PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

SANCTIONS AND ANTI-MONEY LAUNDERING BILL [*LORDS*]

First Sitting

Tuesday 27 February 2018

(Morning)

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not later than

Saturday 3 March 2018

The Committee consisted of the following Members:

Chairs: Dame Cheryl Gillan, † Steve McCabe

† Badenoch, Mrs Kemi *(Saffron Walden)* (Con)
Bardell, Hannah *(Livingston)* (SNP)
† Benyon, Richard *(Newbury)* (Con)
† Chalk, Alex *(Cheltenham)* (Con)
† Courts, Robert *(Witney)* (Con)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Duffield, Rosie *(Canterbury)* (Lab)
† Duncan, Sir Alan *(Minister for Europe and the Americas)*
† Freer, Mike *(Finchley and Golders Green)* (Con)
† Glen, John *(Economic Secretary to the Treasury)*
† Goodman, Helen *(Bishop Auckland)* (Lab)
Graham, Luke *(Ochil and South Perthshire)* (Con)
† Maclean, Rachel *(Redditch)* (Con)
† Norris, Alex *(Nottingham North)* (Lab/Co-op)
† Prentis, Victoria *(Banbury)* (Con)
† Rowley, Danielle *(Midlothian)* (Lab)
† Smith, Nick *(Blaenau Gwent)* (Lab)
Stevens, Jo *(Cardiff Central)* (Lab)
† Thewliss, Alison *(Glasgow Central)* (SNP)

Mike Everett, *Committee Clerk*

† attended the Committee

Public Bill Committee

Tuesday 27 February 2018

(Morning)

[Steve McCabe *in the Chair*]

Sanctions and Anti-Money Laundering Bill [*Lords*]

9.25 am

The Chair: Before we begin, can I ask everyone to ensure that all electronic devices are turned off or switched to silent mode? I remind Committee members that Mr Speaker says that teas and coffees are not allowed during sittings. Today, we will consider first the programme motion on the amendment paper, then a motion to enable the reporting of written evidence for publication.

The Minister for Europe and the Americas (Sir Alan Duncan): I beg to move,

That—

(1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 27 February) meet—

(a) at 2.00 pm on Tuesday 27 February;

(b) at 11.30 am and 2.00 pm on Thursday 1 March;

(c) at 9.25 am and 2.00 pm on Tuesday 6 March;

(2) the proceedings shall be taken in the following order: Clauses 2 to 5 Schedule 1; Clauses 6 to 18; Clause 1; Clauses 19 to 43; Schedule 2; Clauses 44 to 50; Schedule 3; Clauses 51 to 56; 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 Tuesday 6 March.

May I take this opportunity to welcome you to the Chair, Mr McCabe, and say what a pleasure it is to serve under your chairmanship? Because the Bill in its principles enjoys cross-party support, in the spirit of what I believe is cross-party agreement I am happy to offer to any member of the Committee the services of my officials, should they want any briefing or advice on any detail of the Bill.

Question put and agreed to.

The Chair: The deadline for amendments to be considered during the first two line-by-line sitting days of the Bill has passed. The deadline for amendments to be considered on the third line-by-line sitting day is the rise of the House on Thursday.

Resolved,

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

The Chair: We now begin line-by-line consideration of the Bill. The selection list for today is available in the room and on the Bill webpage. This shows how selected amendments have been grouped together for debate. Amendments grouped together are generally on the same or a similar issue. A Member who has put their name to the lead amendment in a group is called first. Other Members remain free to catch my eye to speak on all or any of the amendments within that group. A Member may speak more than once in a single debate.

At the end of a debate on a group of amendments, I shall call the Member who moved the leading amendment again. Before they sit down, they will need to indicate if they wish to withdraw the amendment or to seek a decision. If any Member wishes to press any other amendment or new clause in a group to a vote, they need to let me know. I shall work on the assumption that the Minister wishes the Committee to reach a decision on all Government amendments, if any are tabled.

Please note that decisions on amendments do not take place in the order they are debated but in the order they appear on the amendment paper. In other words, debate proceeds according to the selection and grouping list; decisions are taken when we come to the clause that the amendment affects. I will use my discretion to decide whether to allow a separate stand part debate on individual clauses and schedules, following the debate on the relevant amendments. I hope that explanation is helpful.

The Committee has just agreed a programme motion that will be reproduced in the amendment paper for tomorrow. The programme motion sets out the order in which we have to consider the Bill.

Clauses 2 to 5 ordered to stand part of the Bill.

Schedule 1

Trade sanctions

Helen Goodman (Bishop Auckland) (Lab): I beg to move amendment 29, in schedule 1, page 49, leave out lines 39 and 40.

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

Amendment 30, in schedule 1, page 50, leave out lines 2 and 3.

Amendment 31, in schedule 1, page 50, leave out paragraph 33.

Helen Goodman: May I say what a pleasure it is to see you in the Chair on this bright and sunny, if cold, morning, Mr McCabe? I will not press the amendments, as they are simply a vehicle enabling me to ask a question: on trade sanctions, is there a loophole in relation to the Isle of Man?

Sir Alan Duncan: I thank the hon. Lady for her question. It is never unhelpful to be able to clarify a point of detail of this sort, and I hope I can now do that to her satisfaction.

Amendments 29 to 31 would cause the Bill to deviate from the established practice in export controls and customs matters where transfers of goods to the Isle of Man are not classified as exports and imports. The Isle of Man is part of a joint customs and indirect tax area within the United Kingdom, and across all customs matters goods transferred to the Isle of Man are not said to be exported from the United Kingdom, and goods transferred from the Isle of Man are not said to

be imported into the United Kingdom. That is a long-standing customs arrangement and has been reflected in legislation as well as in custom and practice.

The Isle of Man is integrated into HM Revenue and Customs' CHIEF—customs handling of import and export of freight—computer system, which enables it to operate UK customs. The Isle of Man mirrors UK export control and sanctions legislation and makes licensing decisions on exactly the same basis as the UK. The amendment, if it were carried, would put sanctions policy out of step with export control and customs. Only goods covered by sanctions legislation would be affected by this change and would in essence be subject to the same export controls twice. If a good were travelling to a sanctioned destination, via the Isle of Man under a licence, it would require one licence from the UK and another from the Isle of Man. The amendment would cause procedural and legal difficulties and increase administrative burdens for business and Her Majesty's Government, and all for no observable benefit

I hope that I have persuaded the hon. Lady and given a satisfactory explanation in response to the amendment which in any event she does not intend to press.

Helen Goodman: That is absolutely fine.

Anneliese Dodds (Oxford East) (Lab/Co-op): Like my hon. Friend, I am grateful to you for chairing the Committee, Mr McCabe.

I am also grateful to the Minister for his explanation. Very briefly, he referred to the Isle of Man's treatment under the CHIEF system, but we are moving to the contractual disclosure system—CDS—for customs policies. That should have happened by last year, but it has been delayed and there are many concerns about it. Will the Minister assure me that the Isle of Man will be treated properly in any new customs arrangements, and that is the Government's understanding of the situation?

Sir Alan Duncan: Although I am not familiar with the exact details of the system the hon. Lady mentions, I think I can say confidently that the Isle of Man will be treated in the way that I described in my previous remarks.

Helen Goodman: I beg leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Schedule 1 agreed to.

Clause 6

Aircraft sanctions

Helen Goodman: I beg to move amendment 15, in clause 6, page 5, line 40, at end insert

"unless they are a person, or are doing so to provide legitimate travel to a person, recognised as a refugee under the UN Convention Relating to the Status of Refugees".

This amendment would prevent sanctions being imposed on recognised refugees who own or operate aircraft registered in a prescribed country.

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

Amendment 16, in clause 6, page 6, line 33, at end insert ",

unless an aircraft is providing legitimate travel to a person recognised as a refugee under the UN Convention Relating to the Status of Refugees."

This amendment would mean that aircraft containing a recognised refugee would not constitute a disqualified aircraft under this Act.

Amendment 17, in clause 7, page 7, line 36, at end insert ",

unless the ship belongs to a person or the ship provides legitimate travel to a person, recognised as a refugee under the UN Convention Relating to the Status of Refugees."

This amendment would mean that shipping sanctions could not be imposed on ships belonging to, or carrying, a recognised refugee.

Helen Goodman: The amendments are rightly grouped together, because they deal with essentially the same issue. Many refugees are coming to Europe at the moment, mainly by sea, but a small number by aircraft. We want a system that has firm sanctions on shipping and aircraft but does not penalise or criminalise refugees. I know the Minister is as keen as I am to achieve that.

