to ensure we do not end up in a situation in which one might reasonably expect HMRC not to understand that something untoward was going on, and in which, by the time it came to the activity, it was out of time. That is the critical point. Once again, if there are further issues of a more detailed or granular nature that the hon. Lady would like to raise with me, I would be very happy indeed to have a look at those. On that basis, I hope we can accept the clause.

Question put and agreed to.

Clause 30 accordingly ordered to stand part of the Bill.

Clause 31 ordered to stand part of the Bill.

Clause 32

Double taxation arrangements specified by Order in Council

Anneliese Dodds: I beg to move amendment 54, in clause 32, page 23, line 37, at end insert—

"(2A) After section 6 of TIOPA 2010 (the effect given by section 2 to double taxation arrangements), insert—

"6A Review of changes made by section 32 of Finance Act 2018

(1) Within twelve months of the passing of the Finance Act 2018, the Chancellor of the Exchequer must review the effects of the changes made by section 32 of that Act on the operation of double taxation arrangements.

(2) The review under this section must consider in particular—

(a) the extent to which those changes facilitate UK law giving effect to the Multilateral Instrument in a way which coheres with the principles of Policy Coherence for Development;

(b) the extent to which those changes facilitate UK law giving effect to the Multilateral Instrument in a way which coheres with the UN Model Tax Treaty;

(c) the effect of those changes on the number of disputes decided by arbitration;

(d) the counterparties in each such case;

(e) the outcome in each such case; and

(f) the effects of those changes on the public revenue of the United Kingdom.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section as soon as practicable after its completion.

(4) In this section—

"the Multilateral Instrument" means the Multilateral Treaty to Implement Tax Treaty related Measures to Prevent Base Erosion and Profit Shifting;

"the principles of Policy Coherence and Development" are to be interpreted in the light of relevant publications of the Organisation of Economic and Development Cooperation and of the 2011 Busan Partnership for Effective Development Cooperation, the UN Millennium Declaration and the 2010 UN Millennium Development Goals Summit; and

"the UN Model Tax Treaty" means the United Nations Model Double Taxation Convention between Developed and Developing Countries published in 2011.""

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

Amendment 55, in clause 32, page 24, line 3, leave out subsection (4).

This amendment removes the retrospective effect of the foregoing provisions of Clause 32.

Clause 32 stand part.

Anneliese Dodds: This is about the arrangements for the incorporation of the multilateral instrument, if I am correct.

Mel Stride: Correct.

Anneliese Dodds: I am looking forward to more detailed explanations on this part of the Bill, because they are enormously important. Our amendment 54 requests a review of the operation of the provisions enabling the MLI's implementation in the UK, and especially of the extent to which it promotes the principles of policy coherence for development, and the outcomes that would have been produced had the UN's model tax treaty been used instead.

The MLI is, in many ways, a milestone for international tax law. Rather than being an amending protocol of the type we might have seen before in wholesale changes to international treaties, the MLI provides an instrument to swiftly and consistently implement a range of standards in taxation in existing treaties. It also provides the means, through the OECD, of monitoring its implementation—and, potentially, mechanisms for the future adaptations of treaties; it is important that we consider those, and I will come back to them.

Given that those bodies looking to engage in "treaty shopping" and their advisers are often highly sophisticated international actors that will readily search out new loopholes, the design of the MLI, which makes possible future alterations and provisions to deal with new tax challenges, is surely to be welcomed. I understand that the UK was one of the first 26 signatories to the MLI. There are now 69—more have probably signed since I looked that up. I understand that a UK Treasury official chaired the OECD working group that determined many of its provisions.

The MLI includes six articles to address treaty abuse. Many of them are already in accordance with the UK's approach to international tax matters. One element of the MLI that seems particularly propitious is the principal purposes test,

"a subjective test based on an assessment of the intentions behind a transaction or arrangement",

intended to rule out the obtaining of any benefits from a treaty if those benefits are not in accordance with the object and purpose of that treaty. That amounts to a general power, which could be useful for many countries encountering abuse.

In that connection, however, it is surely necessary for tax authorities to be sufficiently staffed, both overall and in terms of expertise, to make any accusation under these powers stick in court, not least if that court is a private international one, which the UK appears to have committed itself to by accepting multilateral binding arbitration. It would be helpful to hear from the Minister whether he feels that Her Majesty's Revenue and Customs and the Treasury possess sufficient staff with sufficient knowledge of and expertise on international arbitration for our country to be able to defend its interests adequately, should the need arise. As well as measures concerning treaty abuse, the MLI also introduces uniform approaches —or rather, approaches that should be uniform in their outcomes, if not in specific details—to dispute resolution, permanent establishment and hybrid mismatches.

While in many respects there are very positive elements of the MLI, other elements might raise concerns. I will focus the rest of my remarks on those, and will be interested to hear the Minister's response. First, the UK appears, in its adoption of the MLI, to have ruled in using mandatory binding arbitration where mutual agreement procedures have failed to produce an acceptable outcome within two to three years. Following the discussion last week of the use of mandatory binding arbitration in the UK's new tax treaty with Lesotho, it was interesting to find, when I was reading the UK's MLI position paper last night, that we already have mandatory binding arbitration in 18 of our tax treaties, including those concluded with Algeria, Armenia, Albania, Kosovo and Tajikistan, as well as a number concluded with higher-income countries. The UK appears to apply the principle already in relation to developing countries, but it strikes me that we have not had much discussion of that in the House.

9.45 am

Mandatory binding arbitration involves both parties to a dispute agreeing to have it dealt with not through normal judicial mechanisms, but through arbiters who possess some kind of expertise—in this case, expertise in international tax matters. There are considerable problems with that approach for developing countries. I think that that is one reason why developing countries in the UN have rejected the approach. Many of those countries lack the resources necessary for adequate representations to be made to an expert arbiter.

There are also, of course, significant issues in relation to transparency. Concerns about the use of investor-state dispute resolution—a form of binding arbitration—were raised repeatedly during discussions about the Transatlantic Trade and Investment Partnership, the EU-US trade treaty, much of the time because of worries that that would enable disputes to be resolved privately, without appropriate democratic oversight. Is another version of that potentially being hard-wired into our processes because of the incorporation of the MLI?

The second worry about the UK's incorporation of the MLI relates to the fact that, overall, the OECD approach to tax treaties has traditionally been less favourable than the UN approach, most would argue, when it comes to developing countries. I would underline the points that I attempted to make in the discussion last week about the tax treaty with Lesotho. As a nation, we are, rightly, providing development aid to many countries. If we then facilitate a situation in which British businesses, which may or may not be very well run—this is independent of the character of those businesses—are able to accrue profits back to the UK without those profits being adequately taxed, surely we are just giving via Peter what we are taking away via Paul.

There are, therefore, concerns about whether, in our approach to tax treaties, we have been following the right trajectory when it comes to developing countries. In some respects, we have followed the UN model, but with the new incorporation of the MLI, we will be hard-wiring in the OECD approach, so I wanted to ask a few questions, just comparing the UN model with the OECD one. That is exactly what we ask for in our request for a review: we ask for the OECD approach to be contrasted with the UN one.

The UN model convention generally favours greater retention of so-called source country taxing rights under a tax treaty—the taxation rights of the host country of investment—as compared with those of the residence country of the investor. In that connection, we need to know whether, from the Government's point of view, the OECD's MLI incorporates or, on the contrary, avoids the problems that seem to beset the OECD model tax treaty when compared with the UN model treaty.

For example, when it comes to permanent establishment, the UN approach seems more favourable to those nations where an international actor has a temporary activity, which would of course tend to be the case for the developing country when it comes to treaties concluded between a developing and an industrialised country. We could talk about building sites, for example. The OECD model treaty requires building sites to have been present for more than a year, whereas the UN permits that for just over six months, so obviously the UN approach is more restrictive, in the interests of developing countries. The UN model also covers the provision of services and stocks of goods or merchandise and is less permissive when it comes to contracted agents—brokers and so on—who might be coming from a developed country and working in a developing country.

The UN model treaty is also much more restrictive against profit shifting, from what I can see. It states that the deduction of expenses is allowed for tax purposes, but continues:

"However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment."

When it comes to mandatory binding arbitration—this is an issue that I will focus on—the UN model treaty offers alternatives based on different approaches to implementing the OECD approach to mandatory binding arbitration, or retaining just the mutual agreement procedure, which was of course first set out by the UN treaty itself.

A number of additional questions require answers, if possible. First, will the Minister inform the Committee about any discussions that the Treasury, or other Government bodies, have had with our Crown dependencies and overseas territories about signing up to the MLI? I note that Guernsey and the Isle of Man were signatories as of December 2017, but other CDs and OTs were not. I know that there is a regular dialogue about tax issues with those jurisdictions, so it would be helpful to know whether they are likely to sign up to the MLI.

I was a bit confused about why Saudi Arabia seems to be mentioned in the UK's position paper for the MLI. The UK had to submit a position paper detailing the extent to which it is resisting tax treaties with MLI-signing countries, and the extent to which those would have to be changed. Saudi Arabia cropped up, but I do not know whether it is a signatory, so perhaps that could be clarified. That is obviously very significant, given the amount of two-way economic interaction between our countries.

I have some final questions about the relationship between the incorporation of the MLI, and our general debates and discussions on concluding double taxation treaties. As I said, the MLI could be amended in future to take into account new, potentially devious attempts to get around international tax loopholes, which is surely one of its strengths. This is my fault, but I have not been able to find out whether there was an appropriate parliamentary discussion when the UK first signed up to this agreement. However, if there are to be future changes to the MLI, I wonder whether a proper discussion on that will be held in the House. The almost automaticity of the instrument is one of its strengths, but that must be accompanied by appropriate parliamentary scrutiny. Can we have a commitment to ensure a proper discussion on that?

I am also interested in the interaction between this MLI and the tax treaty that we were due to discuss on relations between the UK and Kyrgyzstan. We did not have that debate on Monday as initially scheduled, but the treaty does not include the anti-abuse provisions that are promoted by the MLI if both parties list it as a covered agreement—I assume we will have done that because we seem to have listed all our double taxation treaties as covered agreements within the position paper submitted to the MLI process. We also seem to have differences on the use of mandatory binding arbitration, and it would be helpful to understand the Government's view on that, particularly with developing countries. How does the incorporation of the MLI relate to those issues?

Mel Stride: Clause 32 makes changes to ensure that full effect can be given to the multilateral convention to implement tax treaty-related measures to prevent base erosion and profit shifting, and the UK signed the MLI on 7 June 2017. Double taxation agreements are bilateral agreements between the UK and other countries that aim to ensure that profits income and gains are taxed only once. They help to develop the UK's economic relationships with other countries, and other countries' economic relationship with the United Kingdom. DTAs provide certainty for businesses operating across borders, and enhance co-operation in tax matters, supporting the growth of a more global economy.

The OECD/G20 base erosion and profit shifting project—BEPS—recommended a number of changes to DTAs. Those included minimum standards on preventing tax avoidance through the abuse of tax treaties, and improving the resolution of tax disputes. To enable those important improvements to DTAs to be made as soon as possible, more than 100 jurisdictions, in a group chaired by the United Kingdom, drew up the multilateral instrument. The group adopted the text of the MLI in November 2016. It has now been signed—to update the hon. Member for Oxford East—by more than 70 countries, which is the latest information I have.

To implement improvements to the UK DTAs, the MLI must be given effect in our domestic law. This measure ensures that the existing powers for giving effect to DTAs in UK law, which have previously been used only to give effect to bilateral arrangements, can also be used to give full effect to the MLI.

The hon. Lady made a very sensible point about parliamentary scrutiny of the MLI. The measure simply ensures that we have the appropriate powers to bring the MLI into force in UK law. However, that would be by a draft affirmative statutory instrument. After the Bill has become an Act, Parliament will have time to scrutinise the MLI.

The existing powers give effect to arrangements made with foreign territories with a view to affording relief from double taxation. Concerns have been raised in some quarters that an agreement that operates primarily to restrict relief is not made with a view to affording relief from double taxation. Doubts have also been expressed about whether the existing power is sufficiently clear that agreements can delegate functions to the public authorities of the territories.

The Government are not persuaded by these concerns but wish to put the matter beyond doubt. The clause ensures that the improvements made by the MLI can, subject to the views of Parliament, be implemented quickly and with certainty. The changes made by clause 32 will clarify that the existing power for giving effect to international tax agreements covers any arrangements modifying the effect of existing arrangements. It also clarifies that the provisions of arrangements can delegate functions to public authorities and signatories—HMRC in the case of the United Kingdom.

Turning to the two Opposition amendments, I reiterate that the changes made by clause 32 merely clarify the existing power for giving effect to international tax agreements, thereby ensuring that Parliament can, if it chooses, give full effect to the MLI—an objective that I hope Opposition Members will join me in supporting. The Government's intention is to lay the draft Order in Council to which the MLI will be scheduled as soon as possible, but clearly after the passage of the Bill, at which point Members will have the opportunity to debate the MLI in full, as I have said.

None the less, I will take this opportunity to respond to some of the specific points raised by the hon. Member for Oxford East. First, on the suggestion that the multilateral instrument should be given effect in a way that complies with the principles of policy coherence and the UN model treaty, the text of the MLI has already been negotiated and agreed with more than 100 countries, including a significant number of developing countries, which were able to input into its development. It is therefore not possible for the Government to make changes unilaterally—an approach that some might have been suggesting.

However, it is true that the text contains certain options and permits states to make reservations against certain provisions. Following consultation with business and NGOs, the Government propose to use this flexibility to adopt all the provisions contained in the MLI that were deemed by those negotiating the text to be particularly important for preventing base erosion and profit shifting—the minimum standards. This includes provisions combating the abuse of tax treaties. We believe that this approach of bearing down on international tax avoidance will help global economic development for both the United Kingdom and developing countries, in line with the principles of policy coherence.

Secondly, to respond to the hon. Lady's concern about the Government's proposal to adopt the mandatory binding arbitration provision for resolving double tax disputes contained in the MLI, the Government believe that arbitration is important for ensuring that double tax disputes are resolved. Mandatory arbitration benefits tax authorities and taxpayers alike by creating greater tax certainty and preventing double taxation. This is beneficial for all cross-border transactions. However, it should be noted that the MLI will amend the UK's bilateral DTAs to include arbitration only where our treaty partners have also chosen to adopt the arbitration provision—an important point in the context of the hon. Lady's remarks. There can be no suggestion that any country has been forced into its adoption.

Thirdly, in response to the request for a costing, given a process by which the multilateral instrument will come into effect at different times in different states, it would be very difficult to quantify the effects of changes in public revenue that arise from the implementation of the MLI more generally. It is very difficult to provide sensible estimates of the revenue effects of our tax treaties. Concluding a tax treaty is not a zero-sum game, and possible short-term revenue effects are augmented and balanced in the longer term by increased activities, as companies and others respond to the more favourable business climate that tax treaties provide. However, those effects are hard to quantify and successive Governments have never attempted that. Finally, retrospective effect is necessary to ensure that the provision does not create uncertainty in relation to pre-existing international agreements.

10 am

With regard to whether HMRC is sufficiently resourced and has appropriate staff to be on top of international arbitration issues, let me make two points. One is the exemplary record that HMRC generally has in this area. We often talk about the £160 billion that has been brought in or protected by clamping down on avoidance, evasion and non-compliance since 2010, and the additional resources provided to HMRC, including £170 million in the most recent Budget, to ensure that it is on top of such issues. My second point is on international arbitration. What we are looking at with the MLI is an extension of that approach rather than a fresh introduction. HMRC would not have to gear up for something completely new; it would be a matter of extending the occasions on which international arbitration was entered into.

The hon. Lady also asked whether HMRC or the Treasury had had discussions with the Crown dependencies and overseas territories. I will be happy to look into that and let her know what I discover. I imagine that such discussions would have been held. We have very close relationships with the Crown dependencies and overseas territories. The hon. Lady mentioned the case of Saudi Arabia, which had appeared in the position paper. She asked whether they had finally become a signatory to the MLI. I do not immediately know the answer but I will again revert to her, not only with an answer to her specific question but with some of the background, explaining, if they do not appear, why they have not done so.

I think most other points were covered in my earlier remarks. On that basis, I hope that we can agree to the clause standing part of the Bill.

Anneliese Dodds: I am grateful to the Minister for those enormously helpful clarifications. I was particularly pleased to hear his commitment to ensuring that the draft affirmative statutory instrument will be tabled in the House and that we will have a proper chance to debate it. As part of that discussion, I would urge him to ensure that additional information is provided on the Government's reasoning around adopting a number of the provisions that are within the OECD but not the UN approach.

I fully accept that the OECD approach is supported by a large number of countries; that is absolutely right. None the less, as the Minister himself stated, there are then choices to be made by signatories to the MLI about how to interpret different elements. Those choices can make that approach either more like the UN's or more like traditionally the OECD's.

As the Minister said, mandatory binding arbitration is an approach that countries can decide to adopt or otherwise. It was positive to hear that that will be adopted only when both countries, as signatories to a double tax treaty, wish to adopt it. I am interested to know, first, on what basis we have already chosen to adopt mandatory binding arbitration or otherwise. I would again point to the inconsistency between the tax treaty agreed last week on Lesotho, and that which was proposed, albeit not yet discussed, around Kyrgyzstan, which seem to have very different approaches to mandatory binding arbitration. Why is there that difference?

Secondly, it would be helpful for us to assess the claim that mandatory binding arbitration promotes certainty and the ability to tax appropriately for all countries if we saw what some of the outcomes from existing cases subject to mandatory binding arbitration have been, particularly for our country's ability to retain the revenue that is its due. I have not yet seen that kind of consolidated examination of outcomes from mandatory binding arbitration, and it would be very useful for us to have that in relation to our country and the impacts on our ability to collect revenue, and for developing countries as well. We need that before we can assess whether we want to adopt this in a more wholesale manner. The Minister is absolutely correct to say that we already have it in operation—I mentioned that before—but we need to have more detail.

One final point—I am sorry, but I managed to miss this in my previous remarks—is that it would be helpful for us to understand what transatlantic discussions the UK has been having with the US around the adoption of the MLI. It has not yet adopted the MLI and, sadly, some elements within the US have resisted the OECD's action in this area—a lot of the time for totally unnecessary, politicised reasons—but it would be useful to know whether the US is likely to adopt this approach. That is because when we talk about double taxation, much of the time we will be talking about multinational companies that have the US as their host country or source country, and when those companies then conduct operations in the UK we need to be able to know that we can protect revenue from them.

Mel Stride: On the hon. Lady's point around the different models—the OECD and the UN models—a number of countries have signed up to the MLI, and implicit in those discussions will be the kinds of issues that she has touched on, but it might be of interest to

[Mel Stride]

her that the Government do expect the UN to update them on the treaty in the light of what has been agreed within the MLI, which clearly we will be keeping a close eye on.

I said earlier that I did not have an answer to the hon. Lady's specific question, but I now do—through a form of divine inspiration known as the officials of Her Majesty's Treasury. Saudi Arabia is indeed not a signatory to the MLI initiative, but we hope that it will be signing in future, at which point we would intend that our treaty be amended accordingly to accommodate that.

On the hon. Lady's point about mandatory binding arbitration, one of the points that I should have made earlier is in the context of how fair or otherwise this is on the countries with which we enter into those particular arrangements. Once arbitration is entered into, two arbitrators are appointed—one by each country—so this is not a stacked jury in any sense, and it will be for them, impartially and properly, through the normal processes, to come to their conclusions.

The issue of transparency and the disclosure of the outcomes of arbitrations really falls within the area of tax confidentiality. Inevitably, within those arrangements where companies, and indeed eventually individuals, are involved, it is important that we maintain the rigorous tradition that we have in our country of complete impartiality when it comes to HMRC, our tax affairs, investigations, arbitrations and so on.

The hon. Lady asked specific questions about US policy, which is probably a stretch too far for me to reach on this occasion, but if she has specific questions that relate to UK Treasury interaction with the US as an overseas tax authority, I would be happy to consider any representations that she would like to make.

Anneliese Dodds: I am grateful to the Minister for those clarifications. He rightly said that it is very important that HMRC conducts its affairs in a manner that is impartial between taxpayers and that is fair. That is absolutely right. However, we are surely not talking about anything that would threaten that impartiality when we talk about more transparency; we are not talking about the decisions themselves being altered, but rather the transparency around decisions that are taken. That would not affect the process leading up to those decisions being taken.

If there were concerns about this somehow negatively affecting taxpayers, I am sure that there could be some way of anonymising the results from different arbitration situations. However, I genuinely think it would be helpful for us, whatever side of the House we are on, to see more information about the use of that mechanism, because it can make a significant difference for taxpayers and, indeed, for our revenue.

Finally, on the difference between OECD and UN processes, it is absolutely right that some developing countries were involved in the OECD's development of its approach. However, they were only observers—as we know, the OECD is a club of generally rich countries. Those developing country members were consultees, not full members. I look forward to seeing exactly that development of the UN model in the light of the OECD's approach. Developing countries have full status in UN discussions, which they lack within the OECD process.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 6]

AYES

Blackman, Kirsty
Carden, Dan
Dodds, Anneliese
Dowd, Peter
George, Ruth
Lee, Ms Karen
Pidcock, Laura
Smith, Jeff
Thewliss, Alison

NOES

Burghart, Alex
Chalk, Alex
Clarke, Mr Simon
Graham, Luke
Kerr, Stephen
Maclean, Rachel
Philp, Chris
Rutley, David
Stride, rh Mel
Whately, Helen

Question accordingly negatived.

Clause 32 ordered to stand part of the Bill.

Clause 34 ordered to stand part of the Bill.

Clause 35

SETTLEMENTS: ANTI-AVOIDANCE ETC

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

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

Amendment 62, in schedule 10, page 142, line 40, at end insert

"87Q Review of taxation of capital payments received from a settlement

(1) Within six months of the passing of the Finance Act 2018, the Chancellor of the Exchequer must review the effects of the changes to this Chapter made by Schedule 10 to that Act.

(2) The review under this section must consider the effects of those changes on—

(a) the taxation regime for settlements, and

(b) anti-avoidance measures for settlements.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section as soon as practicable after its completion."

This amendment requires the Chancellor of the Exchequer to review the effects of changes to TCGA 1992 made by the Bill in relation to the taxation of capital payments received from a settlement.

Amendment 63, in schedule 10, page 142, line 40, at end insert

"87Q Public register of capital payments received from settlements

(1) The Chancellor of the Exchequer must by regulations establish a register of capital payments received from settlements to which this Chapter applies within 12 months of the passing of the Finance Act 2018.

(2) A register established under subsection (1) shall record in relation to capital payments—

(a) the recipient beneficiary;

(b) the settlor; and

(c) the trustees of the settlement from which the capital payment is received.

(3) That part of the register containing information in paragraph (c) shall be made available to the public."

(1A) In section 98(1), after "87", insert ", 87Q"."

This amendment creates an obligation for the Chancellor of the Exchequer to create a public register of trust beneficiaries, settlors, and trustees. It also amends section 98(1) of TCGA 1992 to expand, to include new section 87Q, the existing power for HMRC to require any person to provide information as they think necessary to fulfil certain sections of that Act.

Government amendments 2, 51 and 52, 5 to 27, 53, and 28 to 32.

That schedule 10 be the Tenth schedule to the Bill.

Mel Stride: Would it be appropriate for Opposition Members to speak to their amendment?

The Chair: The short answer is no, because the clause stand part debate is the lead item on the agenda.

Mel Stride: I should have known that you were several steps ahead of me, Sir Roger. I totally understand and will therefore speak to the clause.

Clause 35 seeks to safeguard the integrity of our tax system by ensuring that it is not possible for an individual with an offshore trust to avoid paying UK tax on payments from that trust. The UK already has extensive anti-avoidance legislation in place to prevent individuals who hold offshore trusts from being able to avoid paying income tax or capital gains tax on the gains from those settlements. The UK's far-reaching anti-avoidance rules mean that a UK-domiciled individual who sets up an offshore trust will pay tax on income and gains in that trust as they arise if they have any entitlement to the trust income or the underlying assets. That means that using an offshore trust does not deliver any tax advantage for most people living in the United Kingdom.

However, there are a small number of people who set up or benefit from an offshore trust, where tax is not due on income and gains as they arise in the trust; instead, tax is charged when moneys or benefits are taken from the trust. Typically these people are foreign domiciliaries—often referred to as non-doms—although there will be certain circumstances in which UK domiciles pay tax only when moneys or benefits are withdrawn, such as when the individual who set up the trust has died.

10.15 am

Where tax is charged on money or benefits taken from the trust, it is important that the legislation is effective in imposing a tax charge on the money or the benefit that is taken. However, a number of loopholes in these rules allow trustees to plan their arrangements carefully so that the beneficiary can obtain money or benefits without paying UK tax. I do not think that our tax system should allow people to live in the UK and not pay their fair share, and the Government, through this clause, are taking significant action against this contrived tax planning.

The first loophole removed by clause 35 concerns the way capital gains that accrue to offshore trusts are attributed to trust beneficiaries. Currently, UK resident beneficiaries are taxed when they receive a capital payment that results from the capital gain in the trust. However, UK beneficiaries can avoid tax on sums received from the trust if there are other beneficiaries of the trust and the trustees carefully plan how payments are made. This is because the current rules allow payments made to a beneficiary who is not UK-resident to be set against the gain that is taxed when later payments are made to UK residents. In some cases, this can mean that payments to UK beneficiaries are not taxed at all. Clause 35 stops this by no longer allowing payments made to non-residents to be treated as having been made from the trust's capital gains. A similar rule already exists for trust income.

The second change deals with a capital gains tax loophole where an offshore trust makes capital payments to a close family member of the UK resident who set up the trust. Under the current rules, the fact that the payment is not directly given to the individual would mean they avoid any UK tax due on the payment or benefit from the trust. The new rules close this opportunity by treating such payments as if they were made directly to the UK resident who set up the trust, who will pay tax on the payment or benefit as if they had received it directly.

The third loophole that this clause closes is when a capital payment is made as part of an arrangement that routes the payment through a third party. Under the arrangement, the third party who receives the payment or benefit from the trust makes an onward gift of the sum received to the intended beneficiary. As things stand, this can enable the ultimate beneficiary to avoid paying tax on the payment or benefit as they should have done if made to them directly. The changes to the rules will prevent such arrangements from being effective for tax purposes by taxing the recipient of the gift as if the capital payment was made directly from the trust to them in the first instance. These rules apply if the recipient is resident in the United Kingdom, but it means that they are not able to avoid paying UK tax on income and gains made by the trust simply by routing payments through a third party.

Minor Government amendments to schedule 10—Government amendments 2, 5 to 32, and 51 to 53—amend new provisions in the Income Tax (Trading and Other Income) Act 2005 to ensure that they work as intended. The amendments clarify that the provisions apply to both capital and income benefits and ensure that they will not result in income tax charges on non-UK resident beneficiaries. These amendments also ensure that no double tax charges arise and clarify how items will be deducted in respect of earlier charges under either the settlements benefits code or the transfer of assets code.

I will now turn to the Opposition amendments. Amendment 63 proposes the creation of a register of trust beneficiaries, settlors and trustees, with the register of trustees being public. I do not think there is any need to create a new register. From 26 June last year, any trust that generates a UK tax liability, regardless of where it is established, is required to register with HMRC. Trustees are required to provide detailed information about the trustees, settlors, beneficiaries and trust assets. This information is accessible to HMRC and law enforcement authorities, enabling them to draw connections between parties associated with relevant trusts. For compliance purposes, HMRC has the information it requires. The Government also believe strongly in taxpayer confidentiality. Making this register public would jeopardise that principle and it is something to which the Government cannot agree. In addition, HMRC already publishes data on a number of trusts with an income tax and/or capital gains tax liability during the year.

Amendment 62 seeks to introduce a review within six months of the date of this Bill being passed to consider the effects of the changes to the schedule, particularly the effects on tax avoidance in trusts. This clause is explicitly directed at reducing tax avoidance through trusts. It is legislation that has been consulted upon, having been published in draft in September, and the Government are confident that it will close the loopholes it targets. I therefore ask the Opposition not to press the amendment. I commend the clause and the Government's amendments to the Committee.

Anneliese Dodds: I will speak to both of our amendments, if that is acceptable to the Committee. I am grateful to the Minister for his introduction. As colleagues will know, these measures attempt to close loopholes within the Government's new non-dom regime. From an Opposition point of view, this is rather frustrating, because we were concerned about many of these issues, particularly the exemption of offshore trusts from the non-dom regime. We are pleased that there has been some tightening, but of course we would like to see more.

We see in these measures new anti-avoidance provisions so that, as was mentioned, it will no longer be possible to wash out trust gains by payments to non-residents. On capital payments made to a close family member of a UK resident, there will capital gains tax and income tax. Where a non-resident beneficiary receives a distribution from a trust and then makes an onward gift of all or part of it, directly or indirectly, to a UK resident, the original payment will be taxed as if received by that UK recipient. Surely that is right and correct.

Although these measures, in and of themselves, do provide some sticking plaster, they do not fundamentally reform the non-dom regime in the manner we would wish to see. I should qualify that by stating that the submission to the Committee by the Institute of Chartered Accountants maintains that the Government's promises are essentially greater than what they are delivering, even within their own terms. It maintains that the Government's indication that the inadvertent remittance trap has been closed is not, in practice, fulfilled by these measures, and that such a trap could be continued. It would be helpful to hear the Minister's assessment of whether the institute is correct in that regard.

We debated the overall provisions on non-doms at length when considering the previous Finance Bill, so I will not rehearse all the arguments now. We are talking about the 121,000 individuals who claimed non-dom status in 2014-15. Non-domiciled UK resident taxpayers account for about 85,000 of those people; the remaining 35,000 or so are non-UK residents. Obviously, those non-doms are still subject to different taxation arrangements from UK residents. That is a fundamental principle of difference, even though, yes, the Government have made changes. Again, I will not rehearse all the previous arguments.

Even the Government's changes enable people, if they so wish, to have a 15-year wait before triggering the new arrangements, because they have to have been resident in the UK for 15 of the past 20 years in order to be considered UK domiciled and for their status to be changed. We do not feel that those arrangements are strict enough.

We are focusing on the use by some non-doms—obviously, for many people it is a legitimate status—of offshore tax arrangements, particularly trusts. It would be helpful to hear from the Minister about the extent of existing abuse that these measures attempt to deal with. Have the measures arisen because of experience with disclosure of tax-avoidance schemes, for example? If so, can he provide us with some evidence on that? Or have they arisen from cases that HMRC has settled out of court? It would be helpful to understand the magnitude of the problem before considering mechanisms to try to deal with it.

More generally, taxing trusts is a difficult challenge. In public policy terms, there are obviously no simple solutions. Trusts often raise issues relating to capital gains tax, inheritance tax and many other matters. I understand that in November the Government committed themselves to a large programme of activity—or at least a programme of activity—on trust simplification. It would be helpful to hear from the Minister what exactly has moved in that regard.

The Institute of Chartered Accountants has said that it would be willing to participate in that programme of activity, as I know would many other stakeholders. It would be useful to know how far that activity has progressed, because there are many calls for a fundamental overhaul in our approach to trusts, and we also need to change how we deal with offshore trusts. That is particularly the case with evidence of abuse, but not sufficiently systematic evidence; as I mentioned before, we need more of it. We have already discussed in the House Deutsche Bank's use of trusts to enable bankers to dodge income tax on bonuses. HMRC managed to defeat that scheme, but there are other schemes in use today. Again, concerns about HMRC's capacity might arise when we are talking about very complex tax matters.

To be clear, Labour opposed the exclusion of offshore trusts from non-doms rules in the first place, and we have made that point consistently. We made it in the debate on the ways and means resolutions for the previous Finance Bill, and then again on Second Reading and in the Public Bill Committee. We still think that exclusion is inappropriate, particularly given the generalised lack of transparency on trusts. We have already referred to the discussions that the Government are having with our Crown dependencies and overseas territories. I know that part of those discussions have been about the creation of registers of beneficial ownership—so far just for companies. That has not yet been fully fulfilled for some of those jurisdictions, but in any case it does not extend to trusts, and we believe that it should. It would be interesting to hear about any progress on that.

Labour is also calling for a public register of UK trusts. Our amendment seeks more transparency on the use of offshore trusts, at least as a start. I am sure that the Minister will mention concerns about the confidentiality of those using trusts, which always seems to be the response when we raise the issue. I have huge faith in the British civil service and think that it is very good at creating appropriately targeted regimes. If we look at how Companies House has developed its system for registration and transparency on company ownership and operation, we see that there is already a mechanism within the regime to prevent inappropriate disclosure that could damage those involved with a company. For example, if we were talking about a firm that breeds beagles for animal experimentation, which could be targeted by animal rights activists or extremists, providing its address could be inappropriate, so it is possible for Companies House to have a different disclosure regime for that company. We could create a similar arrangement for trusts. Surely that would be possible and appropriate.

The British Government will have to come to a position on this because of a matter that I have raised previously: the EU now has an agreement to have transparency for business-like trusts. The devil is in the detail, of course, because we could see gaming around what is then deemed to be business-like, as opposed to other types of trusts. I think that a regime that just excludes those trusts from full transparency where there could be harm to the beneficiaries would be more appropriate. None the less, that is what the EU is moving towards. It would therefore be helpful to know exactly what the Government's position is on the matter. That would offer a halfway house to much fuller transparency.

We are trying to get at the matter through a side door in our amendment, but we are going to keep pushing this argument for more transparency on trusts, which we think is absolutely essential. In the debate in the House on some of these matters and on the Paradise papers, I remember certain Government Members using an analogy for offshore trusts, stating that they were very similar to ISAs—surely they are exactly similar. I always use the "neighbour test." I think, "What would my neighbour think?" If I asked her, "Is it okay for you to have an ISA?", she would say, "If I had enough money, yes I would like to, if I could." The exact intentions of an ISA are clear within its provisions: they are meant to promote savings. That is the whole point of them.

However, as far as I can see there is no legislation that promotes individuals undertaking trusts specifically as a means of tax avoidance—that is not the stated intention of any piece of legislation, as distinct from the stated intention of ISAs. Therefore, the analogy is inappropriate. We will continue to push for the need for greater transparency in this area.

10.30 am

Kirsty Blackman (Aberdeen North) (SNP): It is a pleasure to be here. I am continually impressed by the breadth and depth of knowledge displayed by the hon. Member for Oxford East, who has been a brilliant addition to the shadow Front-Bench team; I am pleased to be taking part in so many meetings at which she speaks.

The Minister has written a letter to the Chair, stating:

"I have tabled three minor amendments to clause 35. They replace amendments 3 and 4 already tabled which are withdrawn and make sure the schedule works as intended. They are in response to expert stakeholder feedback. The concern about amendment 3 was that it had unintentionally switched off the onward payment rule"—

which does not sound like a good thing—

"and also that amendment 4 had contained an incorrect cross-reference."

These have been changed because of expert stakeholder feedback. Given the discussion we had last week, if we had taken evidence from expert stakeholders, the Government might not have had to make those changes at this late stage. The next time we have a Finance Bill, I would appreciate it if the Government considered having that evidence session in advance of the Public Bill Committee stage, not in advance of consideration by Committee of the whole House, as generally we are discussing the less technical matters at that stage. These are incredibly technical matters, and the Government have clearly made a couple of mistakes in their amendments. They might not have done so had we heard the expert evidence and been able to ask questions at that stage. I support the Opposition amendments and urge the Minister to respond to my concerns.

The Chair: I will allow the hon. Lady to make that point, although it is strictly out of order. I am sure that it has been taken.

Mel Stride: May I echo the generous observations made by the hon. Member for Aberdeen North about the hon. Member for Oxford East, who is extremely thorough, well-read and well-versed in the matters we discuss in Committee, adding a great deal to the quality of the debate and the scrutiny of the Bill.

I was pleased that the hon. Member for Oxford East welcomed the tightening that we are introducing on this aspect of anti-avoidance. She stated that she would like to see more of it, if that is necessary, and referred to the ICAEW's comments in that respect. We must always bear in mind that there is inevitably a certain capacity within Government to set out legislation wherever we come across further improvements that could be made or loopholes that could be tightened up, but there is an army of creative, knowledgeable and determined individuals who set out to undo what we put in place, so all Governments will probably always be in the business of tracking down and closing loopholes as they become evident. I can assure her that the Treasury and I intend to be vigorous in stamping out tax avoidance and evasion. It is entirely unfair on those who rightly pay their fair share of tax, it is damaging to our public services, and we will not tolerate it.

The hon. Member for Oxford East raised various concerns about the non-doms regime, some of which reprised our debates on the previous Finance Bill. She might not be satisfied with the current arrangements pertaining to the taxation of non-domiciled individuals, but they are tighter than was the case under previous Labour Governments, when the remittance basis came in. She referred to the different bases on which different people are taxed—that was certainly a feature under the Labour Government. As we have argued many times, we have to make a balance between having a robust regime that is fair to the taxpayer and making sure that the investment that certain individuals bring to this country is not unduly jeopardised.

The hon. Member for Oxford East asked specifically what discussions we may have been having with the Crown dependencies and overseas territories—recognising, as she does, the advances we have made on access to information about companies and their affairs, which is real-time access for HMRC. We have of course been at the forefront of the common reporting standards regime. She asked specifically about trusts. From the UK's tax perspective, the trusts that are relevant are those that have a UK tax interest associated with them. We have already brought into law provisions that set up exactly that register, which is accessible by HMRC. There is a duty on those trusts where such an interest is a part of the operation of the trusts for them to be disclosed in

[Mel Stride]

that manner. She asked what actions might be taken to simplify the taxation of trusts and referred to the ICAEW's points on that. She might be aware that there is an ongoing consultation, the results of which will be published later this year. I am certainly happy to keep her informed as that progresses.

The hon. Member for Aberdeen North did indeed go slightly beyond the scope of the Bill, so perhaps I might be allowed similar latitude in responding to the important points she raised. She is right that amendment 3, as originally drafted, would have switched off the elements of the Bill that clamped down on the onward gifting of moneys and capital from trusts, and I fully accept that that was an unfortunate error. She contends that it is just the kind of error that might have been spotted earlier had we had an evidence session as part of the Finance Bill process. However, that error shows how these highly granular, technical, line-by-line issues, by their very nature, are probably best handled not in a broad Committee evidence session, but through consultation on the draft legislation. Particularly as we move to a single fiscal event, where we will have a more measured build-up to Finance Bills, the Treasury's aim will be to ensure that we get as much of the Bill in draft out there, so that organisations, accountants and others can pore over these clauses line by line. On the general point about evidence sessions, as we have discussed before, it would be for the usual channels to agree those. I am sure that she will be making those representations to her Whips' offices.

Question put and agreed to.

Clause 35 accordingly ordered to stand part of the Bill.

Amendment proposed: 62, in schedule 10, page 142, line 40, at end insert—

"87Q Review of taxation of capital payments received from a settlement

(1) Within six months of the passing of the Finance Act 2018, the Chancellor of the Exchequer must review the effects of the changes to this Chapter made by Schedule 10 to that Act.

(2) The review under this section must consider the effects of those changes on—

(a) the taxation regime for settlements, and

(b) anti-avoidance measures for settlements.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section as soon as practicable after its completion."—*(Anneliese Dodds.)*

This amendment requires the Chancellor of the Exchequer to review the effects of changes to TCGA 1992 made by the Bill in relation to the taxation of capital payments received from a settlement.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 7]

AYES

Blackman, Kirsty
Carden, Dan
Dodds, Anneliese
Dowd, Peter
George, Ruth
Lee, Ms Karen
Pidcock, Laura
Smith, Jeff
Thewliss, Alison

NOES

Burghart, Alex
Chalk, Alex
Clarke, Mr Simon
Graham, Luke
Kerr, Stephen
Maclean, Rachel
Philp, Chris
Rutley, David
Stride, rh Mel
Whately, Helen

Question accordingly negatived.

Amendment proposed: 63, in schedule 10, page 142, line 40, at end insert—

"87Q Public register of capital payments received from settlements

(1) The Chancellor of the Exchequer must by regulations establish a register of capital payments received from settlements to which this Chapter applies within 12 months of the passing of the Finance Act 2018.

(2) A register established under subsection (1) shall record in relation to capital payments—

(a) the recipient beneficiary;

(b) the settlor; and

(c) the trustees of the settlement from which the capital payment is received.

(3) That part of the register containing information in paragraph (c) shall be made available to the public."

(1A) In section 98(1), after "87", insert ", 87Q"."—*(Anneliese Dodds.)*

This amendment creates an obligation for the Chancellor of the Exchequer to create a public register of trust beneficiaries, settlors, and trustees. It also amends section 98(1) of TCGA 1992 to expand, to include new section 87Q, the existing power for HMRC to require any person to provide information as they think necessary to fulfil certain sections of that Act.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 8]

AYES

Blackman, Kirsty
Carden, Dan
Dodds, Anneliese
Dowd, Peter
George, Ruth
Lee, Ms Karen
Pidcock, Laura
Smith, Jeff
Thewliss, Alison

NOES

Burghart, Alex
Chalk, Alex
Clarke, Mr Simon
Graham, Luke
Kerr, Stephen
Maclean, Rachel
Philp, Chris
Rutley, David
Stride, rh Mel
Whately, Helen

Question accordingly negatived.

Amendments made: 2, in schedule 10, page 146, line 7, after "is" insert

"—

(a) where the individual is UK resident for the year,"

Amendment 51, in schedule 10, page 146, line 9, at end insert

", and

(b) where the individual is non-UK resident for the year, treated for the purposes of subsection (2) and sections 643I to 643L (but no other purpose) as income of the individual for the year, subject to subsection (5)."

Amendment 52, in schedule 10, page 146, line 33, leave out from "purposes" to second "for" in line 34 and insert

"as income of the settlor for the year and, in a case within paragraph (b), not as income of the individual".

Amendment 5, schedule 10, page 147, line 4, at end insert—

"(7) If—

(a) an enactment other than this section contains a reference (however expressed) to—

(i) income treated as arising by this section, or

(ii) an amount treated as income by this section, and

(b) the reference mentions this section without mentioning any particular provision of this section,

the reference is (in accordance with subsection (1)(b)) to be read as not including amounts treated as income by subsection (1)(b) except so far as they are treated as income of the settlor of a settlement by subsection (3) or (4)."