The numbers are striking: more than 1 million refugees or migrants reached Europe by sea in 2016, and 1 million arrived in that way last year. Most of them are fleeing conflict and political persecution in three places: Syria, Afghanistan and Africa. Unfortunately, at least 3,000 people died crossing the Mediterranean last year. We need a system that is firm in the sanctions aspect but humane for the individual refugees. The Minister has been a Department for International Development Minister, and I know that he has experience in this area and will be able to tell us what he thinks is the right way to proceed. In the Lords, when the Minister, Lord Ahmad, was asked about this, his response was that it would be covered by exemptions and licences for non-governmental organisations, but these people do not always arrive with the help of NGOs; they arrive in ad hoc ways.

If anybody would like to read about that journey, they would do well to look at "The Lightless Sky" by Gulwali Passarlay. He describes his life as a teenager, going from Afghanistan across Iran, through Turkey, being pushed back from Bulgaria, making the journey again, going through Greece and getting to Italy. Interestingly, at some points he describes the people who travelled with him and who organised the journey for him as "traffickers", and their treatment of him was extremely violent, unpleasant, negative and exploitative; but it was sometimes a positive experience, and he regarded them as agents who he had paid to help him. The dilemma the Minister faces is that we do not wish to encourage the people traffickers, but we need to protect the people. Our amendments are aimed at squaring that circle. I agree that that will be difficult, but that is what we are trying to do.

There is also the question of incentives and the pull factor. Goldsmiths University and Oxford University have looked at this and they do not believe that the pull factor is strong, so I submit that we need to take a more humane approach. We have had British forces in the Mediterranean and we have had HMS Bulwark picking people up in the Mediterranean. That is what the amendments are driving at, and that is the debate I wish to have on them this morning.

Alex Norris (Nottingham North) (Lab/Co-op): I rise to speak in support of the amendments, not least so that I do not freeze to my chair, Mr McCabe.

On Second Reading, the rough theme of the discussion was that we wanted a sanctions regime in this country that punished the individuals for their behaviour but did not as a result punish their countrymen and women or people in their care, and what is proposed would

[Alex Norris]

seem to fit perfectly with that. The circumstances that might cause us to use sanctions—persecution, human rights abuses or violent conflict at home—are the very circumstances that cause refugees and people to need to leave their country and seek sanctuary elsewhere. We always have to be mindful of unintended consequences, and the amendment seems to offer one way of avoiding them.

Alison Thewliss (Glasgow Central) (SNP): I am happy to rise in support of the amendment moved by the hon. Member for Bishop Auckland (Helen Goodman). She makes some good points. We need to be mindful that there are people who are trapped in difficult situations, and if getting on a plane or into a boat is the only way to get out of that situation, and the alternative is almost certain death—particularly for people in Syria and Yemen—they will do that. We need to seek protection for those operating services for such people. I do not know whether Migrant Offshore Aid Station or Médecins Sans Frontières or any of those other people operating boats in the Mediterranean could fall foul of any sanctions regime. It would be good to get reassurance from the Minister on that, because those are important humanitarian services that rescue people and ensure that they are kept safe.

People are taking a huge risk. Recently there was a case of Somali refugees who sought first sanctuary in Yemen and then tried to leave Yemen because it is so dangerous there, and ended up being shot out of the sea by an airstrike. There are huge risks for people in the choices they make when they are trying to flee. We need to do everything we can to protect them in their efforts to get to a position of safety. I support the amendment.

Sir Alan Duncan: I genuinely thank hon. Members for raising this issue, which we dwelt on at some length on Second Reading. The hon. Member for Bishop Auckland says, I am a former DFID Minister, so I feel these issues deeply. I am familiar with not only the plight of refugees, but the legal void in which they sometimes have to try to survive. The amendment is a laudable attempt to address that very issue and I make no criticism whatsoever of the intent behind it, because it is one that we all share.

The Government take seriously the impact that sanctions might or can have on a country's civilian population. We also acknowledge the important work of NGOs and other humanitarian organisations working in difficult and often threatening situations—look at what is happening in Ghouta in Syria at the moment. The amendments are designed to exempt ships or aircraft from sanctions if they are being used to transport refugees. I agree with the principle, but in my opinion this is not the right way to achieve the desired effect.

I hope that hon. Members recognise that refugee status—and hence the ability to deem someone a refugee under the amendment—is usually granted after a person has fled from their country of origin: once they have reached safety, they can apply for asylum and be recognised as refugees. The amendment would not cover persons fleeing from their country of origin in order to claim asylum. I suspect that that does not reflect the good intentions of those who tabled it.

As I said earlier, the UK is very proactive in ensuring that NGOs can operate in countries subject to sanctions by providing licences and exceptions. In fact, the Bill would make it easier by allowing us to draft exceptions and grant general licences specifically aimed at assisting humanitarian activities, which include assisting refugees or displaced persons. There are good reasons why broad prohibitions are applied to a country, and licences are used to provide targeted exceptions. If we were to provide a general exception for ships and aircraft in those circumstances, aside from the practical difficulty with these amendments that I have mentioned, it could be subject to abuse and would be pretty well impossible to enforce.

9.45 am

Taking that logically—I am brainstorming here—a sanctioned aircraft could stick one notional refugee on it and then claim total exemption, even though that aircraft was sanctioned for good and broad reasons. That could lead to the abuse of a single so-called refugee to exempt an entire ship or aircraft. I do not really want to use the word "hostage", but I think the principle of what I am saying is understood. In extremis, that could help organisations to circumvent sanctions.

The exemption would also be difficult to apply in practice. If a person on a ship or aircraft claimed to be a refugee, that circumstance would seem to engage this exemption. However, the exemption covers only recognised refugees and so would not cover asylum seekers. To engage it, the person would need to prove their refugee status. If it was later determined by the proper authorities and the courts that they were not in fact a recognised refugee, the ship or aircraft would have breached sanctions.

Helen Goodman: Will the Minister give way?

Sir Alan Duncan: I will just take this through to the logical conclusion, and then of course I will give way. I am sure the hon. Lady can understand the difficulty that the situation I described would pose in respect of a person on a ship or aircraft making such a claim.

Helen Goodman: I understand the Minister's point, but since he accepts the humanitarian case we are making, why did he not put down his own amendments to cover those asylum seekers, as well as refugees?

Sir Alan Duncan: Because the provision is already in the Bill. I would argue that it is in the Bill to the satisfaction of the hon. Lady, because the system of licences and exceptions in the Bill offers the best way to maintain the integrity of sanctions, while ensuring that NGOs can provide humanitarian support to refugees, asylum seekers and displaced persons. It is often the displaced persons who are greatest in number.

That is not a difference of principle; that is simply our interpretation of why this proposal would not work in practice and why the Bill does work in practice and achieves the objectives of the amendments that the hon. Lady has tabled. On that basis, I ask her not to press her amendments, because provision is in the Bill to meet the demands that she seeks.

Helen Goodman: I know that the Minister is doing his best and that the idea is to take minimum amendments in Committee as the Bill goes through—I have been a Minister too; I have had those briefings. However, the Minister is not taking into account the scale of the problem and the situation in which people are finding themselves.

The House voted unanimously last month for a foreign policy that had human rights at its very centre. We all acknowledge that there are now a record 66 million refugees around the world. That is more than there have ever been and more than the population of the United Kingdom. The fact is that we know people are fleeing from horrendous situations, and particularly from Libya, where there are reports of people who have come up from sub-Saharan Africa or across from Eritrea being sold in vast markets. I am afraid that to rely on the notion that people in that situation will be able to get to an NGO is completely unrealistic. I am going to test the will of the Committee on amendment 15.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 9.

Division No. 1]

AYES

Dodds, Anneliese	Rowley, Danielle
Duffield, Rosie	Smith, Nick
Goodman, Helen	
Norris, Alex	Thewliss, Alison

NOES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Maclean, Rachel
Courts, Robert	
Duncan, rh Sir Alan	Prentis, Victoria

Question accordingly negatived.

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

Sir Alan Duncan: It might be helpful, given the debate we have had, to rehearse the arguments for why we think clause 6 deservedly stands as it does without amendment. Clause 6 introduces provisions to ensure that the Secretary of State has the power to impose sanctions in respect of aircraft, most notably disqualified aircraft. Sanctions on transport form an important part of the suite of measures available to the UK. As a permanent member of the United Nations Security Council, the UK fully supports the imposing of transport sanctions on prescribed countries.

These powers would allow prohibitions and requirements to be introduced and directions to be issued to control the movement of disqualified aircraft as defined in subsection (6). Directions include preventing disqualified aircraft from entering UK airspace or, if they have already done so, detaining them in a UK airport or compelling them to leave UK airspace. More generally, where a designated person has a prescribed interest in an aircraft, the UK will ensure that this aircraft cannot be registered on the UK register. The UK will also have the power to remove such aircraft from the register. This clause also enables the UK to prevent aircraft from being registered in the prescribed country. Finally, the provisions would enable the UK to prevent British-controlled aircraft from overflying or landing in a prescribed country.

These clauses, therefore, will allow the UK to prevent the use of aircraft—where transport sanctions apply—by people connected to sanctioned countries such as North Korea. The powers in this clause are necessary for the UK to be able to develop and enforce transport sanctions and meet its international obligations. The implementation and enforcement of transport sanctions are a crucial element of the UK's future foreign policy, and I believe this clause should stand part of the Bill.

Question put and agreed to.

Clause 6 accordingly ordered to stand part of the Bill.

Clauses 7 to 14 ordered to stand part of the Bill.

Clause 15

Exceptions and licences

Helen Goodman: I beg to move amendment 18, in clause 15, page 14, line 41, at end insert—

"(3A) Regulations must include provision for the establishment of a fast-track process for dealing with requests for exceptions and licences for humanitarian purposes."

This amendment would mean that regulations have to provide a fast-track process for dealing with any requests for exceptions and licences for humanitarian purposes.

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

Amendment 19, in clause 15, page 14, line 41, at end insert—

"(3A) The Secretary of State must, within six months of this Act coming into force, undertake a consultation on measures to establish an overarching framework for exceptions and licences to be granted for the purposes of subsections (2) and (3)."

This amendment would require the Government to consult on measures to establish a framework for exceptions and licences to disapply the effect of sanctions.

Amendment 20, in clause 15, page 15, line 12, at end insert—

"(c) humanitarian, development, reconstruction and peace-building agencies engaging with sanctioned individuals and entities in order to safely and effectively carry out their activities."

This amendment would enable exceptions to any prohibition or requirement imposed by regulations for humanitarian, development, reconstruction or peace-building purposes.

New clause 5—*Reports on the use of exemptions and licensing*—

"(1) Where regulations are made under section 1, the appropriate Minister must—

(a) prepare a report on the matters mentioned in subsection (2) for—

(i) the period of twelve months beginning with the day on which the regulations made under section 1 come into force; and

(ii) every subsequent twelve month period; and

(b) lay a copy of each such report before Parliament.

(2) The matters are—

(a) the number of applications for humanitarian licences made during the reporting period including specific detail about whether licences were requested by EU Member States or the United States of America;

[The Chair]

(b) the number of humanitarian licences granted, refused or withdrawn during the reporting period;

(c) the number of non-humanitarian exemptions and licences requested;

(d) the number of non-humanitarian exemptions and licences granted, refused or withdrawn; and

(e) the amount of time taken for each application to be processed during the reporting period."

This new clause would require the Government to lay a report before Parliament every 12 months reporting on the use of both humanitarian and non-humanitarian exemptions and licensing.

Helen Goodman: We have now jumped to the section on exceptions and licences, which relates directly to our previous discussion about refugees and the treatment of aircraft and ships. On Report in another place there were some amendments relating to the effects of sanctions on humanitarian work and to exceptions for humanitarian work, and an amendment that looked to get the Government to establish an overarching framework.

We are looking to amend three things in clause 15. First, with amendment 18, we would like to see the inclusion of provisions for the establishment of a fast-track process for dealing with requests for exceptions and licences for humanitarian purposes. I will go on to describe a situation where that was not working and had very bad consequences. We also want a consultation on measures to establish an overarching framework for all exceptions and licences within six months of the Bill coming into force. We have had representations on that from NGOs and the banking sector because they are all affected by it. Finally, we want to see exceptions to any prohibition or requirement imposed by sanctions for humanitarian, development, reconstruction and peace-building purposes.

I am pleased that new clause 5 has been put into this group, because it seeks a report on exemptions. I will come on to explain why that is for humanitarian exemptions and other exemptions.

The system of exemptions and licences is long standing and well intentioned, but it does not always work as well as we would all like. Chatham House, which did a big piece of work on this last year, said:

"British NGOs undertaking humanitarian operations in or near areas where non-state armed groups…are active face increasing restrictions on their access to the financial system, including delayed transfers, the freezing of funds and in some cases the complete closure of bank accounts. These restrictions impede the UK government's ability to meet its commitment under the 2015 National Security Strategy and Strategic Defence and Security Review to refocus its aid budget to support fragile and broken states and regions."

We are obviously in a situation where we have large populations moving around a great deal, sometimes under the control of ISIS or al-Qaeda. It is a very unpleasant and difficult situation.

10 am

Chatham House said:

"The perception of NGOs as 'high risk' can be traced in part to Recommendation 8…of the Financial Action Task Force (FATF). Drawn up after 9/11, this recommendation until recently described NGOs as being particularly vulnerable to misuse for terrorist financing, contributing to highly cautious behaviour by banks."

While I mention the Financial Action Task Force, I would like to ask the Economic Secretary to the Treasury a question about it. It is included in the long title of the Bill, and I am a bit puzzled as to what its status is. Is it an offshoot of the OECD? Is it a treaty organisation? What exactly is it? What is its legal standing? What is its authority? Is it merely a coalition of the willing? Some of its work is good, but we need to understand a bit better what it is and why it is appropriate to mention it in the long title of a Bill. I can see that he knows the answer to these questions—good.

Since the global financial crisis, banks have been subject to far tougher regulatory and enforcement regimes for non-compliance, which has resulted in a diminishing appetite for risk, hitting humanitarian NGOs acutely as banks have shifted away from clients perceived to present the greatest risk of terrorism financing and money laundering. Banks are obviously crucial partners for the authorities in the implementation of international sanctions and counter-terrorism legislation. For UK-based humanitarian NGOs this presents the challenge of dealing with not only UN and EU sanctions, but the extraterritorial reach of the US, as banks seek to ensure that funds and aid are not diverted to designated individuals and non-state actors. While licensing programmes for such humanitarian activity do exist, they have little meaningful impact as yet on NGOs and their ability to navigate the financial system.

Humanitarian NGOs generally accept the need for regulation and due diligence, but the current weight of compliance demands by their banking partners is often seen as disproportionate—I have some quite interesting evidence of that, which I will come to in a minute—resulting in a need to spend donor money on additional staff and due diligence tools, as well as in increased administration costs, aid delivery and financial transfer delays, and, in some circumstances, even the closure of programmes to which funding cannot be delivered. Donors, and particularly Government agencies such as DFID, appear to have done little to alleviate this burden of compliance—I am not sure when the Minister for Europe left DFID.

Sir Alan Duncan: 2014.

Helen Goodman: Right. The situation has left responsibility for the due diligence required for funds transfers with humanitarian NGOs operating in high-risk zones.

Banks and NGOs must cultivate relationships, with the support of the Charity Commission, that allow for reciprocal education with respect to compliance expectations, operating risks and mitigation steps. The Government therefore have a challenge in this situation. They need to provide guidance and clear messaging where there is ambiguity at the moment with respect to sanctions and counter-terrorism legislation.

I want to give the explanation for the fast-track process. We have a serious situation in Syria. Everyone knows that 400,000 people have died; 5 million have sought refuge overseas; 6 million have been displaced internally; and half a million people are in besieged areas. Yet this is what is going on. Saleh Saeed, the then chief executive of the Disasters Emergency Committee, said a couple of years ago about Syria:

"The DEC is concerned that the current regulatory regime is significantly slowing and seriously complicating legitimate transfers of much needed funds to pay for humanitarian aid operations inside Syria."

The lengthy process for getting the money means that on one occasion a programme supporting 10,000 people simply had to close in 2013.

Emanuela Rizzo, who works for what I think is a French organisation, Terre des Hommes, is quoted as saying:

"Receiving money from Europe to Syria is a disaster,"

The report states that the organisation made a request and waited:

"After 15 days of delay, it contacted the bank in Italy, which informed the NGO that the transfer had been rejected…The bank required a long list of documents, including the NGO's agreement with the UN Office for Coordination of Humanitarian Affairs, its memorandum of understanding with the Syrian Arab Red Crescent, a letter vowing not to fund 'terrorist' groups, and a list of implementing partners.

After two months and a 200 euro…fee, TDH was able to get the money transferred through a different Italian bank with an affiliate in Syria. 'But it's becoming incredibly difficult'".

The report states:

"Other aid agencies struggling to transfer money have resorted to wiring money to banks in Lebanon and physically driving across the border to pick it up. Aid coming in via social solidarity networks has had to do the same.

Since the beginning of the Syrian crisis in 2011, the USA, European Union, Turkey and the League of Arab States…have imposed a series of sanctions on Syria's arms, banking, energy and oil sectors"—

all for perfectly good reasons—

"as well as on specific individuals, with the stated aim of stopping state repression of protests, initially, and later, of weakening the government."

However, the sanctions regime has had significant unintended repercussions and second-order effects.

About 15 months ago, when I was on the Treasury Committee, we took evidence from the Charities Aid Foundation and UK Finance. We had some interesting exchanges, so I asked the Charities Aid Foundation what representations it had made. The witness said:

"We worked, for example, in changing proposition 8 in the FATF arrangements, which has a presumption that charities are high risk. We have now had that changed to a risk-based approach".

However, that

"has created terrible distortions in the assessment of charities."