Amendment 6, in schedule 10, page 148, line 4, at end insert—

"(4) In this section and sections 643C to 643M, a reference to a benefit provided by trustees of a settlement is to—

(a) a benefit treated by subsection (6) as provided by the trustees, or

(b) any other benefit if it is provided by the trustees directly, or indirectly, out of—

(i) property comprised in the settlement, or

(ii) income arising under the settlement.

(5) In this section and sections 643C to 643M, a reference to a benefit provided by trustees of a settlement to an individual is to—

(a) a benefit treated by subsection (6) as provided by the trustees to the individual, or

(b) any other benefit if it is provided by the trustees to the individual directly, or indirectly, out of—

(i) property comprised in the settlement, or

(ii) income arising under the settlement.

(6) Where—

(a) income arises under a settlement, and

(b) the income, before being distributed, is the income of a person other than the trustees,

a benefit is for the purposes of subsection (4)(a) treated as provided by the trustees and is for the purposes of subsection (5)(a) treated as provided by the trustees to the person.

(7) A benefit treated as provided by subsection (6) is treated—

(a) as consisting of the income mentioned in that subsection, but after any reduction in accordance with Chapter 8 of Part 9 of ITA 2007 for trustees' expenses, and

(b) as provided at the time that income arises."

Amendment 7, in schedule 10, page 148, leave out lines 14 to 18 and insert—

"PFSI is the total of—

(a) any protected foreign-source income—

(i) arising under the settlement in the year or in any earlier tax year,

(ii) that would be treated under section 624 as income of the settlor but for section 628A,

(iii) that can be used directly or indirectly to provide benefits for the individual, and

(iv) on which the individual is not liable to income tax (ignoring for this purpose any liability under section 643A), and

(b) any protected foreign-source income—

(i) arising under the settlement in the year or in any earlier tax year,

(ii) that would be treated under section 629 as income of the settlor but for section 630A, and

(iii) on which the relevant child concerned (see section 629) is not liable to income tax (ignoring for this purpose any liability under section 643A),".

Amendment 8, in schedule 10, page 148, line 25, leave out "all amounts which" and insert

"so much of PFSI as is".

Amendment 9, in schedule 10, page 148, line 26, leave out "are".

Amendment 10, in schedule 10, page 148, line 29, leave out "all amounts which" and insert

"so much of PFSI as is".

Amendment 11, in schedule 10, page 148, line 30, leave out "are".

Amendment 12, in schedule 10, page 149, line 33, leave out "available".

Amendment 13, in schedule 10, page 149, leave out lines 37 to 40.

Amendment 14, in schedule 10, page 149, line 41, at end insert—

'(6) In this section and section 643G—

"protected income" means the income that forms PFSI in the calculation of the settlement's available protected income in the case of the relevant individual for the year, and

"the relevant individual"—

(a) where the deemed income is treated as income of an individual by section 643A(1)(a) both before and after the application of section 643A(3) and (4), means that individual, and

(b) where the deemed income is treated as income of the settlor by section 643A(3) or (4) after having been treated as income of another individual by section 643A(1), means that other individual.'

Amendment 15, in schedule 10, page 149, line 43, leave out "subsection (2)" and insert "this section".

Amendment 16, in schedule 10, page 150, line 2, leave out from "settlement," to end of line 7 and insert

'the year and the relevant individual,

(b) "protected income" and "the relevant individual" have the meaning given by section 643F(6), and

(c) "the settlement" and "the year" mean, respectively, the settlement and tax year mentioned in section 643F.'

Amendment 17, in schedule 10, page 150, line 10, after first "the" insert "relevant".

Amendment 18, in schedule 10, page 150, line 16, leave out "available".

Amendment 19, in schedule 10, page 150, line 17, at end insert—

"(ca) where the whole or part of an item of the protected income is, in respect of benefits provided by the trustees in the year or in any earlier tax year, taken into account in charging income tax under Chapter 2 of Part 13 of ITA 2007 (transfer of assets abroad) for the year or any earlier tax year, reduce the item by so much of itself as is so taken into account,

(cb) where the whole or part of an item of the protected income is, by reference to benefits provided by the trustees to individuals other than the relevant individual, treated by section 643A or 643J or 643L as income for the year or any earlier tax year, reduce the item by so much of itself as is so treated,".

Amendment 20, in schedule 10, page 150, line 18, leave out

"643A as arising to the"

[Mel Stride]

and insert

"643A(1) (before the application of section 643A(3) and (4)) as arising to the relevant".

Amendment 21, in schedule 10, page 150, line 19, after "benefits" insert

"referred to in paragraph (a)".

Amendment 22, in schedule 10, page 150, line 23, after "benefits" insert

"referred to in paragraph (a)".

Amendment 23, in schedule 10, page 150, line 24, leave out "available".

Amendment 24, in schedule 10, page 150, line 25, leave out second "the" and insert "those".

Amendment 25, in schedule 10, page 150, line 26, leave out "available".

Amendment 26, in schedule 10, page 150, line 27, at end insert—

"(3) For the purposes of subsection (2)(ca), the whole or part of an item of the protected income is to be treated as taken into account in respect of a benefit so far as the item or part—

(a) is matched under section 735A of ITA 2007 with notional income with which the benefit is matched under that section, or

(b) would be matched under that section (if it applied also for this purpose) with notional income with which the benefit would be matched under that section (if it applied also for this purpose),

and here "notional income" means income which is treated as arising under section 732 of ITA 2007."

Amendment 27, in schedule 10, page 150, line 47, leave out "643A(1)," and insert "643A(1)(a),".

Amendment 53, in schedule 10, page 151, line 7, at end insert

"or

(iii) is treated by section 643A(1)(b), before the application of section 643A(3) and (4), as income of an individual ("the original beneficiary") for a tax year ("the matching year") but is not treated by section 643A(3), and is not treated by section 643A(4), as income of the settlor for the matching year,".

Amendment 28, in schedule 10, page 152, leave out lines 10 to 19 and insert—

"(2) Where, in a case within subsection (1)(a)(i) and by reference to the amount mentioned in subsection (1)(a), income is treated by section 643J or 643L as arising to a person for a tax year, the original beneficiary is not liable to tax for any later tax year on so much of the amount mentioned in subsection (1)(a) as is equal to that income; and where, in a case within subsection (1)(a)(ii) and by reference to the amount mentioned in subsection (1)(a), income is treated by section 643J as arising to a person for a tax year, the settlor is not liable to tax for any later tax year on so much of the amount mentioned in subsection (1)(a) as is equal to that income."

Amendment 29, in schedule 10, page 154, line 38, leave out "643A(1)" and insert—

"643A(1)(a), both before and after the application of section 643A(3) and (4),".

Amendment 30, in schedule 10, page 156, line 40, at end insert—

"(ca) the original recipient is not taxed on the original benefit (see subsection (6A)),".

Amendment 31, in schedule 10, page 158, line 15, at end insert—

"(6A) For the purposes of subsection (1)(ca), the original recipient is taxed on the original benefit if the original recipient is liable to income tax, or capital gains tax, by reference to the amount or value of the original benefit; and where the original recipient is so liable by reference to the amount or value of part only of the original benefit, this section applies as if the two parts of the original benefit were separate benefits."

Amendment 32, in schedule 10, page 158, line 21, at end insert—

"and see also section 643B(4) to (7) (interpretation of references to provision of benefits by trustees)."—*(Mel Stride.)*

Schedule 10, as amended, agreed to.

Clause 36

Fixed rate deduction for expenditure on vehicles etc

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

The Chair: With this it will be convenient to take new clause 14—*Fixed rate deduction for expenditure on vehicles: review of change to eligibility*—

"(1) Within twelve months after the passing of this Act, the Chancellor of the Exchequer must review the effects of the amendments made by section 36 allowing unincorporated property businesses to use flat rates for mileage when calculating allowable deductions for vehicle expenditure for income tax.

(2) The review under this section must consider—

(a) the revenue effects of the change made, and

(b) the effect of the change on rates of car usage in unincorporated property businesses.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section as soon as practicable after its completion." —*(Peter Dowd.)*

This new clause provides for a review into the effects on revenue and on car use of allowing unincorporated property businesses to use flat rates, commonly referred to as mileage rates, when calculating allowed deductions for income tax.

Mel Stride: Clause 36 makes changes to ensure that unincorporated property businesses have the option to use mileage rates to calculate their allowable deductions for motoring expenses. Trading businesses have been able to use mileage rates since 2013. That gives individuals the choice to use fixed rates per business mile to calculate their allowable deductions for motoring expenses, instead of deducting actual running costs and claiming capital allowances. However, that simpler option has not been available to landlords.

The changes made by clause 36 address that, giving more than 2.3 million property businesses the option to use mileage rates to calculate their allowable deductions for motoring expenses, and providing administrative savings to approximately 1.8 million property businesses. Mileage rates are also available to landlords using the cash basis, bringing further simplicity to that group's tax affairs.

Extending mileage rates to property businesses is one of the most effective steps that we can take to simplify the tax system for landlords, and it is a change that stakeholders asked for during a recent consultation.

The clause, legislating for the measure announced in the autumn Budget 2017, applies from April 2017, so landlords can benefit immediately.

The new clause tabled by Opposition Members asks for the Government to review the effects of the change on tax revenue and on rates of car usage by property businesses. I appreciate the Opposition's desire to test and examine the impacts of policy changes, but in this instance there would be little for a review to study. The policy cost, certified by the Office for Budget Responsibility, is negligible for every year of the forecast. Mileage rates are designed to reflect average costs for those who use a vehicle, so the measure is a tax simplification, not a tax reduction. We would not expect any significant difference in how many property businesses use a car, either.

Landlords will take decisions based on the practicalities of running their business. The tax difference would not be significant enough for us to expect any increase or decrease in the number using a car. As identified in the tax information impact note, because the same flat mileage rate is applied for all cars, that may provide some incentive for businesses to use smaller, more efficient cars with lower operating costs. This measure will simplify the tax system further for many landlords, and I commend the clause to the Committee.

10.45 am

The Chair: Before we proceed, I remind all hon. Members, both new and longer in the tooth, that all new clauses are debated with other items now but voted on at the end of the Bill. We will not miss it, do not worry; we will come to it in due course.

Anneliese Dodds: Thank you, Sir Roger, and I will aim to keep my remarks brief. This measure was requested by stakeholders during consultations in autumn 2016, particularly on the use of the cash basis in general. As the Minister said, it appears to offer more consistency for different groups of taxpayers, particularly self-employed traders and employees, and unincorporated property businesses. None the less, Labour Members are requesting a review of the measure because we think it important to have more information about its potential revenue effects. The Minister has said that the change is largely to the basis of calculation, but if we are talking about a shift to mileage rates rather than the value of the business technology used in the first place—the car—that could be significant for the amount of tax levied, and it would be helpful to have more information on that.

We know that public services and revenues are under a huge amount of pressure, but we do not have a clear view of the overall impact of reliefs on Government revenue. That point came up in our discussions last week, and a number of my colleagues rightly intervened on it. It would be helpful to have more information about that, and about whether there could be unintended consequences. Such consequences would affect self-employed traders and employees who use mileage rates—it is not just a matter for landlords who might be covered by the new provisions—and it would be helpful to know whether, for example, there has been any consideration of trying to reduce car use in general. Some of the small one-man, one-woman bands who might be covered by the measure could be landlords of a small number of properties in a small geographical area. The Government should consider how to enable people not to use a car in the first place, and it would be helpful to hear their thinking on that.

I fondly remember how, when I was a student, my landlord used to cycle around with his dog—sadly now deceased—in the basket of his bike, and that was how he got around his properties. *[Interruption.]* The landlord is still going, as I understand it; only the dog is deceased.

Mel Stride: What about the bike?

Anneliese Dodds: The bike, I think, is still going as well. I still see my previous landlord cycling between his properties, and perhaps we should aim to promote that model, particularly when we are talking about small concerns. I am not belittling the transport requirements of larger landlords or those with properties that are geographically spread out, but it would be helpful to consider such measures. It would also be useful to know whether a thorough analysis has been made of the administrative burdens that the measure might create. The Minister alluded to that, but more information would be helpful.

May we have an indication of the extent to which the Government will try to prevent abuse in this area? I am aware that that already applies to the use of this basis by self-employed traders and employees, but during the Minister's remarks I was reminded of debates about the business use of private jets, which came up in discussions on the Paradise papers. I have talked to the Isle of Man's representatives about this. They maintain that activities have generally been above board, and that they are sorting out activities that have not been. We all remember the video of Lewis Hamilton enjoying his new private jet, which, in theory, was just for business use. It appears that appropriate safeguards had not been put in place to make sure that the jet was just for private use.

How are we ensuring that, in these kind of cases and more generally, cars are used overwhelmingly for business use? I believe it is a question of whether they are predominantly for business use. We are talking about small landlords, so it could be quite difficult to make that distinction. It is about how we prevent abuse while protecting the interests of small business.

Mel Stride: I thank the hon. Member for Oxford East for her observations, particularly the curious incident of the dead dog and the bike, which I think might end up being one of the most memorable statements in the passage of the Bill.

The hon. Lady eloquently alluded to the impact of such measures on the size or type of vehicles used to carry out the business activities that we are discussing. I point to my earlier remark that, if a fixed rate per mile can be claimed, there is an incentive to use a less expensive means of transport, be it a bicycle or a less polluting vehicle, while claiming the mileage. A useful dynamic, in terms of her interest in this area, is built into the system.

As I have pointed out, the measure is a simplification, not a tax reduction. That is a pertinent point when it comes to a review of behavioural change, because it does not change the overall weight of the tax burden on this group. As I have set out, the Office for Budget

[Mel Stride]

Responsibility has stated that the fiscal impact of the measure will be negligible—meaning that the impact will not exceed £5 million in any year—in every year of the scorecard period, albeit that 1.8 million businesses are affected by it.

The hon. Lady asked how we will know if people are abusing the system by claiming mileage allowances for a use other than business use, or for travel that has not occurred. That problem is implicit in any arrangement of this nature, in which expenses are claimed as a tax deduction. HMRC has become more and more sophisticated in how it looks at tax returns—that is clearly how such information would be provided—and it uses technology to look for patterns and abnormalities. It sometimes looks at whole subsets of taxpayers that have a greater propensity to do certain things, and it therefore investigates members of those groups more rigorously. That would be part of the approach.

Overall, I do not think it is necessary to have a review, particularly given the negligible impact of the change. On the grounds of proportionality, I ask the hon. Lady to consider withdrawing the new clause.

The Chair: The new clause cannot be withdrawn at this stage, because it has not been moved. It will be moved later, as I have indicated.

Question put and agreed to.

Clause 36 accordingly ordered to stand part of the Bill.

Clause 37

Carried interest

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

The Chair: With this it will be convenient to discuss new clause 2—*Review of the impact of the removal of the transitional taxation arrangements for carried interest*—

'(1) Within two months of Royal Assent to this Act, the Commissioners for Her Majesty's Revenue and Customs shall complete a review of the impact of the removal of transitional taxation arrangements for sums to which sections 43 and 45 of the Finance (No. 2) Act 2015 apply.

(2) The Chancellor of the Exchequer shall lay the report of this review before the House of Commons."

This new clause would require HMRC to carry out a review of the impact of removing transitional tax arrangements for sums to which sections 43 and 45 of the Finance (No. 2) Act 2015 apply.

Mel Stride: The clause removes certain transitional rules that are no longer required for the effective taxation of carried interest charged to capital gains tax. It amends the legislation that introduced the carried interest rules in the Finance (No. 2) Act 2015. The purpose of the rules is to ensure that where carried interest is subject to CGT treatment, CGT is paid on the full economic award.

Investment fund managers are rewarded in a range of ways for their work. One element of reward is straightforward income in the form of a fee, while another involves what is known as carried interest, which is the portion of the fund's value allocated to the manager in return for their long-term services to the fund. The manager's reward is therefore dependent on the performance of the fund. If the carried interest relates to short-term investments, it is rightly charged to income tax and national insurance.

The changes made by clause 37 make the tax system fairer by removing a limited exemption from the carried interest rules. That carve-out applied only to transactions before 8 July 2015 where there was a delay in the carried interest being paid out. By removing this exemption, we clarify and strengthen the policy intention. Furthermore, we prevent attempts to reduce unfairly the tax payable in circumstances not intended by the original legislation. To prevent forestalling, this clause, if passed, will have taken effect from 22 November 2017. It will ensure that carried interest is always subject to the higher rates of CGT on the full economic award.

The clause removes a transitional rule that is no longer required and puts the taxation of carried interest beyond doubt. Asset managers should pay the full rate of capital gains tax on their full economic award if it relates to long-term investments, and I therefore ask that this clause stands part of the Bill.

Kirsty Blackman *rose—*

The Chair: Ms Blackman, you may wish to speak to new clause 2, but you understand that you will not, at this stage, move it.

Kirsty Blackman: Thank you, Sir Roger. New clause 2 is designed to enable us to find out more about the previous effects of this transitional arrangement. The changes that the Government are making to ensure that all carried interest is subject to capital gains tax at the higher rate are reasonable, but I am concerned about the transitional arrangement and its effect on the income of the Exchequer. Would it not have been better for the Government to make the initial change in the first place, rather than having a transition period in which they have received less tax and the disparity between the haves and have-nots—those who are receiving carried interest and those who are not receiving carried interest—has continued because of the transitional relief on carried interest from the higher rate of CGT?

It would be good if the Government told us the impact of the transitional relief on the income of the Exchequer, and therefore on the overall tax take. It would be good if they told us the differential between people who received transitional relief, and normal people who do not receive transitional relief and have probably never even heard of carried interest. It would be good if the Government came back with a bit more information.

We are clearly not opposed to these changes, but we are trying to find out more information and make sure that previous decisions on the matter were sensible. If we have an assessment, we can make better tax law. If we are looking at making changes, we can assess whether transitional relief is really necessary or whether we should move to a fairer system straight away, without the two-year period that has been instituted.

Mel Stride: I thank the hon. Member for Aberdeen North for her observations. She says that the principal rationale for a review is to consider whether certain measures might have been brought in earlier and, indeed, whether the original transitional measures should not have been introduced, or should have been done differently. I am not sure that that, in itself, is a strong justification for a review. What matters is that we look closely at how these measures will operate, and I am grateful for her recognition of the fact that our proposed changes are positive in that respect. I assure her that we will closely monitor the operation of the measures and whether any further changes are needed.

Question put and agreed to.

Clause 37 accordingly ordered to stand part of the Bill.

Clause 38

Online marketplaces

11 am

Peter Dowd (Bootle) (Lab): I beg to move amendment 56, in clause 38, page 27, line 6, leave out "69" and insert "69(1)".

This amendment specifies the subsection of section 69 of the Value Added Tax Act 1994 that is being amended by Clause 38(2).

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

Amendment 57, in clause 38, page 27, line 9, at end insert—

"(2A) In subsection (3) of section 69, for 'subsection (4)' substitute 'subsections (3A) and (4)'.

(2B) After subsection (3) of section 69, insert—

'(3A) In relation to a failure to comply with any regulatory requirement under section 77E (display of VAT registration numbers on online marketplaces), the prescribed rate shall be determined by reference to the number of occasions in the period of 2 years preceding the beginning of the failure in question on which the person concerned has previously failed to comply with that requirement and, subject to the following provisions of this section, the prescribed rate shall be—

(a) if there has been no such previous occasion in that period, £5,000;

(b) if there has been only one such occasion in that period, £10,000; and

(c) in any other case, £15,000.'"

This amendment increases the prescribed rate of a penalty for failure to comply with a regulatory requirement under section 77E of the Value Added Tax Act 1994 (as proposed to be inserted by Clause 38(8)).

Amendment 58, in clause 38, page 27, line 15, at end insert—

"(ba) after subsection (3), insert—

'(3A) The period specified in a notice in accordance with subsection (3)(a) may not be longer than 10 days.

(3B) It shall be the duty of the Commissioners to give notice under subsection (2) in any case where they are satisfied that to do so would protect or enhance VAT revenue.'"

This amendment specifies the period for compliance with a notice under section 77B as no more than 10 days and requires HMRC to issue a notice in any case where VAT revenue would be protected or enhanced by doing so.

Amendment 59, in clause 38, page 27, line 32, leave out "60" and insert "10".

This amendment reduces the period at the end of which a person must cease to offer goods in breach of the registration requirement from 60 days to 10 days.

Clause 38 stand part.

Peter Dowd: It is a pleasure, as ever, to see you in the Chair, Sir Roger. My hon. Friend the Member for Oxford East reminded me of the Sherlock Holmes case, "The Adventure of the Solitary Cyclist". I am not sure whether someone who has a dog with them still counts as a solitary cyclist, but given that there is one cyclist, I expect they do.

If hon. Members look at our explanatory note on amendment 57, they will see that our proposals and the penalties we believe should be enacted certainly do not go as far as the penalties that the hon. Member for Brentwood and Ongar will be aware of, since I understand he did his PhD on the Mercian polity. That is reminiscent of another document, "Theft, Homicide and Crime in Late Anglo-Saxon Law", which stated:

"It is a startling but infrequently remarked upon fact that for five centuries English law, which prescribed the sternest penalties for theft, contained…a relatively minor royal fine for homicide."

We are not going to the sternest of fines for what is perhaps de facto theft here, but we are sending a clear message in relation to online marketplace avoidance, or effectively evasion, of VAT: "You don't try to rip off the Government."