The witness added:

"The best example that I could give you is in Egypt, which is scored very highly by FATF because it follows explicit rules in the treatment of charities. Yet all we have seen is a closing of civil society space in Egypt, where charities are simply closed down. That produces the best result, as far as FATF is concerned, because there is then no risk, since they are inherently high risk. Many of these charities are the ones that criticise the Government, so there is a real adverse effect coming through from some of these actions."

On the question of compliance costs, I asked about the Financial Conduct Authority's report, which had said that one large, well-known

"charity required £40k of advice on sanctions regimes in order to maintain operations in a number of jurisdictions."

The Charities Aid Foundation witness said:

"The large international NGOs are spending significant amounts of money on compliance...DFID's own recommendations in terms of the funding that it provides is that 7% of the cost of any grant that it gives may be used on compliance costs."

In practice, he said, it is often twice that: between 7% and 14%. It is underwhelming for people who write their cheque for £100 to the Red Cross to know that only £86 of it gets through because the other £14 is spent on lawyers in the UK.

The Charities Aid Foundation would also like more guidance about acceptable risk. Its witness said:

"You could have Treasury-approved guidance, developed along the lines of the guidance that is available from the Joint Money Laundering Intelligence Taskforce for other areas of activity."

There is a question as to whether we want general exemptions for large, well-known organisations such as the Red Cross or UNICEF, or particular, small licences. Our view is that there is a lot of confusion, and that the individual licences system is not working that well. It is not only non-governmental organisations that agree with that, but the banks too.

UK Finance says it is

"imperative that the UK legislative architecture clearly defines how new legislation will be applied…Our members are clear that the UK's departure from the EU offers a timely opportunity to create a domestic licensing regime".

It is asking for a consultation, because that is a complex matter. It is not something that we can sort out in five minutes or in a Bill Committee of amateurs—albeit well-intentioned ones—such as ourselves. It needs expertise.

Alongside the legislation, UK Finance is asking for consideration through

"a wider dialogue on longer-term sanctions implementation."

It says that,

"the impending UK legal sanctions framework will…introduce a new and extremely important dynamic…This will result in an increased scrutiny among globally operating corporate and financial institutions on the approach that will be taken by the UK towards pursing unilateral sanctions and extra-territorial enforcement activity…we would not wish either EU or overseas business to withdraw from the UK due to legal uncertainty, or for it to impede business reacting to potential future relaxation of sanctions".

The situation is complex. UK Finance does not want people to not use British banks because we have a different and unclear set of rules that might bang up against the risk rules run by the Europeans or the Americans.

To summarise, UK Finance says that banks and international NGOs,

"have increasingly articulated that the current framework permitting humanitarian transactions into sanctioned and conflict environments needs re-thinking and an update."

It proposes that,

"a new equilibrium be found that recognises the strategic importance of facilitating both humanitarian aid and permissible civilian transactions to higher risk jurisdictions subject to economic sanctions, whilst balancing expectations of appropriate sanctions compliance and counter terrorist controls"

that are required to make such movements of funds.

At the moment, banks and charities are,

"required to navigate a combination of complex multi-jurisdictional regulatory guidance and an inconsistent licensing regime which has led to a significant impact on the funding of humanitarian projects into certain conflict zones"

and other high-risk countries. The banks would like

"mutual recognition for humanitarian licences issued by 'like minded' competent authorities"

[Helen Goodman]

and

"general exemptions for certain mission critical activities".

They, too, are interested in having a consultation.

10.15 am

New clause 5 is about reviewing the situation at the end of the process. The basic point, made strongly by Rights and Accountability in Development, is that the Bill does not provide sufficient transparency: we do not know why exemptions are granted to sanctioned individuals or how large they are. The new clause covers both the humanitarian exemptions and licences and the ones given to people who are themselves sanctioned. The reason is that we do not know how much money those people are allowed to have and what is considered reasonable for them. They are allowed to keep money unfrozen for their daily living expenses, but also for legal costs, in which we are particularly interested. We all know that there have been massive cuts to legal aid and we want to know whether people who are sanctioned, who often have extremely deep pockets, are being allowed to spend hundreds of thousands of pounds on expensive barristers. That is the rationale for our new clause 5.

Alison Thewliss: I agree very much with the amendments and support the hon. Lady in what she has said. I share the concerns that she has conveyed from both the NGO sector and the banking sector, where we seem to be caught between admirable public policy objectives—providing humanitarian aid—and the practicalities of sanctions compliance, which seems to be hindering the delivery of that aid in many different ways.

The amendments sensibly seek to expand a particularly narrow EU definition of humanitarian aid. That would give a wee bit more certainty and clarity to agencies working on the ground. It also gives us an opportunity to figure out how we ensure that money reaches those who need it and reaches them quickly. I understand that, at the moment, organisations can often wait up to six to nine months to get licences and agreements in place. Frankly, people on the ground in many of the countries involved do not have six to nine months to wait. They need money and aid almost immediately, so we need to find a way of fast-tracking the money in; we need to figure out what a viable financial route to get money from us here in the UK through to the frontlines in Yemen and Syria to ensure that people can survive looks like.

In Yemen particularly, there is a shortage of physical cash in the country. Hospitals in which people are working are often supported by the likes of Médecins Sans Frontières. MSF is paying those staff, but it needs to get the money into Yemen to pay them, so that they can turn up to work and feed their families, and provide vital assistance to people facing bombardment from the air. We need to find a way of getting the money in and doing that quickly.

There are practicalities involved in asking humanitarian agencies to go and carry out this work. Let us say that people are providing humanitarian aid on the ground; to move things around the country they need fuel. If they are in a country in which they have to choose between buying their fuel from Islamic State fighters or Assad, that is not actually a choice they can make, because both options would place them in breach of sanctions, so there needs to be a way of getting money to people and doing that quickly, so that organisations can do their work. If financial assistance has been granted to humanitarian organisations specifically for the purpose of buying fuel and then they cannot practically do that, that is a real problem and makes the delivery of much-needed aid extremely difficult.

There is an argument for granting up-front licences for infrastructure. If we know what is to be built—put in place—and it is a bridge that will allow people to cross it and move humanitarian aid around the country, or if it is a hospital or other facility that will provide aid, why cannot the licences be granted fast and up front, so that there is no delay in procuring the purchase of things to make that happen?

I agree very much with the points made by the hon. Member for Bishop Auckland about mutual recognition of licences. If we see fit to issue licences, that should be good enough for other countries as well. If we have gone through a due diligence regime, that should be good enough for other people to accept and would help speed up the process, and would prevent organisations from falling foul of someone else's regulations. There should be agreement on that, whether in a treaty or some other form. It would be a hugely sensible way of speeding up the process.

I very much agree with the points that have been made on new clause 5. I understand that the United States has a huge amount of transparency around the exemptions and licensing regime. It is possible to see not only what has been licensed and how but the backlog to the licences, which is critically important because we can see delays in the process.

We need to understand why those delays are there and what we can do to overcome them. Frankly, people in different parts of the world cannot wait for us to go through a laborious process to issue licences. We cannot have those organisations spend huge amounts of money on lawyers. We just need to get the aid to where it needs to be with the best practicable due diligence.

The Economic Secretary to the Treasury (John Glen): It is a pleasure to serve under your chairmanship, Mr McCabe. I have listened carefully to the respective Front-Bench speakers and studied the three amendments and the new clause: amendment 18 on fast-track exceptions; amendment 19 on consulting on exceptions to disapply; amendment 20 on an exception for humanitarian or peace-building purposes; and new clause 5, which would require the preparation of an annual report on humanitarian and non-humanitarian exemptions.

I will speak to each in turn. Like my right hon. Friend the Minister for Europe and the Americas, I acknowledge the spirit in which they were tabled, but I will set out the Government's position on why they are not necessary.

I will address the point about FATF immediately, because I have had some contact with it. FATF was set up by 16 countries after the 1989 G7 summit. It is not an incorporated or treaty body. It does not create binding obligations on the UK. The UK is a founder member and plays a leading role. I would reinforce that with this point. I recently received the Pakistani Home Secretary, who was seeking to persuade the Government to resist

the greylisting of Pakistan for not making sufficient progress. That was clearly taken very seriously by the Pakistanis. I also acknowledge the work that is going on across Government in the UK to deal with the considerable challenge of the current evaluation of our own compliance with FATF standards. This is a robust, internationally recognised set of obligations that have real meaning and authority.

Many of the amendments have been debated in the other place and lobbied for by UK Finance and a number of NGOs, as the hon. Member for Bishop Auckland set out. I can assure the Committee that the Government remain a steadfast supporter of NGOs working in conflict areas. The Government engaged with them while the Bill was in the other place, and we will continue to do so. We recognise that it is important to ensure that this work continues, where possible, in sanctioned countries.

It is equally vital, however, that we have appropriate safeguards in place that preserve our foreign policy priorities, by ensuring compliance with sanctions, but also serve to protect the NGOs and help prevent the sector from becoming attractive to criminals looking to circumvent our laws.

Amendment 18 calls on the Government to establish a fast-track process for dealing with requests for exceptions and licences for humanitarian purposes. I can assure hon. Members that the Government make every effort to prioritise urgent and humanitarian cases, where there is a risk of harm or a threat to life, and will continue to do so. However, we believe that any prioritisation criteria for considering licences and exceptions must remain as flexible as possible, to ensure that the Government can consistently prioritise the most important cases, including humanitarian cases where appropriate.

The process for considering licences is best done administratively and on a case-by-case basis. Government Departments will, of course, continue to reach out to the NGO sector to ensure that NGOs understand how that process works for humanitarian licence applications. Given the number of Departments involved—typically four: the Foreign Office, the Home Office, the Department for International Trade and the Department for International Development—and the many rightly differing derogations, exceptions and grounds for licensing that are involved, it would not be straightforward to operate a fast-track process as suggested by the amendment. To get each application right demands a tailored approach, because the facts differ greatly from case to case. Therefore the Government believe that it would not be prudent to establish a single fast-track process, which may impede the Government's ability to assess cases accurately, and will be unwieldy to operate given the different ways in which the various types of sanctions work.

A fast-track process might also create perverse results—such as where an urgent request for a licence to allow a designated person access to medicine would have to come second to a routine application in respect of humanitarian activity that only involves changing the details of bank accounts. For all these reasons, we do not consider that a new and administratively burdensome requirement ought to be added to sanctions regulations.

Amendment 19 suggests that a consultation be undertaken for an overarching framework for exceptions and licences. The NGOs and UK Finance have called for that, as the hon. Member for Bishop Auckland said.

It must be said that we have carried out a consultation on our White Paper, including roundtables with banks and NGOs. We are still talking to them and have set up a working group with them. We intend to use the opportunity to improve licences—such as general licences for humanitarian activity—and we will issue guidance. We have been clear that we will do that, and because of that consultation we do not feel that the amendment is necessary. We have listened to the comments of all respondents and we intend to design a post-Brexit licensing framework that is fully informed by those comments. That is an ongoing process and one in which we are enthusiastically engaged.

Comprehensive regulations that will be laid before Parliament and debated will include detailed information on the exceptions and licences that are appropriate for each regime. We also intend to continue to consult with industry to ensure that the framework allows us to be flexible and has the minimum possible effect on industry whilst having the maximum effect on the intended targets of the sanctions. An overarching framework for licences will not allow us the flexibility that we need for each regime. For example, the licensing grounds for a proliferation regime should be different from those of a misappropriation or counterterrorism regime. Furthermore, the timetable for conducting such a consultation after the commencement of the Bill makes little sense. By then, we expect that the relevant sanctions regulations—with the appropriate exceptions and licensing arrangements for each regime currently existing in EU law—will already have been made and debated by Parliament. We fear that a further consultation would add confusion at a time when we would be working hard to ensure a smooth transition.

The Government have committed in the Bill—clause 37—to issuing guidance about sanctions regulations. As the guidance is developed, we will engage with stakeholders, as we already do for guidance that is published on the implementation of sanctions.

Alison Thewliss: Could the Economic Secretary give more clarity on the timescale? We have the Bill just now; how soon will the guidance appear? The current guidance is not really useful in terms of how the sanctions landscape works.

John Glen: I cannot give a precise timetable. I will consult officials and write to the Committee to give clarification on that as soon as I can.

Amendment 20 would make it plain on the face of the Bill that exceptions to sanctions can be made for humanitarian development, reconstruction and peace-building activities. Broadening such exceptions to cover such a broad group of organisations and activities goes much further than the Government intended and is incompatible with both the policy intent and our obligations under UN and EU regimes. The Government are currently able to issue specific licences on application from humanitarian and other agencies. The licensing provision is read across and extended in clauses 15(2)(b) and 14(3)(a) to allow Ministers to issue both general and specific licences. It is the Government's intention to use the power to issue general licences where appropriate. One key area in which it is foreseen that general licences could be written is for the purpose of delivering humanitarian aid. We should also be wary of the confusion caused by listing these activities but not others, such as denuclearisation activities. To add one would imply that the other was outside the scope of the Bill.

10.30 am

New clause 5 would require the Government to provide detailed annual reports to Parliament on its use of humanitarian exemptions and on licences issued for humanitarian purposes. However, given that experience shows that the number of licences for humanitarian purposes is likely to be relatively small, The Government believe that, rather than requiring a separate report in law, it would be more efficient to include figures on the use of exceptions and licences issued as part of the annual report that clause 27 requires the FCO to issue.

Hon. Members have understandably taken a keen interest in exceptions and licences and how they relate to humanitarian purposes, so it may help if I give more detail about how the Government intend to use our new licensing flexibilities under the Bill. The design of each sanctions regulation will take account of what exceptions or special licensing arrangements are appropriate for the type of sanctions regime, in line with the UK's foreign policy goals. The explanatory memorandum for each statutory instrument will make clear what exceptions or licensing arrangements have been included for each sanctions regime.

Hon. Members will be able to consider exceptions and licences on a case-by-case basis when the statutory instruments are laid before Parliament, and full guidance will be issued for all sectors. We will continue to engage with representatives of those different sectors to ensure that any additional sector-specific guidance addresses their concerns. We will publish more information about our policy thinking on how some of the many forms of exceptions and licensing will work under the Bill.

Anneliese Dodds: I am grateful to the Minister for that explanation. I shall speak briefly on a couple of points.

First, the Minister helpfully stated that the Government do support NGO operations in countries subject to conflict. Will he be more explicit and state that the Government support NGO operations in countries subject to sanctions? That is exactly what we are talking about now. The concern for many in the development community is that the balance is currently towards a presumption against activities occurring in countries where there are sanctions, rather than that being feasible for those organisations when fulfilling international obligations, as we would expect.

Secondly, on amendment 18 on the fast-track process, I was encouraged by some of what the Minister said but was slightly concerned by the reference to the Government continuing current processes, with the suggestion that those are adequate. I have certainly received information, as I am sure other colleagues have—the hon. Member for Glasgow Central referred to some of this—on the impact of fuel sanctions. I understand that delays in getting appropriate licences and exemptions in relation to sanctions on fuel in Syria have led to farcical situations in which, for example, a hospital was destroyed before it was possible to get the fuel that would serve that hospital. The current system is not working at the moment. I wonder whether we may have more of a focus on not following existing practices, which clearly are not operating adequately.

The Minister suggested that the fast-track process would lead to some kind of inappropriate, one-size-fits-all system where, for example, a need for medicine in one situation could be trumped by humanitarian concerns. Surely medical needs could come under humanitarian concerns? What we are really talking about is the need for a fast-track approach to humanitarian peace-building action that will be interpreted sensitively and intelligently, but which could get away from the current impediments for NGOs.

John Glen: I am happy to address those points. I can of course confirm that NGOs in countries subject to sanctions are still able to access these provisions. On the hon. Lady's point on the fast-tracking process, and the point on fuel sanctions, I said what I said in response to the amendments, but we are obviously living in a very imperfect situation, with highly challenging environments. It will not be possible to get things right every time, but I think the provisions in this legislation give us the best opportunity to do so. I think I have set out the Government's position clearly.

Helen Goodman: The Economic Secretary is right that the situation is complex, and he is right that we do not want to add to the complexity with new requirements and new consultations. However, I am sorry to say that I do not think he has made the case for not accepting our new clause 5 on reporting to Parliament.

I want to draw the Committee's attention to an article from *The Guardian* of 23 July 2014, which illustrates the problem. It is headed: "UK arms export licences for Russia still in place, despite claims of embargo". It reported:

> "More than 200 licences to sell British weapons to Russia, including missile-launching equipment," were still in place at the time,
>
> "despite David Cameron's claim in the Commons…that the government had imposed an absolute arms embargo against the country".

I think we have seen a great reluctance on the part of the Government to be more open. What is going on with these sanctions, exemptions and licences is a highly sensitive political area. It seems to me that it would help the Government if we had more openness. We could then have arguments about what was really going on, not about what people might surmise or imagine. I wish to press new clause 5 to the vote.

The Chair: We come to new clause 5 later. At the moment, we are dealing with amendment 18.

Helen Goodman: I do not want to press amendment 18. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 15 ordered to stand part of the Bill.

Clause 16 ordered to stand part of the Bill.

Clause 17

ENFORCEMENT

John Glen: I beg to move amendment 4, in clause 17, page 16, line 12, at end insert—

"( ) Regulations—

(a) may create criminal offences for the purposes of the enforcement of prohibitions or requirements mentioned in subsection (2)(a) or (b) or for the purposes of preventing such prohibitions or requirements from being circumvented, and

(b) may include provision dealing with matters relating to any offences created for such purposes by regulations (including provision that creates defences).