Our proposals seek to address the growing levels of online VAT fraud and the responsibility of online retailers to play a much-needed part in tackling it. We now all spend a large proportion of our lives online, so it is unsurprising that more UK consumers than ever are buying a larger proportion of their goods through online marketplaces such as Amazon, eBay and others. In 2016, 14.5% of all UK retail sales were online, up from 2% in 2006. Just over 50% of those sales were through online marketplaces rather than directly by the seller.

The VAT rules clearly require that

"all traders based outside the European Union (EU), selling goods online to customers in the UK, should charge VAT if their goods are already in the UK at the point of sale",

but, as hon. Members will be aware, some are not doing so. According to the National Audit Office:

"HM Revenue & Customs (HMRC) estimates that online VAT fraud and error cost between £1 billion and £1.5 billion in lost tax revenue in 2015-16 but this estimate is subject to a high level of uncertainty… The estimate is calculated from an assessment of the extent of under-valuation in a sample of medium and high-risk imports from high-risk non-EU countries, underpinned by assumptions informed by operational data and intelligence. This method uses an estimate of import VAT fraud as a proxy for the scale of online VAT fraud and error, and HMRC considers it to be the best estimate from data available,"

which is perfectly reasonable.

The Campaign Against VAT Fraud on eBay & Amazon in the UK estimates that online VAT fraud

"equates to £27 billion in lost sales revenue & additional taxes to UK businesses and the public purse in the last 3 years"

alone. What is more, HMRC has stated that it does not have data on online fraud and other losses before 2015-16, and as far as I am aware it does not plan to repeat the review of lost tax for future years. Similarly,

"HMRC estimates do not account for the wider impacts of online VAT fraud and error such as distortion of the competitive market landscape."

Ruth George (High Peak) (Lab): I have worked with major UK retailers for almost 20 years, and there has been growing distortion in the market, as between brick-and-mortar retailers and online retailers, on business rates in particular. Does my hon. Friend agree that if we

[Ruth George]

do not tackle VAT fraud more proactively, it simply adds insult to injury for those honourable retailers that are investing in considerable job and employment opportunities in the UK?

Peter Dowd: My hon. Friend makes a valid point that goes to the heart of much of today's discussion: those who seek to avoid should pay appropriate penalties.

The slowness of HMRC to respond to growing fraud online has been criticised by the Public Accounts Committee, which raised concerns first in April 2013 and more recently in October 2017. It is not alone; the National Audit Office reported in 2013 that

"HMRC had not…produced a comprehensive plan to react to the emerging threat to the VAT system posed by online trading."

The report found that HMRC had developed tools to identify internet-based traders and launched campaigns to encourage compliance, but had shown less urgency in developing an operational response to it.

Trader groups, such as the Chartered Trading Standards Institute, have been raising concerns for many years, and claim that online VAT fraud has been a problem from as early as 2009, yet the Government did not recognise the problem until 2015. Nearly three years later, the Government are finally introducing measures that will force the Amazons and eBays of this world to be held jointly accountable for the VAT of online vendors that use their sites.

My understanding is that HMRC has instead pursued civil operations against suspected evaders, as HMRC claims that difficulties in prosecuting suspected online fraud make that route lengthy, costly and uncertain of outcome; I suppose that is justice. Barriers include sellers being based outside the EU, and the need to show intent to commit fraud. I would like to ask the Financial Secretary to the Treasury how many operations HMRC has pursued since 2015, and what their outcomes were.

The Public Accounts Committee report on online VAT fraud found that HMRC had only recently begun to take the problem seriously, despite the fact this fraud leads to significant loss of revenue to the Exchequer, in effect depriving our public services of the funds they so desperately need. The Committee found that HMRC, rather than trying to use its pre-existing powers, waited until the introduction of new measures under the Finance Act 2016 before it attempted to hold online marketplaces responsible for VAT that had been fraudulently evaded by traders. HMRC has been too cautious in using those powers, and the Government have refused to name and shame non-complaint traders; so far, to my knowledge, they have not prosecuted a single one for committing online VAT fraud.

Professor de la Feria, an expert in tax law at the University of Leeds, pointed out that HMRC has not been doing enough to tackle the problem, despite the required legislation being in place. She argued that laws existing before the introduction of the 2016 measures provided scope.

Luke Graham (Ochil and South Perthshire) (Con): As a member of the Public Accounts Committee, I was at the hearing on VAT fraud. Does the hon. Gentleman not recognise that VAT is incredibly difficult to police, especially on e-commerce platforms, given the international nature of a lot of the trade, including by small traders in China? Does he not accept that changes put forward in the Budget address some of the concerns that the Public Accounts Committee raises, and mark a positive step on the Government's part?

Peter Dowd: Yes and yes, but that does not alter the fact that we need to push on as much as we can with tackling this issue. The amendments go some way towards helping and, importantly, towards sending a message to those who choose to evade VAT. In online marketplaces and fulfilment houses, fraudulent activity continues fairly unabated, and we must do something about it.

Professor de la Feria also believes that part of the reason that HMRC has been slow to tackle online fraud is that it is most likely considered not cost-effective to pursue it. Online marketplaces and HMRC are not doing enough together to tackle the problem, notwithstanding the action that has been taken. Online marketplaces continue to earn their commissions, and so their profit, from people who are defrauding the British taxpayer. Amazon, for example, organises regular presentations at Chinese fairs—a point referred to by the hon. Member for Ochil and South Perthshire—to recruit overseas sellers, I suspect; has plans to buy a shipping company; and fulfils orders and handles payments. That all suggests a very embedded relationship with the seller. Those connections and networks are there; people must know each other to set them up. HMRC should use those relationships and networks to do something about the problem.

Until we can incentivise online marketplaces to act, they will continue to offer a lacklustre approach to tackling online VAT fraud. In September 2016, HMRC introduced new legal powers to tackle online VAT fraud and error. They allow HMRC to issue a warning to online marketplaces about potential sellers who are not paying VAT. Since their introduction, how many times has HMRC used the new powers? How many sellers has HMRC issued a warning about, and what was the result of the use of the powers? Since they were introduced, HMRC has seen an increase in the number of new VAT registrations from non-EU sellers, but HMRC confirms that it is not aware of the proportion of those sellers that have in the past been trading and not charging VAT, or whether those sellers will be compliant in future. Last year, HMRC told the Public Accounts Committee that it expected to collect £50 million more VAT in 2017 from the traders that had recently registered for VAT, so can the Minister confirm that HMRC has collected that money, or is on course to do so?

According to HMRC, some online VAT fraud is due to a lack of awareness, some overseas sellers being unaware that they need to pay VAT. Both Amazon and eBay, when testifying to the Public Accounts Committee, agreed with that view and described the lack of awareness of VAT rules as a major element of the problem. What efforts has HMRC made to educate sellers in the UK about potential VAT fraud? More importantly, what efforts have been made to ensure that overseas sellers are aware of the need to pay VAT?

The other part of the problem stems not from error, but from clear criminality. HMRC's strategic threat assessment, carried out in 2014, concluded that it was highly likely that organised criminal groups based in the UK and overseas sellers in China were using fulfilment houses to facilitate the transit of undervalued or misclassified goods, or both, from China to the UK for sale online. It is particularly concerning that HMRC is uncertain of the exact number of fulfilment houses in the UK. Surely one of the first parts of cracking down on this criminality is establishing the exact number of fulfilment houses in operation. That goes some way to dealing with the point made by the hon. Member for Ochil and South Perthshire. Perhaps the Minister can take a minute to explain what steps HMRC is taking to address the issue and crack down on organised criminal groups in the UK and other countries, and what efforts Border Force is making to tackle online VAT fraud by targeting fulfilment houses, where the goods are stored.

Once again, it seems that HMRC is hampered by the Government's cuts to staffing and resources, and that this is having an impact on the Government's ability to crack down on online VAT fraud. According to the Public and Commercial Services Union—HMRC's trade union—in real terms, after the cost of inflation is taken into account, the resources available to HMRC are about 40% less today than they were in 2000. Since 2010, under this Government, HMRC's staffing has fallen by 17%, and it is set to fall further under the "Building our Future" programme. These are important factors in relation to tackling evasion. That programme will close practically the entire departmental estate of 170 offices. How will that help with tackling the mass of VAT crime?

The elephant in the room is the added uncertainty about Brexit and its impact on the effectiveness of the measures. There is considerable uncertainty about the exact terms on which the UK will leave the EU, so it is vital to get to grips with this. Sellers based in the EU may end up operating under the same VAT terms as apply to non-EU sellers and therefore may also be tempted not to charge VAT. Perhaps the Minister can offer insight into what steps HMRC is taking to ensure that these measures will be robust, irrespective of the outcome of the Brexit negotiations.

There are already considerable control weaknesses at the border. The most recent European Anti-Fraud Office report on customs duties was scathing about the state of UK customs, arguing that "continuous negligence" has deprived the EU of almost £2 billion in revenues on lost Chinese merchandise. According to the report, British customs played a central role by repeatedly ignoring warnings to take action over Chinese textiles and footwear pouring into the EU. Since then, HMRC has failed to open any criminal investigations into specific fraud schemes. The European Anti-Fraud Office is so aggrieved with the UK Government that it has recommended to the European Commission's directorate-general for budget that the UK should be forced to pay £2 billion directly into the EU budget.

11.15 am

A number of UK trader groups believe that HMRC could do more, particularly when it comes to seller data that would identify potentially non-compliant sellers. HMRC has begun to collaborate with the online marketplace to gather this data, but the data exchange is in its early stages.

Amazon and eBay have both made huge assertions about the level of action they have taken to deal with sellers on their websites not paying VAT, and about the efforts they have made to collaborate with HMRC. However, Amazon started collecting VAT numbers from non-EU sellers only six months ago and, perhaps most worrying of all, told the Public Accounts Committee last year that knowing whether a non-EU seller has a valid VAT number is not a crucial data point. HMRC has reported resistance from online marketplaces when it comes to sharing data that is not held in the UK's jurisdiction, so it is clear that there is a lot more work to do.

We welcome moves to make online marketplaces jointly liable for the VAT of the sellers on their websites. However, we have concerns, which are laid out in our amendments. The first concern is about the wording of the measures, which seems to imply that joint liability will not be presumed in law; instead, it will happen after HMRC has undertaken an investigation. This creates the opportunity for online marketplaces to continue tacitly to allow their sellers a level of freedom unless HMRC specifically catches them out.

Secondly, the Government have not stated the value of the penalty that an online marketplace would incur if it refused to co-operate with HMRC. Amendment 57 would set the penalty at £5,000 for the first offence, £10,000 for the second, and £15,000 for every offence thereafter.

Thirdly, the Government have failed to specify a time framework for an online marketplace to comply with HMRC and remove a seller's goods if it fails to pay VAT. Amendments 58 and 59 would give the online marketplace 10 days to comply, and would reduce the time after which it must cease to offer goods that are in breach of the registration requirement from 60 days to 10 days. This would ensure that an online market that failed to comply would automatically cease offering goods in breach of the law.

The measures are a step in the right direction, but as I have shown, there is an array of outstanding questions that the Financial Secretary to the Treasury and HMRC have failed to answer. They may well be able to answer them, but until they do, we will continue to think that the Government are not as serious as they should be about tackling the growing industry of online VAT fraud, and about the billions potentially being lost to the UK taxpayer.

Ordered, That the debate be now adjourned.—*(David Rutley.)*

11.18 am

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE (NO. 2) BILL

(Except clause 8; clause 33 and schedule 9; clauses 40 and 41 and schedule 11; new clauses or new schedules relating to the income tax treatment of armed forces' accommodation allowances, the bank levy, stamp duty land tax, the effect of the Bill on equality, or the effect of the Bill on tax avoidance or evasion)

Sixth Sitting

Tuesday 16 January 2018

(Afternoon)

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PBC (Bill 134) 2017 - 2019

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not later than

Saturday 20 January 2018

The Committee consisted of the following Members:

Chairs: Sir Roger Gale, † Albert Owen

† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Burghart, Alex *(Brentwood and Ongar)* (Con)
† Carden, Dan *(Liverpool, Walton)* (Lab)
† Chalk, Alex *(Cheltenham)* (Con)
† Clarke, Mr Simon *(Middlesbrough South and East Cleveland)* (Con)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Dowd, Peter *(Bootle)* (Lab)
† George, Ruth *(High Peak)* (Lab)
† Graham, Luke *(Ochil and South Perthshire)* (Con)
† Kerr, Stephen *(Stirling)* (Con)
† Lee, Ms Karen *(Lincoln)* (Lab)
† Maclean, Rachel *(Redditch)* (Con)
† Philp, Chris *(Croydon South)* (Con)
† Pidcock, Laura *(North West Durham)* (Lab)
† Rutley, David *(Lord Commissioner of Her Majesty's Treasury)*
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Stride, Mel *(Financial Secretary to the Treasury)*
† Thewliss, Alison *(Glasgow Central)* (SNP)
† Whately, Helen *(Faversham and Mid Kent)* (Con)

Colin Lee, Jyoti Chandola, Gail Bartlett, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 16 January 2018

(Afternoon)

[ALBERT OWEN *in the Chair*]

Finance (No. 2) Bill

(Except clause 8; clause 33 and schedule 9; clauses 40 and 41 and schedule 11; new clauses or new schedules relating to the income tax treatment of armed forces' accommodation allowances, the bank levy, stamp duty land tax, the effect of the Bill on equality, or the effect of the Bill on tax avoidance or evasion)

Clause 38

ONLINE MARKETPLACES

Amendment proposed (this day): 56, in clause 38, page 27, line 6, leave out '69' and insert '69(1)'.—*(Peter Dowd.)*

This amendment specifies the subsection of section 69 of the Value Added Tax Act 1994 that is being amended by Clause 38(2).

2 pm

Question again proposed, That the amendment be made.

The Chair: I remind the Committee that with this we are discussing the following:

Amendment 57, in clause 38, page 27, line 9, at end insert—

'(2A) In subsection (3) of section 69, for "subsection (4)" substitute "subsections (3A) and (4).

(2B) After subsection (3) of section 69, insert—

"(3A) In relation to a failure to comply with any regulatory requirement under section 77E (display of VAT registration numbers on online marketplaces), the prescribed rate shall be determined by reference to the number of occasions in the period of 2 years preceding the beginning of the failure in question on which the person concerned has previously failed to comply with that requirement and, subject to the following provisions of this section, the prescribed rate shall be—

(a) if there has been no such previous occasion in that period, £5,000;

(b) if there has been only one such occasion in that period, £10,000; and

(c) in any other case, £15,000."'

This amendment increases the prescribed rate of a penalty for failure to comply with a regulatory requirement under section 77E of the Value Added Tax Act 1994 (as proposed to be inserted by Clause 38(8)).

Amendment 58, in clause 38, page 27, line 15, at end insert—

'(ba) after subsection (3), insert—

"(3A) The period specified in a notice in accordance with subsection (3)(a) may not be longer than 10 days.

(3B) It shall be the duty of the Commissioners to give notice under subsection (2) in any case where they are satisfied that to do so would protect or enhance VAT revenue."'

This amendment specifies the period for compliance with a notice under section 77B as no more than 10 days and requires HMRC to issue a notice in any case where VAT revenue would be protected or enhanced by doing so.

Amendment 59, in clause 38, page 27, line 32, leave out '60' and insert '10'.

This amendment reduces the period at the end of which a person must cease to offer goods in breach of the registration requirement from 60 days to 10 days.

Clause stand part.

Alison Thewliss (Glasgow Central) (SNP): I do not a have tremendous amount to add to what the hon. Member for Bootle laid out, but I want to highlight the written evidence submitted by the Institute of Chartered Accountants in England and Wales regarding VAT and online marketplaces.

The institute is concerned that as well as this change proposed by the Government, there may be subsequent change, perhaps—if we are still subject to the European Union—with the principal VAT directive taking effect in 2021. What is the Government's view of that directive? Do they think there is any chance that we will be in some transitional period, or that UK businesses will be under that directive? It is not clear at the moment.

The chartered accountants are asking for the UK to seek

"a derogation to implement these proposals from an earlier date than currently permitted under EU law."

That will not be necessary if the UK has left and we are not subject to EU law, but the institute believes that the EU directive would give consistency to both UK and EU businesses and that there would be no double taxation risk in it.

To highlight some of the things that the hon. Member for Bootle mentioned, I am sympathetic to the Government view that this is a difficult area for enforcement. The online world is constantly changing and there are always new ways for businesses to get around their obligations. It might be useful to have a wider review, perhaps once we leave the EU, because in many areas there seems to be a way around for businesses not to pay their VAT—they pop up, do something else, and change and change, so perhaps there should be regulation of the marketplaces to a greater degree, for companies such as eBay and Amazon, to make sure that that is done. Perhaps we should get that VAT automatically at the point of sale, so that we do not have to go through companies in a longer and more protracted way. We know when goods are being delivered; they go to someone's house, to an address, so for the most part we can trace where they are going. Perhaps there are other ways we can enforce VAT collection. At the moment it seems like an easy thing to get around and a difficult thing for Her Majesty's Revenue and Customs to chase. If we want to ensure that we get the maximum VAT take, we have to look at different ways and try to get around the technology in a smarter way than we perhaps have been doing up to now.

The Financial Secretary to the Treasury (Mel Stride): It is a pleasure to serve again under your chairmanship, Mr Owen.

The clause strengthens existing powers to make online marketplaces accountable for VAT evaded through their platforms. The growth and development of the online retail market mean that the average UK consumer can now buy a vast range of goods at very competitive prices, and have them delivered rapidly by sellers based all over the world. E-commerce plays an important part in the UK economy, but it also provides opportunities for abuse of the VAT system.

Businesses that sell goods to UK consumers via online marketplaces do not always pay the correct VAT to HMRC. When those businesses do not charge VAT correctly on their goods, they unfairly undercut the honest majority of businesses that comply with our VAT rules—that point was made by the hon. Member for High Peak. The businesses that do not charge VAT correctly abuse the trust of UK customers and deprive the Government of significant revenue.

At Budget 2016, the Government announced a package of measures to tackle online VAT fraud. That included a new joint and several liability provision giving HMRC the power to hold online marketplaces responsible for the future unpaid VAT of non-compliant overseas businesses that HMRC identifies operating on the marketplaces. It also included a fulfilment house due diligence scheme which opens for registration in April 2018 and will provide HMRC with an audit trail to track goods that UK-based warehouses are storing for overseas traders. The new package extends HMRC's existing powers for tackling online VAT fraud. Taken together, the packages of Budget 2016 and autumn Budget 2017 are expected to raise just under £1 billion by 2023.

The clause strengthens HMRC's existing joint and several liability powers and introduces a new requirement for online marketplaces to display valid VAT numbers on their platforms. Although online VAT fraud is not restricted to overseas businesses, the clause will ensure that joint and several liability rules cover all non-compliant businesses, including United Kingdom ones. It also strengthens the existing joint and several liability rules for overseas businesses and will enable HMRC to hold online marketplaces jointly and severally liable for the unpaid VAT of an overseas online seller from the point when the online marketplace knew or should have known that the overseas seller should be registered for VAT in the UK but was not.

At this point, I will turn to some of the specific points raised by hon. Members this morning. The hon. Member for Bootle was concerned about whether the measures are strong enough, although my hon. Friend the Member for Ochil and South Perthshire rightly pointed to the sittings of the Public Accounts Committee, in which the complexity and difficulties of this area have been highlighted.

Under the current arrangements, HMRC has received about 25,000 applications to register for VAT from non-EU-based online retailers. The VAT liability reported by such businesses has increased from £6 million in 2015 to £27 million in 2016, and we expect that to continue to rise. HMRC has issued more than 1,000 joint and several liability notices to online marketplaces resulting in the removal of non-compliant sellers. It has also issued assessments against online overseas traders for unpaid VAT amounting to more than £43 million, with a further £71 million in the pipeline. That covers at least some of the questions posed by the hon. Member for Bootle.

The hon. Gentleman also raised the issue of HMRC resourcing. We have provided HMRC with an additional £2 billion since 2010, which is part of the reason why it has been so successful in bringing in additional revenues by clamping down on avoidance, evasion and non-compliance. A further £170 million came through the recent Budget, which will raise more than £4 billion across the scorecard period. He also mentioned the issue of people and office closures. We have previously discussed how HMRC's operations are now far more technology-driven and intelligence-led, and that kind of approach lends itself to the more centralised, high-tech, highly skilled operation that underpins much of the success that we are having today.

The hon. Member for Glasgow Central asked about VAT directives. I think—I am interpreting her remarks; she can correct me if I am wrong—that she might be referring to VAT arrangements between the EU and the UK. There is acquisition VAT, as opposed to import VAT, which applies to businesses importing from non-EU countries. The customs Bill going through Parliament at the moment will effect a change from acquisition VAT to import VAT. It will, of course, be down to the negotiation where exactly we land in terms of the arrangements that pertain after our exit from the European Union, but I assure her that HMRC will consider carefully the impact of where we land to ensure that we continue to make progress on online VAT fraud. She suggested a review after we have left the European Union of the measures and the operation of online platforms. We can certainly consider that for the future. I am sure that we will come back to the issue many times in the years ahead.

Finally, the clause requires online marketplaces to ensure that VAT numbers are valid and displayed on websites when they are provided by the seller. The requirement will be supported by regulatory penalty. Taken together, the changes will make it more difficult for non-compliant online businesses to trade in the UK, and will enable HMRC to tackle them more easily.