( ) Regulations may not provide for an offence under regulations to be punishable with imprisonment for a period exceeding—

(a) in the case of conviction on indictment, 10 years;

(b) in the case of summary conviction—

(i) in relation to England and Wales, 12 months or, in relation to offences committed before section 154(1) of the Criminal Justice Act 2003 comes into force, 6 months;

(ii) in relation to Scotland, 12 months;

(iii) in relation to Northern Ireland, 6 months."

This amendment enables sanctions imposed by regulations under Clause 1 to be enforced by criminal proceedings, and limits the terms of imprisonment that such regulations can allow to be imposed for breach of sanctions.

The Chair: With this it will be convenient to discuss amendment 21, in clause 17, page 16, line 36, at end insert—

"(8) An appropriate Minister must publish guidance from the Crown Prosecution Service on when it is in the public interest for a breach of a sanctions regulations to be prosecuted."

This amendment would require the Government to publish guidance on when it is in the public interest for a breach of sanctions regulations to be prosecuted.

John Glen: The offences provisions are perhaps the most important amendments that we need to debate today, following the Government's defeat in the other place. Hon. Members should be aware that without the fullest set of enforcement measures available to deal with breaches of sanctions, the UK will not be able to ensure effective implementation and enforcement of sanctions. That would make what are currently key foreign policy and national security tools virtually toothless, and therefore redundant.

It is important to recognise right at the start that the concerns in the other place were not about whether there should be criminal offences for breaching sanctions; it was accepted that there was a need for these offences. What was at issue was the circumstances where Parliament could properly give to Ministers the power to create offences. The Government have listened to those concerns. We understand them and these amendments address them.

Currently, EU sanctions against countries such Russia and Syria are imposed through EU legal Acts. These require member states to put in place enforcement measures at national level. In line with that requirement, the UK routinely creates criminal offences for breaches of sanctions by way of statutory instruments made under powers in the European Communities Act 1972 as modified by the Policing and Crime Act 2017, as well as other legislation such as the Export Control Act 2002. The Government therefore want to maintain continuity in this area by reproducing the powers available under existing legal frameworks for enforcement across the various forms of sanctions in the Bill.

Since the defeat in the Lords, Government officials and lawyers have worked with Lord Judge and others to seek a legislative solution. That has been a deep and meaningful dialogue, and I must express my gratitude to Lord Judge for his engagement in seeking to find a way forward. We believe that can be found amendment 4, the enhanced procedural requirements, which we will debate later, in new clause 3 and the corresponding offence provisions for money laundering. The Government believe that combination of measures is the best solution to meet the concerns expressed in the other place while being practical to implement, which I think was the intention of those who raised the concerns.

The amendment restores to clause 17 the provisions to create sanctions offences in regulations. It provides for the enforcement of any prohibitions and requirements, to provide for criminal consequences if they are contravened or circumvented. The clause also provides for maximum penalties for breaches of sanctions in regulations. The provision states that regulations may not include offences with maximum penalties greater than 10 years' imprisonment, which is in line with the maximum penalty available through the 2002 Act, and for offences other than trade sanctions we do not intend to create penalties greater than seven years' imprisonment, in line with current practice. The clause should be read alongside the safeguards in new clause 3, which I will discuss later.

Even with the safeguards that we plan to introduce in new clause 3, the Government remain very aware that creating criminal offences and setting penalties in regulations is a serious matter, not to be undertaken lightly. I am therefore happy to repeat assurances given in the other place. First, no Government would ever create criminal offences for trivial matters. The powers detailed in clause 17 would be used only to create offences within the categories of offences that already exist for breaches of sanctions, breaches of licences and breaches of disclosure or information requirements. Secondly, Ministers should not use these powers in a way that is incompatible with the basic and fundamental rights of people in the UK—section 6 of the Human Rights Act 1998 expressly forbids it. Thirdly, as I said before, regulations under the Bill cannot create offences for trade sanctions with maximum penalties greater than 10 years, and we do not intend to create offences for financial sanctions and other types of sanctions with maximum penalties greater than seven years.

We have listened to the concerns expressed in the other place, and we have tabled amendments to introduce controls on the use of this power. As I said, I will speak to those amendments later in our considerations in Committee. In conclusion, the amendment will restore our ability to enforce sanctions by reintroducing the provision to create criminal and civil offences and penalties that are proportionate to the scale and nature of sanctions breaches and still effective as a deterrent. It should be read together with the enhanced procedural safeguards in new clause 3, which directly addresses the concerns raised in the other place.

Helen Goodman: I was very disappointed, but not surprised, when I saw that the Government had tabled this amendment before the weekend. I anticipated that they might seek to reverse one of their defeats in the Lords. I think it is striking that the Government are seeking to reverse amendment 45 from the other place, when they lost the vote on that amendment by 80 or 90 votes. It was not a narrow little thing. The amendment in the other place was moved not by some party hack, but by the former Lord Chief Justice of England and Wales. He made a number of speeches about the excessive use of Henry VIII powers.

10.45 am

The Economic Secretary says that he has listened, but I am not convinced. To be frank, if he had really wanted to persuade us this morning that Lord Judge was in agreement, he would have shared with the Committee the correspondence he has had with Lord Judge on this matter. Is there any correspondence on the table this morning? No, there is not.

I remind the Committee of what is at stake. Throughout the Bill, the Government are taking the power to make delegated legislation. Lord Judge spoke at length about Henry VIII and his sex life. I am not going to delay the Committee on the question of Henry VIII's sex life, but it is rather unfair on Henry VIII to call these measures Henry VIII clauses, because they are worse than what Henry VIII did. I checked in my copy of Elton what happened in 1539 in the Statute of Proclamations. Elton said that it was an attempt not to replace statute or legislation with parliamentary covenant, but to legitimise proclamations. It stood on the statute book for only eight years, and it was repealed in 1547.

The concern here is that secondary legislation is being used to create criminal offences. In the Brexit referendum, people were promised that Parliament would take back control. The referendum was run in the name of parliamentary sovereignty, not an increase in Executive power. This is one of a number of occasions where we have seen that from the Government.

If we rely on delegated legislation, we will not give Parliament proper opportunities for debate, scrutiny or control. I remind hon. Members exactly how the processes work. A statutory instrument introduced under the negative resolution procedure can become law without debate or a vote. It can even become law before it has been published and laid before the House. It can be made law the moment the Minister signs it—privately, in his office in Whitehall, before anyone else knows anything about it. In 2016, a fifth of statutory instruments were in force three weeks after publication. If Ministers were given such a power, there would be nothing to stop them signing laws and seeing them on the statute book the same day.

Scrutiny by the affirmative and super-affirmative procedure is not much better. Such statutory instruments must be approved explicitly, but they must go to Committees upstairs. In September, the Government passed a resolution that enabled them to overturn the results of the general election by packing those Committees. Even when such statutory instruments are debated by the whole House, the debate is limited to 90 minutes and they cannot be amended. Not only has the Minister not shown us his correspondence with Lord Judge, but he has not shared any of the statutory instruments in draft—that would be normal practice—and he is not agreeing to offer any accompanying documents.

Fundamentally, there are three issues: the content of the statutory instruments, their form—negative or affirmative—and the institutional architecture. We see problems with all three. There are problems with the content, because criminal offences are being created by secondary legislation. There are problems with the form. It is not clear what is being done using the negative procedure and what is being done using the super-affirmative procedure, or the rationale for using either one. I raised that with the Minister on Second Reading. I accept that, in the case of sanctions, Ministers need to be able to move fast to implement regimes on designated persons and countries to prevent avoidance. Any intelligent person understands that. However, I do not understand why the Government do not use primary legislation for the enforcement and prohibition requirements. The Government seem to be proposing that for non-UN sanctions, they will use the main affirmative procedure; for others, they will use the draft affirmative procedure; and for UN regulations, they will use the negative procedure, as they do now. In Committee in the Lords, Baroness Northover proposed that the draft affirmative procedure should apply to all enforcement regulations. Lord Ahmad made an undertaking to look at that proposal, but Ministers do not seem to have done so, and I am not clear why. In the other place, the Constitution Committee and the Delegated Powers and Regulatory Reform Committee strongly criticised that, and it was one of the things that swayed the other House to amend the Bill on Report.

We will come back to institutional architecture when we come to clause 48. I tabled an amendment last night, and I hope that it is on the Order Paper—I think it must be, because the Clerks do such an excellent and efficient job. Let me point out to Ministers that, with this Bill, they are reducing the House's scrutiny over statutory instruments that concern sanctions. At the moment, EU sanctions—not UN sanctions—go to the European Scrutiny Committee, which has scrutiny reserve. UN sanctions go to ad hoc delegated legislation Committees. In the new world, Ministers are suggesting that everything will go to ad hoc delegated legislation Committees. Everybody knows that they are the worst piece of process in this Parliament, and that they simply do not do the job that they are intended to do; they are pure rubber-stampism. The personnel on the Committees changes, and people do not bother to turn up. There was an example the other day of a Committee on Russian super-sanctions, at which my hon. Friend the Member for Bootle (Peter Dowd) and the Financial Secretary to the Treasury spoke. These people are doing their best, but they get the papers two days before and they build up no expertise. That is not the way to handle a really important piece of policy.