I welcome the opportunity to speak to the amendments tabled by the hon. Members for Oxford East and for Bootle. At this stage, I should say that something rather extraordinary and slightly worrying has occurred: the Government have decided that we are content to accept one of the amendments. After all the constant chipping away at us, one amendment has got through. I would not get too excited—it is slightly technical—but we are grateful to the Opposition for their scrutiny of the Bill and for tabling this amendment. The Government agree with amendment 56 and will therefore specify that it is section 69(1) of the Value Added Tax Act 1994 being amended.

Amendment 57 would increase the penalty for online marketplaces that fail to display a valid VAT number when provided with one. The current penalties refer to daily amounts and are entirely consistent with the penalties awarded for similar offences. In contrast, the proposed amendment could result in a marketplace receiving a penalty of up to £1.5 million for failing to display a valid VAT number for a single online sale. We believe that a sanction such as that would be unreasonable.

Amendment 58 would limit the time available for an online marketplace to ensure the compliance or removal of a non-compliant seller to 10 days after receipt of a joint and several liability notice. It would also require HMRC to issue a JSL notice in every case where VAT revenue would be protected or enhanced. Such an amendment would restrict HMRC's ability in handling non-compliance on a case-by-case basis. It is also somewhat unfair, denying an online marketplace a sufficient opportunity to tackle non-compliance by sellers on its platforms before being held jointly and severally liable.

[Mel Stride]

Similarly, amendment 59 would reduce the period in which an online marketplace must ensure compliance or removal of an overseas seller, from the point of view that it knew or should have known that a particular seller should be registered for UK VAT but is not. The amendment would reduce the period allowed from 60 days to 10 days. That would not allow enough time for an online marketplace acting in good faith to assist an overseas seller in becoming registered for UK VAT without still incurring joint and several liability. I commend the clause to the Committee.

Peter Dowd (Bootle) (Lab): I am deeply grateful to the Government for accepting an amendment that specifies the subsection of section 69 of the Value Added Tax Act 1994 that will be amended by clause 38(2). It is very significant and a major climb-down by the Government. *[Laughter.]* May there be many more of them, Mr Owen. It is a delight to see you in the Chair.

I am not wholly convinced by the Minister's protestations about the huge amounts involved and the latitude that the Government appear to give to people who, when they set up businesses, know the environment that they are operating in. These are intelligent people, entrepreneurs. They know exactly what they are doing so they should be aware, as much as they can be, of what the rules are when they get into the game, so to speak. That lots of these people are naive and not really sure what is going to happen and what the processes, the procedures and the rules are, is not the most convincing argument I have heard from the Minister.

The message that we have to send to people who wish to set up businesses is, "You will get a welcoming environment. We welcome entrepreneurs. We welcome you being part of our business society and our business communities. But you have to play by the rules, and if you don't, your business may face sanctions." That is the message that we want to sell, especially in the light of the fact that we are moving out of the European Union. There are huge amounts of uncertainty in the economy, so we just want to let people know that if they do come into that environment, they will have to be careful to play by the rules.

I do not think that our proposals, particularly in amendment 57, are especially onerous. The amount of money—cash—that companies will make will be quite significant; they just have to be clear that they play by the rules. So despite the Minister's silver tongue, we will press amendment 57 to a vote, to make a point.

Amendment 56 agreed to.

2.15 pm

Amendment proposed: 57, in clause 38, page 27, line 9, at end insert

"(2A) In subsection (3) of section 69, for 'subsection (4)' substitute 'subsections (3A) and (4)'.

(2B) After subsection (3) of section 69, insert—

'(3A) In relation to a failure to comply with any regulatory requirement under section 77E (display of VAT registration numbers on online marketplaces), the prescribed rate shall be determined by reference to the number of occasions in the period of 2 years preceding the beginning of the failure in question on which the person concerned has previously failed to comply with that requirement and, subject to the following provisions of this section, the prescribed rate shall be—

(a) if there has been no such previous occasion in that period, £5,000;

(b) if there has been only one such occasion in that period, £10,000; and

(c) in any other case, £15,000.'"—*(Peter Dowd.)*

This amendment increases the prescribed rate of a penalty for failure to comply with a regulatory requirement under section 77E of the Value Added Tax Act 1994 (as proposed to be inserted by Clause 38(8)).

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 9]

AYES

Blackman, Kirsty
Carden, Dan
Dodds, Anneliese
Dowd, Peter
George, Ruth
Lee, Ms Karen
Pidcock, Laura
Smith, Jeff
Thewliss, Alison

NOES

Burghart, Alex
Chalk, Alex
Clarke, Mr Simon
Graham, Luke
Kerr, Stephen
Maclean, Rachel
Philp, Chris
Rutley, David
Stride, rh Mel
Whately, Helen

Question accordingly negatived.

Clause 38, as amended, ordered to stand part of the Bill.

Clause 39

VAT REFUNDS TO PUBLIC AUTHORITIES

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

The Chair: With this it will be convenient to discuss new clause 1—*Review of retrospective VAT refunds for the Scottish Fire and Rescue Service and the Scottish Police Authority—*

'(1) Within one month of this Act receiving Royal Assent, the Chancellor of the Exchequer shall commission a review of the potential consequences of allowing the Scottish Fire and Rescue Service and the Scottish Police Authority to claim VAT refunds under section 33 of VATA 1994 retrospective to the date of their establishment.

(2) The review shall consider—

(a) the administrative consequences of allowing retrospective claims, and

(b) the impact on revenue of allowing retrospective claims.

(3) The Chancellor of the Exchequer shall lay the report of this review before the House of Commons within six months of this Act receiving Royal Assent.'

This new clause would require the Chancellor of the Exchequer to commission a review into what the potential consequences of allowing the Scottish Fire and Rescue Service and the Scottish Police Authority to make retrospective claims for VAT refunds would be.

Mel Stride: The clause makes a number of changes to section 33 of the VAT Act 1994, which allows certain bodies to recover normally irrecoverable VAT. First and foremost, the clause fulfils the commitment made in autumn Budget 2017 to legislate to provide VAT refunds to Police Scotland and the Scottish Fire and Rescue Service.

The Committee will be aware that in 2012, the Scottish Government chose to restructure Scottish police and fire services to create national bodies. At the time, the Scottish Government understood that those bodies would not be entitled to VAT refunds as they were no longer locally funded. They none the less continued with the change on the basis that VAT costs would be outweighed by potential savings.

A number of representations have been made to the Government on the issue and the Government have listened carefully to the concerns expressed. I am pleased that the provisions in clause 39 will enable the Scottish services to fully recover VAT, in effect providing £40 million additional financial support each year.

The clause also makes minor changes to the legislative basis by which combined authorities and English and Welsh fire authorities receive VAT refunds. Those bodies are currently eligible for VAT refunds but each authority is added to section 33 individually by statutory instrument, which takes up parliamentary time. The clause removes the need for statutory instruments and ensures that English and Welsh fire authorities are automatically entitled to VAT refunds. It does not substantially affect the VAT treatment of combined authorities or English and Welsh fire authorities. It simply removes an unnecessary administrative barrier, freeing up parliamentary time by allowing authorities to access refunds automatically.

Finally, I will touch on the VAT treatment of police services in Northern Ireland. Northern Irish police services have always had the right to reclaim VAT refunds and it is absolutely right that that is the case. However, it is a complex area of VAT law and the Government have decided to clarify the legislation to put the matter beyond doubt. The clause therefore makes explicit the right of the Northern Irish policing bodies to receive VAT refunds.

The clause makes a number of changes to the treatment of public bodies in the VAT Act, as well as making procedural amendments. It delivers on the Chancellor's Budget announcement on Scottish police and fire services, providing VAT refunds worth around £40 million a year to support the delivery of frontline services. I therefore commend the clause to the Committee.

Alison Thewliss: We support the U-turn by the UK Government to allow VAT to be reclaimed by Police Scotland and the Scottish Fire and Rescue Service. I should declare that I was a councillor on the board of Strathclyde fire and rescue when this was being discussed; I know the matter well and know the issues that the Minister referred to. There was a great deal of correspondence at that time from Scottish Government Ministers to the UK Government, requesting that the change be made, so it is with some incredulity that we hear, "Oh wait; all of a sudden we have just realised, yes, we are going to fix it now"—now, rather than several years earlier.

It seems logical that if the argument stands today and it stood in the Budget, then it stood all along, so the Government should do right by the Scottish Fire and Rescue Service and Police Scotland and refund the VAT that we are due. Given that those services' funding was pushed on to the Scottish Government via the UK Government's austerity agenda, they very much need that money.

Luke Graham (Ochil and South Perthshire) (Con): The hon. Lady is making a fair point, but the simple fact is that the Scottish Government knew that the changes were going to incur VAT charges. Does she accept not only that the Government have changed their policy position, benefiting police and fire services in Scotland, but that they have increased in real terms the block grant to Scotland? It is not austerity: Scotland is getting more funding under this Conservative Administration, not less.

Alison Thewliss: I very much dispute that point, as would the Scottish Fire and Rescue Service.

Luke Graham: You can't—it's a fact.

The Chair: Order.

Alison Thewliss: The hon. Gentleman knows that we have been arguing this case in this House since we got here. I was in this very room—in this very spot—when my colleague Roger Mullin made this argument in July 2015. We tabled amendments to the Finance Bill 2015 and to each subsequent Finance Bill, and we have made this argument on numerous occasions here and in the Chamber. We are glad about the change, but we think it is only good, right and fair that it is backdated to reflect the fact that the argument has stood all along.

It is interesting that the Scottish Conservatives have tried to claim that this is some great victory, but the Government's Red Book, at the top of page 39, speaks of combined authorities in England and Wales being eligible for VAT refund, so I would contend that the Government were almost caught out by this. They had to make the change for Scotland because they were going to make the change for England and Wales, whereupon the argument became utterly compelling and there was no other way for them to get themselves out of the hole. I am very glad indeed that they are doing it.

Stephen Kerr (Stirling) (Con): I interrupt the hon. Lady in her flow only to congratulate her on the convolutions of her argument. Frankly, it could be easily argued the other way round.

Alison Thewliss: The arguments are as compelling today as they were in 2015, in 2012, or at any other point. The coincidence of it having to be done for certain fire services in certain combined authorities in England and Wales makes the case that this should have been done all along.

We welcome this measure. We tabled our new clause, which we will press to a vote at the appropriate stage, because we would like to see some more detail about the administrative consequences and the impact on revenue of allowing retrospective claims. We know that the Government will do things in retrospect—other parts of the Bill enable them to enforce regulations relating to tax avoidance and claim money back in retrospect—so there is no argument that moneys cannot be claimed back if people should have known about them before. The Government are willing to make allowances and

[Alison Thewliss]

make changes if there are things that people might or might not have reasonably known. They have made such changes in other parts of the Finance Bill. We have received lots of correspondence from people who feel as though they have been hard done by a measure the Government are introducing now, which they see as retrospective and unfair. If the Government are allowing retrospective measures elsewhere, why will they not allow it here so that the Scottish Fire and Rescue Service and Police Scotland get the money they have been due all along?

Peter Dowd: I rise to speak to new clause 1, tabled by the hon. Member for Glasgow Central. The Opposition welcome the Government's decision to allow the Scottish Fire and Rescue Service and the Scottish Police Authority to claim retrospective VAT funds. The measures in the clause follow the Scottish Government's decision in 2012 to establish a nationwide fire and rescue service for Scotland. The Treasury Minister at the time, now the Justice Secretary, wrote:

"Based on the information currently available it seems that, following the Scottish government's planned reforms, neither the new police authority nor the fire and rescue service will be eligible for VAT refunds under Section 33 of the VAT Act 1994."

That Government decision meant that the Scottish police and fire services lost out on VAT refunds worth more than £30 million, of which Scottish police forces lost out on about £26 million. As a former chair of a fire and rescue service, long before the cuts to those services, I have to say that this amount of money would have been a strain even in those days. It is even more stressful now, so I can understand the anxieties and concerns of the Scottish Government.

To some extent, one could argue that it is a sign of recklessness that, in a time of austerity, the Government would effectively leave Scottish firefighters and police officers to fend for themselves. The Opposition therefore welcome the Government's decision to reconsider their position, and to allow the Scottish police forces and fire services to retroactively reclaim the VAT—particularly given that the Minister's reasoning at the time for denying Scottish police and fire services access to the funds was insubstantial at best. At times, it seemed to me and to other onlookers potentially malicious. I think that was the perception that people had at the time.

The then chief constable of Scotland, Sir Stephen House, when he testified to the Justice Committee of the Scottish Parliament last year, said that he was bewildered by the fact that the Scottish police force was the only police force charged VAT, as none of the 43 police forces pay VAT, and neither does the Police Service of Northern Ireland or the National Crime Agency, both of which are centralised agencies.

The Government's decision to allow the Scottish police and fire services to claim retrospectively should not be controversial, even if it has taken a little time to get here. The Government have acted a number of times in the past to ensure that public authorities do not pay VAT, which is laudable. A number of Governments have done that, in fact. In 2001, the last Labour Government introduced a scheme to allow eligible museums and galleries to claim back VAT paid on most goods and services purchased, in order to grant free rights of admission to their collections. In 2011, the coalition Government introduced provisions as part of the Finance Act 2011 to ensure that academies, which supply free education but are not under local authority control—the phrase "under local authority control" is a misnomer if ever there was one, but it is important to use the language that people use, so we all know what we are talking about—were allowed to recover their VAT costs in the same way as local authorities. Similarly, in the March 2015 Budget, the coalition Government announced that from 1 April 2015, hospice charities, search and rescue charities and blood bike charities would be entitled to recover VAT incurred on their business activities, so there is a fairly well-trodden path regarding this issue.

Although we welcome the Government's change of heart, allowing the Scottish fire and police forces to reclaim VAT retroactively is a drop in the ocean compared with the levels of gross underfunding and cuts to police and fire services across the country, including services in Scotland. New figures obtained by the Fire Brigades Union show that almost one in five frontline fire service posts—some 11,000 jobs—have been lost since 2010, which is a post-war record of job losses in that crucial service. That is all the more reason why this money should come back to those services. Since 2010, almost 8,000 full-time firefighter jobs have been loss. Fire safety inspections have fallen by 28% since the Government came to power, which is all the more reason why this retrospective or retroactive decision should be put into effect. The general secretary of the Fire Brigades Union said that

"Continued cuts to frontline firefighters and emergency fire control operators…are a serious threat to public safety."

That is worrying.

The VAT refunds, although welcome, will not stop the deeper cuts to the fire service that are currently taking place, resulting in significantly fewer firefighters across the whole country. It is increasingly clear that VAT refunds will not prevent cuts in the service. As far as I can gather, the Prime Minister oversaw that when she was the Home Secretary. This may be the hand of the Prime Minister seeking some sort of retribution—on herself, perhaps—or rather, putting paid to past decisions.

To sum up, we welcome the proposals, but it would be helpful if the Minister could offer some examples where the grant could be claimed and what the criteria would be for things such as rescue charities hoping to access the grant as well. It is regrettable the Government have chosen to spend the last four years playing politics with the Scottish police and fire services. I hope the measure will ensure that VAT on every penny the police and fire services in Scotland spend will be refunded and that the Minister, at the same time, will ask his Government colleagues to look at the state of police and fire services right across the country.

2.30 pm

Kirsty Blackman (Aberdeen North) (SNP): I thank the Labour Front-Bench spokesman for his support for the retrospective refund. If it is right to allow the VAT refund to be reclaimed now, it was right to do it four years ago when the changes were first made to fire services and the police in Scotland. Now that Scotland's budget for frontline services has been reduced by £200 million, it is time for the Government to agree to give us back the money that our services have paid.

Mel Stride: The hon. Member for Glasgow Central asked: why now? Why has this not been done before? I guess, as with all policy decisions taken in politics, there was a balance to be struck between resources available, the lobbying that occurred and the input of competing interests. Without going too far into this point, I think it is fair to say that since 2015, the lobbying became fairly intense. That is not to deny in any way that there was fairly intensive lobbying prior to 2015. The decision was taken in the round at the time of the Budget, when all the competing uses for the UK Exchequer's funds were balanced up. The question, "Why now, rather than at any particular time in the past?" could be applied to almost any tax change. It is a fairly generic point, in that sense.

The hon. Member for Bootle was firm, as was the hon. Member for Aberdeen North, on the perceived unfairness of the original decision. I remind Members that the original decision was taken by the Scottish Government in the knowledge that restructuring their services in this way would have a particular impact on the ability to claim relief for VAT.

Alison Thewliss: Will the Minister acknowledge that the original decision by the UK Government not to allow VAT relief was also part of that process?

Mel Stride: I was not party to the discussions that occurred at that time. The simple fact is that when the Scottish Government took the decision to restructure, they knew what the consequences would be; that is the critical point. There was no question of the UK Government having been vague or imprecise on that point; we made the consequences very clear to them at that point.

The hon. Member for Glasgow Central suggested that the measures in the clause relating to VAT exemptions for other authorities in England and Wales were somehow linked to this, and forced our hand on the decision about VAT relief for the Scottish fire and rescue service. There is no link; that can be seen from what the two different elements of the clause do. Unlike the provisions on Scotland, the measures on English and Welsh authorities do not extend VAT relief where it is not otherwise available; they are simply to do with the mechanics of how authorities benefit from that relief, and absolve Parliament from having to take the time to agree each and every instance through a statutory instrument.

As a matter of principle, the Treasury would not normally look at bringing in taxes retrospectively. We should be thankful that we have now resolved this issue. I hope that as the years roll by, this will fade into the background, and we will reach a point when we can all feel that we are in a good position regarding VAT and Scottish fire and rescue.

Question put and agreed to.

Clause 39 accordingly ordered to stand part of the Bill.

Clause 42

Landfill tax: disposals not made at landfill sites, etc

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

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

That schedule 12 be the Twelfth schedule to the Bill.

New clause 15—*Landfill Tax disposals: review of changes to disposals within charge*—

'(1) The Chancellor of the Exchequer must commission a review of the changes to disposals for which Landfill Tax is chargeable within three months of the passing of this Act.

(2) The review under this section must consider—

(a) the effect on revenue of the changes,

(b) the impact on the volume of disposals at—

(i) sites with an environmental disposal permit, and

(ii) sites without an environmental disposal permit, and

(c) the impact of the changes on the prevalence of illegal disposal sites.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section within twelve months of the passing of this Act."

This new clause would require the Chancellor of the Exchequer to commission and lay before the House of Commons a report into the effects of the changes to disposals for which Landfill Tax is chargeable on tax revenue and on the volume of disposals and the prevalence of illegal landfill sites.

Mel Stride: Clause 42 and schedule 12 extend the scope of landfill tax to disposals made at sites without an environmental permit, in order to prevent rogue operators from profiting by avoiding landfill tax. The clause also brings clarity to what material is taxable at sites that do have a permit. Landfill tax was introduced on 1 October 1996 to discourage the disposal of waste to landfill, and encourage more sustainable ways of managing waste. Since the introduction of the tax in the UK, landfilling has gone down by more than 60%. Illegal waste sites are a blight on local communities and can cause serious environmental damage. Although the Environment Agency can impose fines and criminal sanctions on operators of illegal sites, they are outside the scope of the tax. With no landfill tax to pay, rogue operators can undercut legitimate operators and make significant profits.

The Environmental Services Association estimates that waste crime costs the English economy over £600 million annually, with up to £200 million of tax being avoided. At the spring Budget in 2017, the Government announced a consultation on whether to extend the scope of landfill tax to illegal waste sites. Following strong support from industry, the Government confirmed their intention to legislate to extend the scope of landfill tax to illegal waste sites from 1 April 2018. Alongside this, in response to broad industry support in the consultation announced at Budget 2016, the Government are amending the definition of a taxable disposal. That follows a 2008 Court of Appeal ruling that some material received at a landfill site and put to certain uses is not waste, and therefore not taxable. That has created uncertainty about what constitutes a taxable disposal and has led to increased complexity for operators.

The changes being made by this clause will make all persons who are responsible for disposals at illegal waste sites, across the supply chain, jointly and severally liable for the tax. They may also be liable for a penalty of up to 100% of the tax, and in the most severe cases, HMRC will be able to prosecute those involved. In

[Mel Stride]

order to address the primary concern raised by stakeholders during the consultation, safeguards have been put in place to ensure that any genuinely innocent parties will not be liable for the tax. The clause will give industry certainty about what constitutes a taxable disposal. Currently, material is considered to be waste if certain criteria apply. The changes made by this clause will remove the waste criteria; instead, all material disposed of at a landfill site will be treated as taxable waste unless it is specifically covered by an exception.

To simplify the system further, we are also removing the requirement to notify HMRC of restoration activities undertaken at a landfill site. These changes will support the legitimate waste management industry by simplifying the tax system and providing clarity for landfill operators.

Let me turn briefly to new clause 15, tabled by Opposition Members. This would require the Government to commission a review of these changes within three months of the passing of this Act. A full assessment of the impacts of this measure was published in September 2017. At that time, the Government assessed that the measure would increase the cost of the illegal disposal of waste at unauthorised sites and incentivise the disposal of waste at legal—and more environmentally friendly—waste management operations. Following this, the Office for Budget Responsibility published an assessment of the revenue impact of the changes; £145 million is expected over the five years following implementation. Those impacts were assessed with the full support of the waste industry, and after further contributions from the Environment Agency.

Information about landfill tax revenues and the volume of disposals is publically available. HMRC publishes its landfill tax receipts twice yearly. The Environment Agency publishes additional information annually about disposals at permitted sites and the number of illegal waste sites in England. As such, the Government's view is that the proposed review is unnecessary. I therefore commend the clause to the Committee.

Peter Dowd: The clause amends the Finance Act 1996 to include disposals at sites without an environmental tax disposal permit within the charge to landfill tax.

I would like to declare an interest. My hon. Friend the Member for Liverpool, Walton, will appreciate this; it is not to do with landfill tax, but it is important to give some context. We have a huge dock complex in my constituency. On several occasions in the past couple of years, the scrap metal kept there has gone up in flames, and it has taken days and huge amounts of public resource to get the fire under control. We have had many discussions with the organisations concerned, although that is not landfill. A fire at an illegal waste transfer centre in Hawthorne Road—in a residential area—took a week to put out. There were huge plumes of smoke for weeks on end. *[Interruption.]* That is probably the fire chief now, telling me there is another fire. I hope not. The issue of waste disposal, landfill, and the whole area relating to waste is very important.

The landfill tax was brought in nearly 20 years ago to act as a disincentive to landfilling material, encourage the use of recycled material and incentivise recycling more broadly. The tax is due on material disposed of at landfill sites in England, Wales and Northern Ireland that have an environmental permit or licence for waste disposal.

HMRC collects the tax from the permitted operators of landfill sites based on the weight and type of material landfilled. There are two rates of tax: a standard rate of £86 a tonne, and a lower rate of £2.70 for the least polluting material. The Department for Environment, Food and Rural Affairs and the national environmental protection agencies are responsible for the regulation and enforcement of environmental policy.

I could talk for another hour or two on the issue as it relates to my constituency, but on this occasion, I will spare everybody. Although HMRC is responsible for the administration and collection of the landfill tax, and there are a range of civil and criminal powers to address tax evasion and non-compliance, the question is whether HMRC gets on and does that.

Over the past 20 years of the tax, landfilling has come down by almost 60%, which is a positive achievement for society, but we cannot continue to produce this volume of goods made of materials that vastly outlast the use of the goods. That was the subject of an item on Radio 4 this morning, featuring the chief executive of Iceland. What we are doing is leading to huge accumulations of waste across the land, and the pollution of our ocean, as the recent BBC documentary "Blue Planet" demonstrated so powerfully. It is therefore positive that the Government are extending this disincentive to those operating illegally, to ensure that where enforcement is weak, a further layer of disincentive is put in place.

The Government's consultation set out the logic of that extension, using the examples of three people who were fined by environmental agencies for illegally dumping 6,000 tonnes of waste. Under the law, they can be fined only through environmental protection levies, which in this case amounted to £170,000. However, if further legislation had been put in place to extend the territories that could be included under the landfill tax, that fine could have been as much as £500,000, plus a penalty of 100% of the tax and interest.

The landfill tax gap—the difference between what is collected and the estimates of what it should be—is £150 million, not including the waste dumped at illegal sites. There is clearly much more to be done to address this problem. Strangely, however, the Government's impact assessment does not include information on Exchequer impacts of this extended tax. Fortunately, the OBR is here to help, with a prediction that tackling waste crime will raise £30 million in the first year. That will rise to roughly £45 million a year after. Will the Minister explain why the OBR believes that this measure will recoup only a third of the revenue that the Government estimate is missing? I am sure he will have the figures available, even if not today. As far as I can see, it does not seem a particularly good return on investment.

2.45 pm

The Government's own assessment argues that HMRC is not properly resourced to deal with this burden. As the shadow Chief Secretary to the Treasury, I have heard that complaint over and over. As a result, I have raised the issue many times—only last week on Second Reading of the Taxation (Cross-border Trade) Bill, I dedicated a section of my speech to the problem of HMRC under-resourcing—yet we still have not received any commitment from the Government to dealing with the problem.

Will the Minister respond to the request from his own Government assessment that specifies that a further £600,000 is required annually to deal with the practical implications of the clause? If so, how much additional funding is set aside to deal with the issue of waste crime? Will it be the full £600,000 requested? How many additional staff does HMRC plan to recruit for that money, and will those staff members work solely on matters relating to waste crime? What is the timetable for recruitment, and by what date will the Government have met the request? The Minister may wish to give some thought to that series of practical questions. Any light he could shed on that would be helpful.

This is another classic case of the Government asking authorities to do more, despite getting less. That is beginning to wear a little thin. My hon. Friend the Member for North Durham (Mr Jones) spoke on Second Reading of a previous Finance Bill in an extensive, comprehensive exploration of, among other things, fraud in relation to landfill sites. He also asked the Chancellor of the Exchequer, in November 2014,

"what the budget is of HM Revenue and Customs to investigate landfill tax fraud".

That elicited the following response, though I have redacted it a little bit:

"In addition to these visits and audit checks, HMRC has launched a cross-tax waste sector pilot exercise which is currently under way, where cases are being worked across all taxes, rather than just landfill tax. HMRC is also working collaboratively with other agencies to tackle non-compliance and develop a joined up multi-agency strategy, capitalising on the full range of sanctions available."

I read that as saying that the Chancellor did not know, and little has changed.

There are also overarching concerns here. One is whether the Government are doing enough to deal with landfill more broadly. That goes to the heart of the need for a review, whether after three, six, 12 or 18 months, or after two years. The Opposition are shackled to some extent in challenging the Bill and in the amendments that we can suggest to it; we can only ask for reviews. It is important to get the message out there that we would like to do far more through the Bill, but we are restricted by the amendment to the law resolution that the Government introduced.

The Prime Minister has acquired an interest in environmental issues, which could have been sparked by the documentary makers at the BBC. It may even be to do with the high turnout among some younger age groups at the previous election. That will remain a mystery—perhaps until the next election. Nevertheless, she has made a series of promises regarding reducing plastic waste, some of which may come to fruition in two or three decades.

The use of landfill is central to the question of sustainability, and it is a glaring reminder of the scale of the challenge ahead and the need for a bold Government who are prepared to act. However, the most recent statistics show that under this Government, the rate of recycling is falling for the first time since data collection began. The UK is obliged to recycle 50% of its waste by 2020, yet we are floundering at around 44%. That means we put 50 million tonnes of waste in landfill every year—an astonishing amount.

The Government's failure—given those figures, it is a failure—to get to grips with this record is pretty grim. If the Government are serious about doing so, they have to step up to the plate. For example, the waste and recycling company SUEZ has warned that the UK faces a disaster scenario in which waste is trucked around the country in search of landfill sites if the Government do not wake up. It also points at the Government's failure to commit to a clear policy on new waste facilities as a central driver of their mounting concerns over waste management, along with a Chinese crackdown on the importation of recycling material and the potential impact of Brexit.

The Chair: Order. Will the hon. Gentleman return to the new clause?

Peter Dowd: Fine. The point I am trying to make is that landfill capacity across the UK has decreased from thousands of sites, with only about 50 sites predicted to be in operation by 2020. Although we have talked about the period of time that our proposed reviews should cover, it is crucial that this one takes place not once, but regularly. The issue is serious, as I have set out.

Crucially, regional capacity also varies greatly, and the Government are not tackling that. This review will help us to identify the differences in a systematic way. For example, Kent is likely to have no landfill sites at all by 2021, according to SUEZ, which suggests that the Department for Environment, Food and Rural Affairs does not have the resources to look at its concerns. Perhaps if the tax was sent in the right direction, the Department would have the capacity. Although it is not his Department, I ask the Financial Secretary what contingency planning DEFRA has put in place in case the record on recycling worsens. It is important that the suggestion of a review is taken into account.

This proposal extends charges to illegal landfill. Illegal landfill will only increase if we begin to produce more waste than our capacity can handle. How does the Minister plan to deal with excess waste that surpasses our current capacity? He may want to pass that question on to one of his hon. Friends. Under the Prime Minister's plan, by of which year will the UK end the use of landfill completely? How are we going to keep tabs on that, and what systematic process will we use? If we use the same methodology that the Chancellor used to get the deficit down, we will all be pushing up daisies by the time it is sorted. We hope that the clause will ensure that landfill waste falls, across both permitted and illegal sites, but the Government seem to be unable to tell us exactly how much landfill will be diverted into ecologically sound management as a result. Perhaps the Minister can enlighten us about those projections.

That is why we have tabled a new clause that is designed to establish how much revenue this measure will generate, as well as to measure the behavioural impact that it sets out to achieve. Our suggested review would look at the impact of extending landfill tax on the volume of disposals at both permitted and illegal sites. Alongside that, we believe it is important to measure the impact on the prevalence of illegal sites, as well as the amount of waste disposed at them. Everybody on the Committee recognises the importance of consigning

[Peter Dowd]

landfill to the dustbin of history. To do so would deliver unquantifiable ecological effects and would, we hope, form part of a new respect shown by our society for the environment on which we rely.

Extending taxation to illegal sites will deliver a reduction in landfill, and it can therefore only be a good thing. I commend the Financial Secretary for introducing this measure. It is all the more important that the Government monitor and assess the impact of the measure, as well as investing revenue to ensure that it is enforced. We hope that all Members present today will support our review, in the name of good governance, to ensure that the UK continues to take steps towards no longer producing damaging and unnecessary landfill.

Mel Stride: I thank the hon. Member for Bootle for commending us for introducing this measure. Many of his remarks were fairly wide-ranging, and I think he recognised that some of them—for example, those concerning the amount of landfill that we have available and what our plans for it might be—related to other Departments. I hope that he will indulge me when I say that on those issues, it might be better for him to go direct to the Departments concerned.

Peter Dowd: I take your exhortation to keep things as tight as possible, Mr Owen, but there are occasions—I have asked the Minister about this—on which Departments really ought to work closely together to ensure that we have the balance right. That is difficult sometimes when we are doing something specific and technical. Nevertheless, I am sure he will agree that it is important to be able to bring other factors into the equation and get a proper bigger picture.

The Chair: I am grateful. Before the Minister proceeds, as both hon. Members have agreed that this is outside the remit of the Bill, I ask them both to confine their remarks to the Bill.

Mel Stride: Thank you for your guidance, Mr Owen. This is predominantly a tax Bill, and I will endeavour to stick to matters relating to that aspect of our considerations. However, there is much that the hon. Gentleman and I can agree on. We agree that we certainly need to cut down on the amount of disposable items out there; he gave some shocking examples of where the situation had got completely out of hand and of the damage to the environment.

The hon. Gentleman spent some time speaking about the landfill tax gap and how much tax we might be forgoing because we do not currently tax illegal sites. By definition, given that illegal sites do not fall to the charge of landfill tax, they are not included in the figures for tax forgone, because there is no mechanism by which they can be taxed. The whole purpose of the clause is to bring them into the scope of taxation. He asked how much the measure is expected to raise once we have brought those illegal sites into the scope of the tax, and the answer is £145 billion over the scorecard period.

The hon. Gentleman asked a number of questions about resourcing and HMRC. At Budget, we announced that we would provide funding for additional HMRC staff to enforce the measure. We have also announced that we are investing an additional £30 million in the Environment Agency in England, to enable the agency to tackle the illegal waste sites as well as the misdescription of waste and illegal exports. With that, I commend the clause to the Committee.

Question put and agreed to.

Clause 42 accordingly ordered to stand part of the Bill.

Schedule 12 agreed to.

Clause 43

Air passenger duty: rates of duty from 1 April 2019

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

The Chair: With this it will be convenient to consider new clause 16—*Review of changes to rates of air passenger duty*—

“(1) No later than 31 March 2019, the Chancellor of the Exchequer must review the effects of the changes made by section 43 to rates of air passenger duty set out in Chapter 4 of Part 1 of FA 1994.

(2) The review under this section must consider—

(a) the effect on airplane usage as a result of the changes to air passenger duty rates, and

(b) the effectiveness of the changes to air passenger duty on reducing carbon emissions and meeting carbon emissions targets.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section as soon as practicable after its completion.”

This new clause provides for a review of the effects of the changes to air passenger duty rates on airplane usage and carbon emissions.

Mel Stride: Clause 43 sets air passenger duty rates for the tax year 2019-20. All short-haul rates and the long-haul economy rate will remain frozen at the 2018-19 level. Only those flying long haul in business or first class, or by private jet, will pay more. The changes will ensure that the aviation sector continues to contribute to general taxation while also providing a freeze for more than 95% of all passengers.

Air passenger duty is a per-passenger tax levied on airlines. With no tax on aviation fuel or VAT on international or domestic flights, APD ensures that the aviation sector plays its part in general taxation, raising £3.1 billion a year. The aviation sector continues to perform strongly. The UK has the third largest aviation network in the world, and passenger numbers at UK airports have been strong: in fact, growth has exceeded 15% in the previous five years.

3 pm

Clause 43 will set the APD rates for the tax year 2019-20. The Government are freezing all short-haul rates, as we have done since 2012. We are also keeping frozen the long-haul reduced rate, which affects all passengers travelling long haul in economy class. Together, this approach benefits more than 95% of all passengers. The changes being made by clause 43 therefore only affect the APD rates for passengers flying long haul in the premium bands.

The long-haul standard rate, which applies to premium economy, business and first-class tickets, will increase by £16 compared with 2018-19 levels, to £172. That means that a passenger purchasing a £1,000 premium economy ticket to New York will pay only an additional 1.6% and a passenger travelling to the same destination on a £4,000 business class ticket will pay only an additional 0.4%.

Clause 43 also increases the higher rate for passengers travelling long haul in private and business jets by £47. Together, the changes will affect less than 5% of passengers. To give the industry sufficient notice, we will announce APD rates for 2020-21 at autumn Budget 2018, legislating in next year's Finance Bill.

The Opposition have proposed a new clause asking for a review of the effects of the changes on aeroplane usage and carbon emissions by 31 March 2019. I appreciate that hon. Members want to ensure that the Government continually assess their policies, but a review of that nature is unnecessary for a number of reasons. First, the Government already keep aeroplane usage under review. HMRC publishes passenger number statistics as part of the air passenger duty bulletin, which is updated yearly. As I have outlined, the data show that passenger numbers at UK airports have been strong, with growth exceeding 15% in the past five years.

Secondly, the Government have taken strong action at a global level to address carbon emissions from aviation. For example, the UK worked very hard through the International Civil Aviation Organisation to reach agreement on the carbon offsetting and reduction scheme for international aviation in October 2016. It is the first worldwide scheme to address carbon emissions in any single sector, and it sends a strong signal that international aviation is committed to taking action to tackle climate change.

Finally, airlines sell tickets up to a year in advance, so legislating now for 2019-20 APD rates provides certainty to operators. Undertaking a review of APD before 31 March 2019, as suggested in new clause 16, may reduce certainty for taxpayers. The new clause also asks us to review the effect of tax rates before they come into effect, which of course would be difficult. That is in the interests of neither companies nor consumers.

On that basis, I ask the hon. Member for Bootle to withdraw the new clause, and I commend clause 43 to the Committee.

Anneliese Dodds (Oxford East) (Lab/Co-op): It is a pleasure to be speaking with you in the Chair, Mr Owen. I thank the Minister for his clarifying comments. We on the Labour Benches still wish to have the review proposed in new clause 16. The review would, exactly as described by the Minister, examine the impact of the APD changes on the usage of aeroplanes and their emissions.

On one hand, it is helpful that we are shifting towards greater predictability for air operators and consumers around air passenger duty. It seems appropriate that we have the lag so that we can discuss and determine future rates, rather than having short-term change, but we would like a much stronger indication of the direction of Government thinking in relation to the tax.

The Minister offered the same argument for air passenger duty, to a word, as the one we were given in the previous Finance Bill discussion:

> "With no tax on aviation fuel or VAT on international and domestic flights, APD ensures that the aviation sector plays its part in contributing towards general taxation, raising £3.1 billion per annum."—[*Official Report, Finance Public Bill Committee,* 24 October 2017; c. 111.]

In our discussions in Committee on APD changes in the previous Finance Bill, we went on to talk about the potential environmental impact. I note that at that stage, the Minister said:

> "Like all taxes, it will also change behaviour to some degree, and to the extent that it makes flying a little bit more expensive, it could be expected to have the effect of diminishing demand for air travel. The lower rates for economy, which takes up more space on aircraft than first class, assist in ensuring that flights are as full as they can be."—[*Official Report, Finance Public Bill Committee,* 24 October 2017; c. 114.]

We would find it very helpful to have a review. I take on board the Minister's point about regular information about the operation of APD, but what we do not have at the moment, to my knowledge—if I am wrong, the Minister can set me right—is an indication of the relative merits of this approach against potential others.

A number of transport economists and environmentalists have looked at the impact of levying duty on entire planes, rather than on individuals. The thought was that that would somehow lead to more incentives for more efficient use of space. I take on board the differential rates for private jets and small planes as against larger planes, which tend to be fuller during economy use, but it would be helpful to know whether there will be more impetus towards more intensive use of planes that are already in the air but all of whose seats are perhaps not being used. For the Opposition, that would be part of the stronger analysis of the impact of the duty, compared with other approaches. It would be part of the more general review that we feel we need on the overall impact of environmental taxes and reliefs, so that we can be sure that they are targeted as well as they can be for both economic and environmental purposes.

There are a couple of other issues on which we need clarification. We had a debate on the first during proceedings on the previous Finance Bill. My hon. Friend the Member for Luton North (Kelvin Hopkins) and others raised the matter when they talked about the extent of consultation on existing measures. There are higher rates for long haul in the proposals, as in the existing APD regime, but many Britons have no choice but to travel long haul if their family is in the Caribbean, the Indian subcontinent and so on. The Minister at the time made a commitment to write to my hon. Friend on the extent of consultation with groups of people who might be particularly affected. It would be helpful to have on the record the thoughts of the Minister in Committee on that issue, especially because, in many ways, short-haul flights are a lot easier for people to avoid than long-haul ones, because they can adopt other forms of transport instead. Any indications about that would be useful.

It would also be helpful to have an indication of the Government's thinking about the extent to which they will be able to protect, or otherwise, revenue from APD. Arguably, we are seeing a race to the bottom on the duty. In previous Finance Bill Committees, we have discussed the new system in Scotland—the air departure tax. Clause 43 increases the band B multiplier in Northern Ireland. From the way in which it is written, I assume that that is happening in the absence of the Stormont arrangements coming back into play and giving the

[Anneliese Dodds]

Northern Ireland Assembly control, so we are talking about an increase until the Assembly can make a determination.

Generally, however, the direction of travel appears to be downward, and it would be helpful to know the Treasury's long-term thinking. We have a lot of pressure from airports, particularly those near Scotland, about whether they can protect their business given the potential reductions in the duty in Scotland. My hon. Friend the Member for Newcastle upon Tyne North (Catherine McKinnell) has made that point in the House.

Furthermore, we need consideration of the issue, given the discussion we had in the Chamber only a couple of hours ago, when a Minister—I appreciate that it was not the one in Committee, who is well apprised of all the issues relating to air passenger duty—seemed to indicate that we might change the extent to which we levy duty on incoming flights to the UK, departing from the existing practice under EU rules. That might be a possibility, but it would naturally have an impact on revenues. It would be helpful, again, if the Government indicated how the revenue—the £3.1 billion to which the Minister referred—will be protected.

Mel Stride: I need not repeat my earlier remarks about the reviews we already carry out, and I reiterate the point that the new clause, as worded, would implement a review of the possible impact of the taxation we are considering before such taxation had come into effect, which as an exercise is possibly not that valuable. Of course, we always keep all taxes under review. The hon. Lady talked about seeking beneficial behavioural change through mechanisms other than APD, for example. I am happy to receive any representations that she might make in that vein.

The hon. Lady mentioned her colleague, the hon. Member for Luton North, and the impact of APD on passengers who require a long-haul flight to visit relatives. I will certainly get back to her on that when I return to the Treasury. She also mentioned competition between different airports following the devolution of APD. Scotland will in due course bring in its own form of ADT. She also referred to the Northern Ireland situation. It will be for each of those tax jurisdictions to start to take whatever measures they think are appropriate to ensure that their particular airports and passengers are not disadvantaged. I suspect that, as with competing tax rates, the dynamics will probably be for those tax rates to come down, as a result of the competitive effect or the fact that there is a devolved Government. I commend the clause to the Committee.

Question put and agreed to.

Clause 43 accordingly ordered to stand part of the Bill.

Clause 44

VED: RATES FOR LIGHT PASSENGER VEHICLES, LIGHT GOODS VEHICLES, MOTORCYCLES ETC

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

Anneliese Dodds: The Opposition have received a submission that it is worth asking a question about. It is about the specific case of taxis that are zero-emission capable. As I understand it, they will be exempt from the VED supplement from 1 April 2019, but not until then. There is the complication that taxis are classified as passenger cars because they are built to carry passengers, rather than as commercial vehicles, although in practice they are not really operating as commercial vehicles, which means that at the moment they are subject to the VED standard rates.

As those of us who have done any casework on this will know, taxi drivers need to purchase their car for a long period and there are complicated financing arrangements. In many areas we are keen to promote zero-emission taxis, or taxis that will be capable of transferring to zero or low-emission bases in future. It would be helpful to hear from the Minister whether some further calibration could be done on this measure, so as not to choke off the development of zero-emission capable taxis. I thought the submission was quite interesting in that regard.

Mel Stride: I thank the hon. Lady for her question about taxis. We will publish a consultation this spring, which will clarify who will and will not be eligible for the exemption and address the issues she has raised.