The Lords Committees have looked at all that. Our own Procedure Committee, of which I am a member, has also looked at Henry VIII powers post-Brexit, in the context of the European Union (Withdrawal) Bill. Our report said:

> "The Bill as it stands makes no provision for amendment to the standard statutory procedures for control and approval of delegated legislation which have been in effect since 1947. There is considerable concern in the House and elsewhere about the scale and scope of the powers claimed to amend existing legislation."

That happens here, too. The statutory instruments that the Minister wants would create criminal offences, but later in the Bill there are statutory instruments to amend primary legislation and even to amend the Bill. The Procedure Committee, in the context of the European Union (Withdrawal) Bill, recommended a sifting Committee with a scrutiny reserve and accompanying documents, and concessions were made by the Government. That was agreed in the context of the European Union (Withdrawal) Bill. As the Government are a learning organisation, why do we not have such concessions—a sifting Committee or similar—for this Bill?

I submit to the Committee that this Bill is worse than the European Union (Withdrawal) Bill, for two reasons. First, the criminal offences created under the European Union (Withdrawal) Bill were for offences that carried maximum penalties of three years. Here, Ministers are proposing that statutory instruments be used to create criminal offences with penalties of up to 10 years. Those are far more serious offences, which they propose to legislate for by the stroke of a Minister's pen.

Secondly, this Bill is much worse and more serious than the European Union (Withdrawal) Bill, on which Ministers have already made concessions, because that Bill is a temporary Bill. It is designed for making delegated legislation for a two-year period during the transition phase to bring our statute book up to scratch. The powers that Ministers are taking in this Bill are permanent, and there is no sunset clause. I have heard the Minister, but we are thoroughly opposed to Government amendment 4.

Alison Thewliss: I echo that. We are also very worried by this amendment, and by the return of something that was clearly and definitively rejected. As far as we are concerned, it is dangerous and an affront to democracy. The Government should accept that they were wrong, and withdraw the amendment. I point out that the Lords Constitution Committee said:

"We consider that such regulation-making powers are constitutionally unacceptable and should not remain part of the Bill."

The Government should take heed.

John Glen: I am grateful for the dialogue with hon. Members on the Front Bench, and I will respond to some of the points that have been made. On the question of whether there is some sort of secret plot to hide any conversations with Lord Judge, Government lawyers have had a number of meetings. No letters have been exchanged, so there is no material to share. The vote was lost by 192 votes to 209; I concede that it was lost, but the thrust of the remarks by the hon. Member for Bishop Auckland concerns the notion that behind the measure is some kind of power grab by the Government. I see it as the Government needing to be accountable for how these powers create new offences and how they are used. New clause 3 will require the Government to lay a report before Parliament, setting out what criminal offences are included in any new sanctions regulations.

11 am

The hon. Lady makes a number of points about the differences in the scrutiny process. I point out that the European Scrutiny Committee has never overturned an SI in this area. She talked about some of the areas in which the negative procedure is used. As my right hon. Friend the Member for Rutland and Melton said on Second Reading, it is used in those cases for legitimate reasons around stopping the flight of assets, where we necessarily have to move quickly. I believe that the Government have acknowledged Lord Judge's concerns and have put appropriate restraining and safeguard mechanisms in place. Therefore, I respectfully submit that the Government's position needs to be held to, and we will resist this amendment.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 7.

Division No. 2]

AYES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Maclean, Rachel
Courts, Robert	Prentis, Victoria
Duncan, rh Sir Alan	

NOES

Dodds, Anneliese	Rowley, Danielle
Duffield, Rosie	Smith, Nick
Goodman, Helen	Thewliss, Alison
Norris, Alex	

Question accordingly agreed to.

Amendment 4 agreed to.

Ordered, That further consideration be now adjourned.—*(Mike Freer.)*

11.1 am

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

SANCTIONS AND ANTI-MONEY LAUNDERING BILL [*LORDS*]

Second Sitting

Tuesday 27 February 2018

(Afternoon)

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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 3 March 2018

The Committee consisted of the following Members:

Chairs: † Dame Cheryl Gillan, Steve McCabe

† Badenoch, Mrs Kemi *(Saffron Walden)* (Con)
† Bardell, Hannah *(Livingston)* (SNP)
† Benyon, Richard *(Newbury)* (Con)
† Chalk, Alex *(Cheltenham)* (Con)
† Courts, Robert *(Witney)* (Con)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Duffield, Rosie *(Canterbury)* (Lab)
† Duncan, Sir Alan *(Minister for Europe and the Americas)*
† Freer, Mike *(Finchley and Golders Green)* (Con)
† Glen, John *(Economic Secretary to the Treasury)*
† Goodman, Helen *(Bishop Auckland)* (Lab)
† Graham, Luke *(Ochil and South Perthshire)* (Con)
† Maclean, Rachel *(Redditch)* (Con)
† Norris, Alex *(Nottingham North)* (Lab/Co-op)
† Prentis, Victoria *(Banbury)* (Con)
† Rowley, Danielle *(Midlothian)* (Lab)
† Smith, Nick *(Blaenau Gwent)* (Lab)
† Stevens, Jo *(Cardiff Central)* (Lab)
† Thewliss, Alison *(Glasgow Central)* (SNP)

Mike Everett, *Committee Clerk*

† attended the Committee

Public Bill Committee

Tuesday 27 February 2018

(Afternoon)

[Dame Cheryl Gillan *in the Chair*]

Sanctions and Anti-Money Laundering Bill [*Lords*]

2 pm

The Chair: I call the Committee to order.

Richard Benyon (Newbury) (Con): On a point of order, Dame Cheryl—

The Chair: May I just make some announcements first?

First of all, normally, the announcement from the Chair is that gentlemen may remove their jackets if they wish. The announcement today is that anybody can wear their coats if they wish. It may be unparliamentary but I have just done two and a half hours in another Committee room and it was freezing, so I am comfortable if people want to cover themselves in layers of clothing. Indeed, I have got my coat here in case I get cold.

We are about to resume the line-by-line consideration of the Bill. Unfortunately, we are all blessed with mobile phones. I remind everyone they need to be turned off and that, sadly, we are not allowed tea or coffee or hot drinks in here, although on such a day I almost feel I should be able to make an exception.

The selection list is available in the room and on the webpage, and it shows how the amendments are grouped together. I remind you that the Chair always has discretion to decide whether to allow a separate stand part debate on the individual clauses. I hope everybody understands that that is the usual practice.

Richard Benyon: On a point of order, Dame Cheryl. You anticipated my remarks. I was just going to ask if the House authorities could put 50p in the meter and turn the heating on. I do not want that to be my only contribution to this Committee.

The Chair: I am sure it will not be your only contribution. We do have a small heater over here in the corner, but unfortunately we cannot share it around the room. I am sure the debate will be lively and will keep us all hot. Without further ado, we will begin with amendment 21 to clause 17 on enforcement.

Clause 17

Enforcement

Helen Goodman (Bishop Auckland) (Lab): I beg to move amendment 21, in clause 17, page 16, line 36, at end insert—

"(8) An appropriate Minister must publish guidance from the Crown Prosecution Service on when it is in the public interest for a breach of a sanctions regulations to be prosecuted."

This amendment would require the Government to publish guidance on when it is in the public interest for a breach of sanctions regulations to be prosecuted.

It is a great pleasure to see you in the Chair this afternoon, Dame Cheryl. It is not quite as sunny as it was this morning, but it is still very cold.

The clause is about enforcement of sanctions regulations. Breaching sanctions is a criminal offence, and this morning we discussed whether the legislation on those criminal offences is appropriate. It is fair and reasonable that people have a clear view of what the penalties will be for any breach of sanctions. Our amendment would require the Crown Prosecution Service to say when it is in the public interest that a breach of sanctions regulations be prosecuted.

The Treasury published some guidance a few months ago entitled "Monetary Penalties for Breaches of Financial Sanctions". I am sorry to say that it does not include the sort of detail that we would expect. The stark reality was brought to our attention last week, when the Economic Secretary to the Treasury had to correct an answer to a written parliamentary question. I had asked him what the total level of breaches was in 2017 and on 8 February, he told me it was £117 million. On 22 February, he told me that the estimate had shot up to £1.4 billion—a tenfold increase, which suggests that the Treasury is not keeping the beady eye that it ought to be keeping on this matter.