Question put and agreed to.

Clause 44 accordingly ordered to stand part of the Bill.

Clause 45

TOBACCO PRODUCTS DUTY: RATES

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

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

New clause 17—*Review of changes to rates of duty on tobacco products*—

"(1) Within twelve months of the passing of this Act, the Chancellor of the Exchequer must review the effects of the changes made by section 45 to rates of excise duty on tobacco products and the Minimum Excise Tax on cigarettes.

(2) The review under this section must consider—

(a) the effect of the changes on smoking cessation, and

(b) the effect on revenue of the changes in each financial year until 2027-28.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section as soon as practicable after its completion."

This new clause provides for a review of the effect of changes to duty on tobacco products on smoking cessation and on revenue for each financial year until 2027-28.

Mel Stride: Clause 45 implements changes announced at the autumn Budget 2017 concerning tobacco duty rates. The duty charged on all tobacco products will rise in line with the tobacco duty escalator, with an additional 1% rise for hand-rolled tobacco. Smoking rates in the UK are falling, but they are still too high. Just under 16% of adults are now smokers. We have ambitious plans to reduce that still further, as set out by the Department of Health and Social Care in its tobacco control plan, which includes a commitment to continue the policy of maintaining high duty rates for tobacco products in order to improve public health.

The UK now has comprehensive tobacco control legislation that is the envy of the world, but smoking is still the single largest cause of preventable illness and premature death in the UK—it accounts for around 100,000 deaths per year and kills about half of all long-term users. According to Action on Smoking and Health, smoking costs society almost £14 billion a year in England, including £2 billion in costs to the NHS for treating diseases caused by smoking.

In the autumn Budget, my right hon. Friend the Chancellor of the Exchequer announced that the Government are committed to maintaining the tobacco duty escalator until the end of this Parliament. The clause therefore specifies that the duty charged on all tobacco products will rise by 2% above RPI—retail prices index—inflation. In addition, duty on hand-rolled tobacco will rise by an additional 1% this year.

3.15 pm

The clause also specifies that the minimum excise tax—the minimum amount of duty to be paid on a pack of cigarettes—will rise in line with wider cigarette duty. Those new tobacco duty rates will be treated as taking effect from 6 pm on the day that they were announced, 22 November 2017.

New clause 17 seeks to place a statutory requirement on my right hon. Friend the Chancellor to review the effects of changes to tobacco duty. The Opposition have raised important issues. The Government are committed to reducing smoking prevalence and co-ordinating efforts through the tobacco control delivery plan, which is a cross-Department project, led by the Department of Health and Social Care and Public Health England, that seeks to prevent individuals smoking, support current smokers to quit and enforce tobacco regulations.

Tax policy is one part of that plan, alongside various other measures, including effective regulation and public awareness campaigns. The plan is the framework for robust and ongoing policy evaluation. Furthermore, the Chancellor assesses the impact of all potential changes in his Budget considerations every year. The tax information and impact note published alongside the Budget announcement sets out the Government's assessment of the expected impacts. Detail on the revenue impact is set out in the policy costings document, also published alongside the Budget. Both include the expected revenue impact to 2022-23.

The Office for Budget Responsibility expects tobacco clearances to fall, as the long-term trend in the decline in smoking within the population continues. We therefore expect tobacco duty receipts to fall in the longer term. Accordingly, we will review our duty rates at each fiscal event to ensure that it continues to meet our two objectives of protecting public health and raising revenue for our vital public services. I commend the clause to the Committee.

Anneliese Dodds: I am grateful to the Minister for that explanation. I understand broadly that we are essentially talking about three changes across the board: the duty rate increase of 2% across all tobacco products, the extra 1% for hand-rolled tobacco, and the minimum excise tax to ensure that there is a minimum tariff for the very cheapest cigarettes.

We are asking for a review and will continue to do so, because it is so necessary. I think that some of the changes are quite positive. The new measures around hand-rolled tobacco are important, given that that form of cigarette has become increasingly popular—more than a third of smokers now use hand-rolled tobacco. Men, rather than women, and people in more deprived socioeconomic groups are particularly likely to smoke hand-rolled cigarettes. We think it is important for action to be taken in that regard.

The MET is also important to ensure that cigarette taxes on their own do not lead to compensatory behaviour, such as switching to a lower price brands. Evidence from countries such as Thailand suggests that when taxes went up, people just compensated by smoking cheaper cigarettes rather than stopping. We are asking for a review because we are concerned about the sufficiency or otherwise of the duty rises reported here for the Government's overall anti-smoking efforts.

Alison Thewliss: On that point about cheaper brands, does the hon. Lady agree that there is also a huge risk that people will turn to illicit tobacco, which is also a tax avoidance matter with people bringing cigarettes into the country?

Anneliese Dodds: I am grateful to the hon. Lady for making that germane point. I understand that more research is needed into the extent to which people substitute illicit brands. Of course, that is the nature of the beast, because these products are illicit and therefore difficult to discover. Many of those involved in the trade are involved in other forms of criminality. It is enormously important to deal with that and with the health problems associated with illegal products, which can include lots of chemicals in addition to the tar and other noxious substances present in all cigarettes. I absolutely agree with her.

There is evidence that cigarette taxes are leading to a reduction in smoking, and that the reduction is greater when there are measures in place to prevent the proliferation of very low-cost cigarettes. But there is also evidence that the effectiveness of both is greatly enhanced when coupled with health interventions, not just public awareness campaigns. For example, nicotine replacement therapies have been shown to increase the long-term success of quitting by about 3% to 7%, and if a quit attempt is made by a former smoker with the support of a health professional as part of a structured support programme, they are far more likely to keep that quit in place and not to start smoking again.

Similarly, behavioural support has been shown to increase the likelihood of a smoker quitting long term by a similar figure: between 3% and 7%. I mention that now because current developments are extremely worrying in this regard. A recent report by Cancer Research UK and Action on Smoking and Health shows that cuts to the public health budget nationally have led to dramatic changes in services for smokers. Only 61% of local authorities now offer what the National Institute for Health and Care Excellence suggests for evidence-based intervention to help people stop smoking. I am shocked by that, as I am sure are other members of the Committee. There have been huge cuts to local anti-smoking services, and I understand that at least one local authority now has no budget at all for addressing smoking. In one in nine local authority areas GPs no longer prescribe nicotine patches or similar measures.

[Anneliese Dodds]

Why am I mentioning that now? Let us face an obvious point: tobacco taxes are regressive, because they affect those on lower incomes most. We cannot escape that. If help is available for people to quit, then that regressive impact is in some way compensated for. The evidence is that only about half of the people who smoke actually enjoy it, so huge numbers want to quit. The average smoker in the UK spends £23 a week on cigarettes, and obviously that figure is increasing as a result of these additional duties.

There has been a debate within the international evidence, and this may come up within the Minister's responsibility when he returns to the issue. Most of the international examination that says that there might not be a regressive impact has suggested that in the long run, low-income smokers will save on their medical costs. But that does not apply in the UK, thank goodness, because we have a national health service that is free at the point of use so everybody is able to use it and there is no such medical saving in that regard.

If those professional services for stopping smoking are not available, particularly to people on low incomes, it will be difficult to avoid the conclusion that this is a regressive tax being imposed without the help that people need to stop smoking. Only about one in twenty people who try to stop unaided manage to stop smoking for six months. People who do stop smoking for some time do have a number of symptoms, as those trying to do it will know. These symptoms are severe, and in many cases they lead to people going back to smoking even if they do not want to do that. It is therefore particularly important that we have help for young people. Labour—

The Chair: Order. The health implications are important, but we need to get back to the issue.

Anneliese Dodds: Labour said that we would prioritise having a special programme focused on young smokers. The point I am trying to make is that the Minister said this was part of a suite of measures, but he only mentioned public health information campaigns in addition, from what I can remember—I will check *Hansard* to see whether that is correct. The evidence strongly suggests that if we just increase duty, as we are doing now, without that suite of extra measures, we are not going to see the number of people stopping smoking that we really need. We have also seen cuts in trading services, which potentially is enabling more young people to access cigarettes than should be the case. For all those reasons, we urge the Government to review the effectiveness of this measure on overall smoking cessation rates, and we will continue to push for that review.

Mel Stride: The hon. Lady raised the issue of the potential substitution effect in individuals trying to avoid the priced-in tax on cigarettes by purchasing illegal cigarettes, which might increase the amount of illegal trade. I can tell her that tacking illicit tobacco is a key priority for the Government. Since 2000 the UK has adopted a strategic approach, with a wide range of policy and operational responses, in collaboration with other enforcement agencies in the UK and overseas. That effort has achieved a long-term reducing trend in the illicit tobacco market, despite duty rates increasing substantially over the same period. The percentage tax gap for cigarettes was reduced from 22% to 15% and for hand-rolling tobacco from 61% to 28%, so there appears to be some evidence that the substitution effect, or the increase in illicit tobacco coming into the country, is not quite as sensitive to some of the tax rises as one might instinctively imagine.

The hon. Lady asked what other measures the Government are engaged in to try to reduce smoking. As I have said, we are committed to reducing the prevalence of smoking through our tobacco control delivery plan 2017 to 2022, which also provides the framework for robust and ongoing policy evaluation. The plan sets out ambitious objectives to reduce smoking prevalence, including reducing the number of 15-year-olds who regularly smoke from 8% to 3% or less, reducing smoking among adults in England from 15.5% to 12% or less, reducing the inequality gap in smoking prevalence between those in routine and manual occupations and the general population—that touches on her point about the potentially regressive nature of tobacco tax—and reducing the prevalence of smoking in pregnancy from 10.5% to 6% or less.

We will of course continue to keep those measures under constant review. In fact, tobacco and smoking is one of the areas of public policy on which Governments of all colours have placed particular emphasis. There is a huge amount of scrutiny in that area and we will continue in that vein.

Question put and agreed to.

Clause 45 accordingly ordered to stand part of the Bill.

Clause 46

POWER TO ENTER PREMISES AND INSPECT GOODS

Peter Dowd: I beg to move amendment 60, in clause 46, page 40, line 18, at end insert—

"(9A) The powers under subsections (1) to (6) of this section are not available in any case where—

(a) information has been provided on oath by an officer in accordance with section 161A(1) of the Customs and Excise Management Act 1979 (power to enter premises: search warrant) and a justice of the peace has not issued a warrant in consequence, or

(b) an officer could reasonably have been expected to seek a warrant in accordance with the provisions of that section of that Act."

This amendment provides that the powers to enter premises and search goods may not be exercised in cases where a warrant to search premises in relation to goods subject to forfeiture has been sought and refused or where such a warrant could reasonably be sought.

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

Clause 46 stand part.

Clause 47 stand part.

Peter Dowd: As I said earlier, the Opposition are well aware that we need serious measures to tackle VAT evasion in this country. A National Audit Office report published in 2017 revealed:

"HM Revenue & Customs (HMRC) estimates that online VAT fraud and error cost between £1 billion and £1.5 billion in lost tax revenue".

I referred to that figure earlier, but no one is certain that it is accurate. I also referred earlier to the fact that 14.5% of sales in Britain in 2016 took place online. I reaffirm what I said pretty unambiguously in my earlier speech: the number of online sales is growing and growing, so it is essential that we get to grips with VAT evasion. The picture has the potential to become more complex, depending on our direction of travel in relation to Europe.

We are absolutely clear that evasion is not acceptable and must be clamped down on. The National Audit Office report highlighted:

"UK trader groups believe the problem is widespread, and that some of the biggest online sellers of particular products, such as mobile phone accessories, are not charging VAT"

at all. It is therefore important that robust action is taken to address the issue before it creates an even bigger tax gap. We have already discussed the potential for that in clause 38, where we think the Government need to take a different approach.

That said, we have serious concerns over the scope of clause 46 in relation to that issue. The clause seems to give HMRC officials pretty wide-ranging and almost uncurbed powers to enter premises and search vehicles and vessels. There might be a civil rights issue regarding that power, and, as a result, the rules might be open to significant abuse. Although it is clear that action must be taken to tackle tax avoidance, we are worried that not enough thought and consideration are being given to the potential impact of the new powers. Indeed, this is evident in the Government's own tax information and impact note on the measure, which was published just a couple of years ago, on 5 December 2016.

The delay here is notable, as this piece of legislation was originally intended for last year's Finance Bill. It was postponed because of the general election and failed to appear in the Ways and Means resolutions once the Bill resurfaced. We have tabled an amendment to add a much-needed layer of security and protection for individual rights, while giving officers what they need to pursue suspicious vehicles or vessels and search buildings as necessary. As a result of our amendment, those actions would not be permitted if they did not satisfy the conditions usually needed for a search warrant. That would at least provide some judicial oversight and security for a procedure that could give HMRC and, potentially, other agencies carte blanche—I am not saying that they would do this—to abuse powers with no recourse.

3.30 pm

The transformation of online retail in the UK in recent years has brought with it an unprecedented challenge in policing our ports and docks to ensure that customs law is complied with. As a Member of Parliament who has a huge port in my constituency, I appreciate that, but the Government are failing to allocate the proper resources to HMRC to enable it to supply enough officers to meet the challenge. Lack of resources is a running theme, and we are not making this up. The Government cannot substitute for those resources wide-ranging powers to interfere in the matters that I have referred to. This is before we have even considered the yawning tax gap brought about by the convoluted tax planning of major corporations.

Another recent report by the Public and Commercial Services Union spelled out how serious the problem is. In spite of the huge challenges we face in cross-border online trading and closing the tax gap—they should mean that HMRC is given more resources, not less—the PCS report shows that, year on year, there have been real-terms cuts to HMRC for more than a decade. Clauses 46 and 47 highlight two major failures on the Government's part: a failure to consider the crucial question of how tax prevention activities connect to citizens' rights and put in place proper safeguards to protect them, and a failure to resource HMRC.

Mel Stride: I thank the hon. Gentleman for his contribution and observations. Clause 46, as he pointed out, extends HMRC's existing powers, allowing it to examine goods thoroughly away from ports, airports and other approved places that are under customs control. The power is expected to be exercised mainly in situations in which goods have been mis-declared at import and thus the correct amount of duty has not been paid.

Under their current legislative powers, HMRC officers working inland and post clearance are not permitted to examine and take account of customs goods; that includes opening, marking, weighing, loading and unloading them. Under section 24 of the Finance Act 1994, a customs officer has the power to enter the premises of a business that contains goods subject to customs duty, and to inspect those goods. That means that if there is reasonable cause to think that there has been a violation of customs law, an officer is only allowed to pick up and inspect goods visible at those premises. Today, HMRC officers often investigate sophisticated frauds involving customs goods, the majority of which are at inland premises and not within the confines of approved places such as ports and airports. It is therefore essential that officers are empowered not only to enter and inspect, but to examine and take account of goods.

The changes made by clause 46 will extend officers' powers to examine goods thoroughly post clearance, inland, where a customs offence is suspected. The power covers all customs offences, but current operational experience suggests it will be largely used where goods have been mis-declared at import. The clause will enable officers to examine and take account of goods found on premises. It will allow the officer to mark, move, open or unpack goods or containers, or require a relevant person to provide assistance that is reasonable for the purpose of examining the goods. As the search power is for the purpose of searching containers, boxes and so on and not the premises, a warrant is not needed.

Amendment 60 seeks to deny HMRC those powers in cases where a search warrant has been sought and refused, or where a warrant could reasonably be sought. The purpose of entry under section 24 will be to carry out compliance checks, which will include examining goods to ensure they comply with any paperwork. That cannot be done effectively under the current power, because it only allows the inspection of goods.

Section 24 is not—and is not intended to be—a substitute for seeking a warrant. A warrant will be used when there is a need to enter and search a building or place where there are reasonable grounds to suspect the presence of forfeitable goods. A warrant also grants the power to force open doors and windows and open any obstruction. Unlike section 24, warrants can be used outside of business hours. If a warrant to enter and search a building or place was required and refused, the amendment could not be used to gain access.

We are amending these customs powers to ensure they work effectively, not as a means of unduly expanding

[Mel Stride]

customs power. At the moment, officers can merely pick up goods that are immediately visible to them, but on some occasions that is not enough. For example, to ensure that the contents of a box correspond to the relevant paperwork, it is necessary to be able to look inside the box and examine the goods. Under section 24, all visits are strictly regulated. They must be carried out during business hours, and most visits will be pre-booked, routine compliance visits. Officers currently receive training in how to conduct visits, which includes the legal basis and powers available to them. In addition, stringent rules, safeguards and guidance place limitations on an officer's powers, ensuring that they are used proportionately and only where necessary. That will be updated when the measure is introduced.

The measure will extend the powers available to officers when visiting premises where there are customs goods. It will allow them to take account and examine goods thoroughly, making operational duties more effective. I therefore commend the clause to the Committee.

Peter Dowd: We take the Minister's reassurances and explanation at face value. I am sure he will appreciate that, from that our side, the civil liberties issues are absolutely crucial. We will not be pressing the amendment to a vote but, given the civil liberties issues, we will be keeping a very close watch on the matter. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 46 ordered to stand part of the Bill.

Clause 47 ordered to stand part of the Bill.

Clause 48

CO_2 EMISSIONS FIGURES ETC

Peter Dowd: I beg to move amendment 61, in clause 48, page 42, line 15, leave out from "effect" to end of line 16 and insert

"from the date on which the Chancellor of the Exchequer lays before the House of Commons a report of the review carried out under subsection (13).

(13) A review under this subsection shall consider the appropriateness of the use of the New European Driving Cycle methodology for calculating carbon dioxide emissions for the purposes of the provisions amended by this section.

(14) A review under subsection (13) shall also consider the effects if carbon dioxide emissions were to be calculated for the purposes of the provisions amended by this section using the Worldwide harmonized Light-duty vehicles Test Procedure including

(a) the effects on the operation of those provisions,

(b) the revenue effects, and

(c) the effects on progress towards the Government's targets for reducing carbon dioxide emissions."

This amendment requires a pre-commencement review of the appropriateness of the current regime for calculating carbon dioxide emissions and the effects of a change to the WLTP procedure.

The Chair: With this it will be convenient to discuss clause 48 stand part.

Peter Dowd: As we move towards the denouement of today's proceedings, I thank you for your chairmanship, Sir Roger. The formalities will ensue later on, no doubt.

Clause 48 is designed to ensure that a car's carbon dioxide emissions for the purpose of the Income Tax (Earnings and Pensions) Act 2003 and the Vehicle Excise and Registration Act 1994 will remain based on the existing testing regime known as the new European driving cycle. I hope that that is not the cycle we were referring to earlier. This is a Government clarification, following the introduction of a new regime for calculating CO_2 emissions that is called worldwide harmonised light-duty vehicles test procedures, or WLTP.

I always welcome clarifications, as the Minister well knows. This clause specifically relates to the car benefit charge and car fuel benefit charge, which are duties paid by motorists and employers who provide and use company cars. Those charges are calculated using CO_2 emission figures published by a car's manufacturer. Higher emission vehicles are subject to higher charges than are vehicles with a smaller environmental footprint.

We need to examine the implications of the clause quite closely, especially in the light of the Government's recent interest in the environment. I expect, as I alluded to earlier, that that is an attempt to enamour young people, and so far they have not taken the bait. This clause, which attempts to demonstrate the Prime Minister's commitment to environmental protection, demonstrates that that commitment is not as deep as it could be. Before we examine the particulars, it is useful to reflect on the reason why the EU developed new emissions testing procedures—the WLTP and the real driving emissions test—which the Government are effectively suggesting we ignore.

In September 2015, the automotive sector was plunged into crisis when the Volkswagen Group admitted that it had installed defeat device software in 11 million vehicles that had been sold across the globe. The implications of that still rumble on. It was a clear case of corporate deception, in which vehicles were mis-sold using information that suggested that their environmental footprint was smaller than it was. The Transport Committee's report into the scandal described how it

"brought the integrity of the auto sector into disrepute"

and "led to confusion".

The same report points out, however, that although the case was one of corporate deception, it was also a matter of regulatory failure. The automotive sector is a large part of the UK's manufacturing base, accounting for nearly £7 billion of turnover and more than £15 billion of value added, and roughly 1 million people are employed in the industry across the UK. It is clearly an important part of the economy, and that is all the more reason to ensure that it is properly regulated and trusted by the British public. I know that the Minister will completely agree with that.

The Transport Committee suggested, however, that regulators have known for years that the test used to measure emissions—the very same new European driving cycle test that the Government suggest we should continue to rely on—is unfit for purpose. The test was introduced in the 1990s and, in the words of the Select Committee, it

"has become unrepresentative of modern vehicle technology and real-world driving."

Under the NEDC, testing takes place under laboratory conditions that are not reflective of real-world driving where, for example, speed and temperature differ.

You may be wondering, Mr Owen, why the specifics of emissions testing should be of concern to Members. One reason is that the evidence around the impact of car emissions on public health is stark. A growing body of evidence shows that nitrogen oxides are a significant hazard to human health. They can increase the risk of heart attacks, strokes and low birth weight, and they can aggravate a number of other lung and pulmonary conditions. According to the Department for Environment, Food and Rural Affairs, nitrogen oxides contribute to 23,500 deaths a year. That is why it is so vital that we get testing right and strengthen enforcement to ensure that a corporate deception akin to the Volkswagen scandal can never happen again.

Indeed, the European Union developed the new emissions testing framework as a direct response to some car manufacturers' bad behaviour with regard to emissions testing. It is therefore odd that the Government should choose to stick to the old system for the purposes of taxation. The question is: why do they seek to do that? My assumption is that they know that taxing emissions on the basis of the new testing procedures will increase the level of taxation being applied through the car benefit charge and the car fuel benefit charge.

The Transport Committee report to which I made reference suggested that the Government should publish information explaining how vehicles tested under the WLTP compare with those tested under the new European driving cycle. Is that information in the public domain? Can the Minister confirm whether the Department has assessed the effects on the Exchequer of using the new testing regimes to calculate the amount of tax due, and can he set out the results of those assessments in due course?

My office made contact with the International Council on Clean Transportation Europe, which identified VW's deception in 2015 and passed the information on to the United States Environmental Protection Agency. The council was clear that the type approval carbon dioxide emission values are expected to be about 20% higher under the new WLTP test than under the NEDC testing procedure, which the Government are suggesting that we stick to. The council said that that was due to a more dynamic speed profile, a more realistic vehicle test mass, lower ambient temperature and other conditions that reflect more closely typical real-world driving conditions.

However, the council informed my office that the political consideration has already been made regarding the jump in emissions figures through the testing regime, and that adjustment has been made to ensure that only three quarters of any increase in emissions will be counted. Can the Minister explain whether the Government have considered a similar compromise in the taxation being applied to emissions—one that recognises that the new tests are a better reflection of the actual emissions being produced, but that does not penalise those paying the car benefit charge and the car fuel benefit charge to the full amount?

3.45 pm

That may be an important consideration. After all, despite the intricacies of the detail, there is a bigger issue at stake. Only a few days ago, the Prime Minister set out a 25-year plan,

"to leave the natural environment in a better state than we found it."

Yet we are debating a clause through which the Government hope to avoid stronger tax incentives for company employees to use low emission vehicles. Does the Minister not see the contradiction between what the clause attempts to do and the Prime Minister's speech?

We know that taxation can operate as an effective tool for behavioural change, and it is clear that the Government agree with that. Only today, we have debated measures to increase taxation on smoking in the hope of driving cessation. We have also debated the behavioural effects of air passenger taxation on the use of air travel, and the taxation of illegal landfill sites to reduce the prevalence of disposal, so behavioural change is a theme here. Why do the Government see fit to use taxation to reduce some harmful behaviours but not this one, despite the serious public health and environmental effects of vehicle emissions?

Turning to amendment 61, we are reasonably asking the Government to review this decision, to look again at the appropriateness of the NEDC procedure for measuring emissions when compared with the new WLPT regime that the EU developed in the light of the recent emissions scandals. Our suggested review would look at several of the effects of the provisions, including the revenue effects of sticking with the NEDC testing procedure rather than, say, taking up the WLPT regime.

As I have described, it is also important to review the impact of the measure on our overall ambitions for the environment. We have therefore included a provision in our amendment to ensure that the impact of the decision is measured against our progress towards the UK's commitment to reducing carbon dioxide emissions—we all accept that they cause much harm to public health—in our environment.

If the Government do not at least pay attention to what we are saying, their strategy will be confused. On one hand, the Prime Minister is committed to protecting the environment; on the other, the Chancellor is giving tax breaks to higher emission vehicles. It just does not make sense. Our amendment will require the Government to come clean about the evidence on the matter and look again at their decision. I am sure that many Committee members will think on what I have said as they reach their decision.

Mel Stride: Clause 48 confirms that for vehicle excise duty and company car tax purposes, the data for a car's CO_2 emissions will continue to be based on the new European driving cycle, or NEDC. As the hon. Gentleman says, NEDC, which is the current testing methodology for producing definitive car emissions values, is being replaced by a new lab test, known as the worldwide harmonised light vehicles test procedure, or WLTP, which is designed to be more representative of normal driving behaviour. For example, it contains more accelerating/decelerating and includes variable-speed driving. At the autumn Budget, it was announced that the Government will transition the tax system to using these improved readings from April 2020. The announcement was made now to give notice to drivers and the industry.

The Government will discuss with the industry next year whether the current CO_2 band thresholds in VED and CCT are appropriate. In the interim, this clause clarifies that vehicle taxes will continue to use NEDC values until April 2020. The hon. Member for Bootle

[Mel Stride]

asked why we could not use the real-world driving emissions test in the interim. It is used as a complement to lab tests, to check whether cars produce similar emission values on the road as in the laboratory. We could not use the RDE as the primary basis for saving tax bands, because that is not how these tests work; they would not allow us to compare two cars on a like-for-like basis. The changes made by the clause will ensure that drivers' tax rates are unaffected for vehicle excise duty, company car tax and fuel benefit charges.

Let me turn to amendment 61, which proposes that the Chancellor review the appropriateness of the NEDC regime prior to the clause commencing, and the effects of the change to the WLTP on the Government's targets for reducing carbon dioxide emissions and on revenue.

I appreciate that Opposition Members want to ensure that the Government continually review the appropriateness of their policies for reducing carbon emissions. However, delaying the commencement of the clause to review the appropriateness of NEDC would be inappropriate, as it would mean that the Driver and Vehicle Licensing Agency and HMRC would not have clarity about which emissions figures they should use to set tax rates for vehicles. For clarity, I reiterate that NEDC is the established methodology for calculating CO_2 values.

Clause 48 is designed to clarify the law. Since September, manufacturers seeking type approvals for new cars have been required to show two different CO_2 readings for their vehicles—one produced under the new WLTP test and another consistent with the current NEDC test. We cannot use both numbers for tax purposes. Therefore, to avoid confusion, the clause makes it clear that the DVLA and HMRC will continue to assign tax bands using the current NEDC procedure.

The Government will transition the tax system to the new WLTP test from April 2020. That transition period gives the Government time to consider, in consultation with industry, what the effects of the new system will be and whether the band thresholds remain appropriate in the context of recorded WLTP results. We are actively discussing that topic with industry, and we will announce our decisions at the Budget in the usual way. On that basis, I believe that the amendment is unnecessary, and I ask the hon. Member for Bootle to withdraw it.

Peter Dowd: Again, I appreciate what the Minister has said about keeping this under review, and about the 2020 date. We will keep looking closely at this issue, but on that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 48 ordered to stand part of the Bill.

Clauses 49 and 50 ordered to stand part of the Bill.

The Chair: I am conscious of the television monitor, as there may be a Division in the Chamber at any time. When it is called, we will suspend for 15 minutes if there is one vote, and for an additional 10 minutes for each vote thereafter.

New Clause 1

Review of retrospective VAT refunds for the Scottish Fire and Rescue Service and the Scottish Police Authority

'(1) Within one month of this Act receiving Royal Assent, the Chancellor of the Exchequer shall commission a review of the potential consequences of allowing the Scottish Fire and Rescue Service and the Scottish Police Authority to claim VAT refunds under section 33 of VATA 1994 retrospective to the date of their establishment.

(2) The review shall consider—

(a) the administrative consequences of allowing retrospective claims, and

(b) the impact on revenue of allowing retrospective claims.

(3) The Chancellor of the Exchequer shall lay the report of this review before the House of Commons within six months of this Act receiving Royal Assent.'—*(Kirsty Blackman.)*

This new clause would require the Chancellor of the Exchequer to commission a review into what the potential consequences of allowing the Scottish Fire and Rescue Service and the Scottish Police Authority to make retrospective claims for VAT refunds would be.

Brought up, and read the First time.

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

The Committee divided: Ayes 9, Noes 10.

Division No. 10]

AYES

Blackman, Kirsty
Carden, Dan
Dodds, Anneliese
Dowd, Peter
George, Ruth
Lee, Ms Karen
Pidcock, Laura
Smith, Jeff
Thewliss, Alison

NOES

Burghart, Alex
Chalk, Alex
Clarke, Mr Simon
Graham, Luke
Kerr, Stephen
Maclean, Rachel
Philp, Chris
Rutley, David
Stride, rh Mel
Whately, Helen

Question accordingly negatived.

New Clause 4

Review of the impact of increasing Research and Development Expenditure Credit

'(1) Within one month of Royal Assent to this Act, the Chancellor of the Exchequer shall commission a review of the impact of increasing the Research and Development Expenditure Credit from 11% to 12%.

(2) The review shall consider—

(a) the effect of the 1% increase on companies' research and development spending in the UK, and

(b) what effect the increase in Research and Development Expenditure Credit will have on changes to companies' research and development spending in the UK as a result of leaving the EU.

(3) The Chancellor of the Exchequer shall lay the report of this review before the House of Commons within six months of this Act receiving Royal Assent.'—*(Kirsty Blackman.)*

This new clause would require the Chancellor of the Exchequer to commission a review of the effect of the increase in Research and Development Expenditure Credit from 11% to 12% on companies' research and development spending and what effect the increase will have on any changes to companies' R&D spending as a result of the UK leaving the EU.

Brought up, and read the First time.

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

The Committee divided: Ayes 9, Noes 10.

Division No. 11]

AYES

Blackman, Kirsty
Carden, Dan
Dodds, Anneliese
Dowd, Peter
George, Ruth
Lee, Ms Karen
Pidcock, Laura
Smith, Jeff
Thewliss, Alison

NOES

Burghart, Alex
Chalk, Alex
Clarke, Mr Simon
Graham, Luke
Kerr, Stephen
Maclean, Rachel
Philp, Chris
Rutley, David
Stride, rh Mel
Whately, Helen

Question accordingly negatived.

New Clause 8

EIS, SEIS, SI and VCT reliefs: review of operation

'(1) Within twelve months after the passing of this Act, the Chancellor of the Exchequer must review the operation of the reliefs established under Parts 5, 5A, 5B and 6 of ITA 2007.

(2) The review under this section must consider—

(a)the revenue effects of the reliefs and changes made to those reliefs since the passing of the Finance Act 2012,

(b) the employment effects of the reliefs and those changes,

(c) other economic effects of the reliefs and those changes, and

(d) the extent to which trusts or other entities have been created to secure benefits from the reliefs and those changes without providing wider employment or economic benefits.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section as soon as practicable after its completion."—*(Peter Dowd.)*

This new clause provides for a review of the operation of the enterprise investment scheme, the seed enterprise investment scheme, income tax relief for social investments and venture capital trusts income tax relief.

Brought up, and read the First time.

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

The Committee divided: Ayes 9, Noes 10.

Division No. 12]

AYES

Blackman, Kirsty
Carden, Dan
Dodds, Anneliese
Dowd, Peter
George, Ruth
Lee, Ms Karen
Pidcock, Laura
Smith, Jeff
Thewliss, Alison

NOES

Burghart, Alex
Chalk, Alex
Clarke, Mr Simon
Graham, Luke
Kerr, Stephen
Maclean, Rachel
Philp, Chris
Rutley, David
Stride, rh Mel
Thewliss, Alison

Question accordingly negatived.

New Clause 9

Review of change to level of research and development expenditure credit

'(1) No later than 31 March 2019, the Chancellor of the Exchequer must review the effects of the change to the level of research and development expenditure made by section 19(1).

(2) The review under this section must consider—

(a) the revenue effects of the change, and

(b) the effects on levels of research and development expenditure.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section as soon as practicable after its completion."—*(Peter Dowd.)*

This new clause provides for a review of the change to the level of research and development expenditure credit.

Brought up, and read the First time.

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

The Committee divided: Ayes 9, Noes 10.

Division No. 13]

AYES

Blackman, Kirsty
Carden, Dan
Dodds, Anneliese
Dowd, Peter
George, Ruth
Lee, Ms Karen
Pidcock, Laura
Smith, Jeff
Thewliss, Alison

NOES

Burghart, Alex
Chalk, Alex
Clarke, Mr Simon
Graham, Luke
Kerr, Stephen
Maclean, Rachel
Philp, Chris
Rutley, David
Stride, rh Mel
Whately, Helen

Question accordingly negatived.

New Clause 11

Review of financial impact of postponement of charge on share exchange in overseas transferee company

'(1) Within twelve months after the passing of this Act, the Chancellor of the Exchequer must review the financial impact of the changes made by section 27 of this Act to section 140 TCGA.

(2) The review under this section must consider—

(a) the revenue effects of the change made, and

(b) the extent to which the change has supported UK companies to conduct international business.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section as soon as practicable after its completion."—*(Peter Dowd.)*

This new clause provides for a review of the revenue impact and the impact on business of the change to TCGA to prevent a postponed chargeable gain from becoming chargeable following further restructuring of a UK Company's overseas business.

Brought up, and read the First time.

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

The Committee divided: Ayes 9, Noes 10.

Division No. 14]

AYES

Blackman, Kirsty
Carden, Dan
Dodds, Anneliese
Dowd, Peter
George, Ruth
Lee, Ms Karen
Pidcock, Laura
Smith, Jeff
Thewliss, Alison

NOES

Burghart, Alex
Chalk, Alex
Clarke, Mr Simon
Graham, Luke
Kerr, Stephen
Maclean, Rachel
Philp, Chris
Rutley, David
Stride, rh Mel
Whately, Helen

Question accordingly negatived.

New Clause 12

First Year Tax Credits: Review of effectiveness

'(1) The Chancellor of the Exchequer must commission a review of the effectiveness of First Year Tax Credits.

(2) The review under this section must consider—

(a) the effectiveness of First Year Tax Credits on—

(i) encouraging investment in efficient plant and machinery,

(ii) reducing the consumption of energy by business,

(iii) aiding the UK's carbon reduction obligations, and

(b) the impact on revenue of the tax credits.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section within twelve months of the passing of this Act."—*(Peter Dowd.)*

This new clause would require the Chancellor of the Exchequer to commission and lay before the House of Commons a report into the effectiveness of First Year Tax Credits.

Brought up, and read the First time.

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

The Committee divided: Ayes 9, Noes 10.

Division No. 15]

AYES

Blackman, Kirsty
Carden, Dan
Dodds, Anneliese
Dowd, Peter
George, Ruth
Kerr, Stephen
Pidcock, Laura
Smith, Jeff
Thewliss, Alison

NOES

Burghart, Alex
Chalk, Alex
Clarke, Mr Simon
Graham, Luke
Kerr, Stephen
Maclean, Rachel
Philp, Chris
Rutley, David
Stride, rh Mel
Whately, Helen

Question accordingly negatived.

New Clause 13

Review of effectiveness of limit to double taxation relief

"(1) No later than 31 March 2019, the Chancellor of the Exchequer must review the effects of the limit to double taxation relief made by section 30.

(2) The review under this section must consider—

(a) the effects of the change on annual revenue, and—

(b) the size and type of companies benefiting from the relief and the impact of the changes on them.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section as soon as practicable after its completion."—*(Peter Dowd.)*

This new clause provides for a review of the new limit for double taxation relief available to companies for foreign tax paid on income of a foreign permanent establishment.

Brought up, and read the First time.

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

The Committee divided: Ayes 9, Noes 10.

Division No. 16]

AYES

Blackman, Kirsty
Carden, Dan
Dodds, Anneliese
Dowd, Peter
George, Ruth
Lee, Ms Karen
Pidcock, Laura
Smith, Jeff
Thewliss, Alison

NOES

Burghart, Alex
Chalk, Alex
Clarke, Mr Simon
Graham, Luke
Kerr, Stephen
Maclean, Rachel
Philp, Chris
Rutley, David
Stride, rh Mel
Whately, Helen

Question accordingly negatived.

New Clause 14

Fixed rate deduction for expenditure on vehicles: review of change to eligibility

'(1) Within twelve months after the passing of this Act, the Chancellor of the Exchequer must review the effects of the amendments made by section 36 allowing unincorporated property businesses to use flat rates for mileage when calculating allowable deductions for vehicle expenditure for income tax.

(2) The review under this section must consider—

(a) the revenue effects of the change made, and

(b) the effect of the change on rates of car usage in unincorporated property businesses.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section as soon as practicable after its completion.'—*(Peter Dowd.)*

This new clause provides for a review into the effects on revenue and on car use of allowing unincorporated property businesses to use flat rates, commonly referred to as mileage rates, when calculating allowed deductions for income tax.

Brought up, and read the First time.

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

The Committee divided: Ayes 9, Noes 10.

Division No. 17]

AYES

Blackman, Kirsty
Carden, Dan
Dodds, Anneliese
Dowd, Peter
George, Ruth
Lee, Ms Karen
Pidcock, Laura
Smith, Jeff
Thewliss, Alison

NOES

Burghart, Alex
Chalk, Alex
Clarke, Mr Simon
Graham, Luke
Kerr, Stephen
Maclean, Rachel
Philp, Chris
Rutley, David
Stride, rh Mel
Whately, Helen

Question accordingly negatived.

4.1 pm

Sitting suspended for Divisions in the House.

4.47 pm

On resuming—

New Clause 15

LANDFILL TAX DISPOSALS: REVIEW OF CHANGES TO DISPOSALS WITHIN CHARGE

'(1) The Chancellor of the Exchequer must commission a review of the changes to disposals for which Landfill Tax is chargeable within three months of the passing of this Act.

(2) The review under this section must consider—

(a) the effect on revenue of the changes,

(b) the impact on the volume of disposals at—

(i) sites with an environmental disposal permit, and

(ii) sites without an environmental disposal permit, and

(c) the impact of the changes on the prevalence of illegal disposal sites.

(3) The Chancellor of the Exchequer must lay before the House of Commons the report of the review under this section within twelve months of the passing of this Act.'—*(Peter Dowd.)*

This new clause would require the Chancellor of the Exchequer to commission and lay before the House of Commons a report into the effects of the changes to disposals for which Landfill Tax is chargeable on tax revenue and on the volume of disposals and the prevalence of illegal landfill sites.

Brought up, and read the First time.

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

The Committee divided: Ayes 7, Noes 10.

Division No. 18]

AYES

Carden, Dan
Dodds, Anneliese
Dowd, Peter
George, Ruth
Lee, Ms Karen
Pidcock, Laura
Smith, Jeff

NOES

Burghart, Alex
Chalk, Alex
Clarke, Mr Simon
Graham, Luke
Kerr, Stephen
Maclean, Rachel
Philp, Chris
Rutley, David
Stride, rh Mel
Whately, Helen

Question accordingly negatived.

Question proposed, That the Chair do report the Bill, as amended, to the House.

Mel Stride: As is traditional on such occasions, I will say a few words about the Committee. I thank everybody who has participated in what has been a full and robust debate at every stage. I particularly thank the Opposition Front Benchers for their contributions and the good humour and levity that has been on display at various points in our proceedings.

I thank the hon. Member for Bootle for his frequent biblical and literary allusions, his classical quotations—a few of which I actually understood, but they were impressive none the less. We concede on this side that there were no Marxist mumblings, for which we were very grateful. At one point, he compared the Labour party to John the Baptist, but then accepted that that did not end very well. We were grateful for his contributions.

I thank the hon. Member for Oxford East for her forensic examination of all issues. It is agreed by popular acclaim, and by Members on both sides of the Committee, that that was impressive to say the least. When serving with her on a particularly memorable Statutory Instrument Committee, I was horrified to discover that she had digested in microscopic detail not only the treaty that we were discussing, but its forerunner as well, and she was able to draw on that experience in our exchanges.

I thank the hon. Member for Aberdeen North, who is not in her place, for her thoughtful contributions and the gentle but firm and persistent way in which she pursued the points that mattered to her.

It is fair to say that we have spent much time together—especially today, what with Treasury questions and the Committee. We have statutory instruments to look forward to, and we will also be engaged in considering the customs Bill. I hope that we do not forget sharing these golden moments. When we retire and Parliament disappears into the dim distance, perhaps we will have some kind of revival band and go out on the road to share our highlights of these occasions with the general public, like a band of ancient rockers who just keep going. Of course, the highlight of all highlights will be the story about the dead dog and the bicycle, which will never fade from our memories.

More seriously, Mr Owen, I thank you and Sir Roger very much for having chaired the Committee with such good humour, patience and impartiality; of course, we take that for granted. I thank the Whips as well. Having served as a Whip, I know how hard they work. They do not often receive much glory, but we are grateful to them for having kept things running so smoothly that the Committee is finishing early.

I thank Back Benchers on both sides of the room for their contributions—some were very good contributions, and there was a wealth of contributions from Members on our side of the Committee—which were gratefully received. I thank the Committee Clerks, *Hansard* and the Doorkeepers for their good service. I also thank all those who provided evidence to the Committee earlier on.

Almost last but certainly not least, I thank my officials at HMRC and at the Treasury: Dom Curran, Rachel Crade, Harry Pearse, George Houghton and Hugo Popplewell from my private office, all of whom have served and looked after me with great efforts, and to great effect. Finally, I thank parliamentary counsel, with whom I have struggled on this third Finance Bill of the last 12 months. Until we meet again, Mr Owen, thank you very much.

Peter Dowd: I would like to mirror everything that the Minister has said. It is not goodbye but au revoir, as far as I can gather. I thank you, Mr Owen, all Members who have participated, the Minister for his assiduous answers to questions—some of which I never asked—and all my colleagues. I also want to thank my staff and my colleagues' staff, who have worked hard behind the scenes, while we have taken the credit.

The Chair: May I echo what both Front Benchers have said? I thank the House staff and the Clerks for the support that they have given us throughout proceedings on the Bill.

Question put and agreed to.

Bill, as amended, accordingly to be reported.

4.55 pm

Committee rose.

Written evidence reported to the House

FB27 This person wishes to remain anonymous

FB28 This person wishes to remain anonymous