Many years ago, I was a Treasury civil servant. One year, I was responsible for the Budget arithmetic and I had to go and tell Chancellor Nigel Lawson that I had lost £50 million from the Budget arithmetic and it was very embarrassing. I never lost £1.2 billion, which is what current Treasury Ministers seem to have managed to do. The fact that the figures are so large tells us that the level of breaches is significant. It is hard for us to believe that, in a great wodge of £1.2 billion, there are not some breaches that should be prosecuted. From the information Ministers have given us, we have no idea whether this figure involves many small breaches or three or four really big breaches.

A report published in December in a magazine called *Nikkei Asian Review* says that 49 nations have breached North Korean sanctions. The sanctions against North Korea have been agreed at the UN Security Council—they could not be more important. We have a situation where North Korea is trying to develop nuclear weapons. Everybody in this House and this country knows that that would be disastrous—completely destabilising to the region and potentially the whole world. If North Korea acquires nuclear weapons, the risk of proliferation is immense. I know Foreign Office Ministers understand this. The report suggests that 13 of the countries that have breached North Korean sanctions have engaged in arms trading; they are primarily countries with a history of political turmoil such as Syria, Angola, Iran, Myanmar and Sir Lanka, but even Germany and France were deemed culpable in certain respects.

Obviously, breaching weapons of mass destruction sanctions against North Korea is something that nobody would take lightly. One would think that this would be a case where it would be appropriate to prosecute, but because of the lack of transparency, we have no idea whether we in this country have made mistakes in the same way as the Germans and French have. Obviously there would be nothing intentional about it, but accidents too can be dangerous. That is why we think the Government should be stronger and clearer on enforcement. The Government could make matters clearer by publishing

CPS guidelines explaining how and when they believe prosecutions are in the public interest. If the Economic Secretary could tell us a little more about what happened with this mistake—how the figure came to be £1.2 billion out—and whether the Treasury has looked back over previous years to see the pattern of breaches, I am sure that would be of great interest to the Committee.

The Economic Secretary to the Treasury (John Glen): It is a pleasure to serve under your chairmanship for the first time, Dame Cheryl.

First, I would like to address the serious matter that the hon. Member for Bishop Auckland raised with respect to Office of Financial Sanctions Implementation data. She is quite correct to assert that there was an error; this was caused by technical and data problems. Officials have now manually checked each case by reference to the original information and have confirmed that the revised figures for suspected breaches reported in 2017 accurately answer the question. I wrote to the hon. Lady at the earliest opportunity and apologised to her.

The Government take financial sanctions evasion extremely seriously and have made an unprecedented commitment to tackling it, increasing the dedicated resources and providing new enforcement powers to deal with breaches, including new penalty powers and an increase in the criminal offence's maximum sentence from two to seven years. We cannot go into specifics on the size of the breaches but I can assure the hon. Lady and the whole Committee that I do not anticipate difficulties in future.

Amendment 21 would require the Government to provide specific guidance, produced by the Crown Prosecution Service, on the prosecution of sanctions breaches. Hon. Members will be interested to know that the CPS already publishes guidance on how the public interest is taken into account in any decision to prosecute in "The Code for Crown Prosecutors". This public interest test is the same one that we applied in decisions to prosecute sanctions offences. The Government's view is that no additional public interest guidance is necessary for a sanctions prosecution decision. The public interest is a fundamental assessment in any decision to prosecute, and "The Code for Crown Prosecutors" includes factors relevant to public interest tests such as the seriousness of the offence and the level of culpability of the suspect. These and other factors included in the code are relevant to the decision to prosecute in sanctions cases. There is therefore no need for separate guidance on this amendment.

We will be discussing clause 37 and the Government's duty to issue guidance later in Committee. Clause 37 sets out a comprehensive duty to provide guidance where it is required, but the Government believe that in this instance separate guidance is not required.

Helen Goodman: That is rather unsatisfactory, because the general guidance is intended for the practitioners. As we were discussing this morning, it is for the NGOs and for the banks. I am sure that the Minister understands that the CPS guidance is for the lawyers, and although the banks and NGOs may be advised by lawyers it does take a different form. The Treasury guidance addresses processes, it does not look at the public interest in this context. I am not satisfied with what the Minister says and I do wish to test the view of the Committee on this amendment.

Question put, That the amendment be made

The Committee divided: Ayes 9, Noes 10.

Division No. 3]

AYES

Bardell, Hannah	Rowley, Danielle
Dodds, Anneliese	Smith, Nick
Duffield, Rosie	Stevens, Jo
Goodman, Helen	Thewliss, Alison
Norris, Alex	

NOES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Graham, Luke
Courts, Robert	Maclean, Rachel
Duncan, rh Sir Alan	Prentis, Victoria

Question accordingly negatived.

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

John Glen: Sanctions are one of our most important foreign policy and national security tools. To ensure the effective implementation and enforcement of sanctions, it is important that we have the greatest possible range of enforcement measures at our disposal to deal with breaches of sanctions. Following the vote in the other place to remove key offences and penalties creation provisions from the Bill, I regret to say that we currently have no meaningful enforcement measures in the sanctions Bill.

It is important to remember that when these clauses were debated in the other place, those peers who objected to them did so not on the grounds that sanctions should not be enforced with a criminal offence, but out of concern about the division of powers between the Government and Parliament. The Government have been working with interested Peers and parliamentary counsel as a matter of urgency to consider the procedural safeguards that could be added to clause 17 to address those concerns and enable the key provisions on offences and penalties to be reinstated.

2.15 pm

I will not repeat my previous comments about the Government amendments, but it is plain that the Government want sanctions that can be vigorously and robustly enforced. In our view, effective enforcement will require powers that allow the Government to create offences and penalties alongside the individual sanction measures introduced in secondary legislation. That will provide certainty in the law, because the statutory instruments will show clearly what is and what is not a criminal offence. We do not intend to create offences with maximum penalties higher than those that currently exist in relevant UK financial sanctions and export control legislation. I commend the clause to the Committee.

Question put and agreed to.

Clause 17, as amended, accordingly ordered to stand part of the Bill.

Clause 18

EXTRA-TERRITORIAL APPLICATION

Helen Goodman: I beg to move amendment 22, in clause 18, page 17, line 7, leave out subsection (4) and insert—

"(4) For the purposes of subsection (2)(b), a body incorporated or constituted under the law of any part of the United Kingdom includes a body incorporated or constituted under the law of the following—

(a) any of the Channel Islands;

(b) the Isle of Man;

(c) any of the British Overseas Territories."

This amendment would require the Government to include any of the Channel Islands, the Isle of Man and any of the British Overseas Territories in the definition of "United Kingdom person" under subsection(2).

Clause 18 was not much discussed in the other place, but the Opposition tabled amendment 22 because we think it important that part 1, which relates to sanctions, be extended automatically to the Channel Islands, the Isle of Man and the British overseas territories. We will be able to revisit the subject at the very end of our deliberations when we consider clauses 54 and 55, but I thought we should take the opportunity to consider it now.

As a matter of constitutional law, the UK Parliament has unlimited power to legislate for the overseas territories. Some overseas territories and Crown dependencies have their own legislatures, but they legislate on domestic matters, whereas sanctions are a lever in foreign policy—a Foreign Minister is leading the Bill, and the Foreign and Commonwealth Office is very much in the lead when it comes to driving sanctions policy. It cannot be argued that legislation on sanctions policy is domestic or in the normal purview of Crown dependencies and overseas territories, so the amendment seems logical.

There is a further reason for extending the definition automatically. There is a lot of controversy about the secrecy in how some Crown dependencies and overseas territories run their financial services, which gives them scope to be part of sanctions busting, whether deliberately—which I doubt—or inadvertently. That brings us back to the question of North Korea. The US Department of Justice alleges that companies based in the British Virgin Islands and Anguilla are linked to a North Korean bank. *The Guardian* reported on 20 February:

"The China-based Dandong Hongxiang Industrial Development Company was placed under US sanctions in 2016."

I am sure the Minister is familiar with the Dandong Hongxiang Industrial Development Company. It was sanctioned after it was

"accused of operating on behalf of the Korean Kwangson Banking Corporation, which was itself sanctioned in 2009 over alleged links to North Korean weapons development. The shell companies, some of which appear in the Panama Papers, were part of a network of offshore entities used to obscure the acquisition of millions of dollars of fertiliser, coal and other commodities, according to the complaint."

The report continued:

"US sanctions prevent North Korean financial institutions from dealing in US dollars. However, because some commodities vendors require sales to be conducted in dollars, North Korea needs to be able to access the currency in order to obtain goods and services that are unavailable domestically.

The criminal complaint, filed in 2016, alleges that KKBC used DHID to obtain access to US dollars, in part by establishing a network of 22 different shell companies in various jurisdictions that would obscure its role in the commodity transactions."

I think I have made it clear that there is a case for applying sanctions in a straightforward and automatic way to the Crown dependencies and the overseas territories. It is clear, as the Government stated in 2012:

"As a matter of constitutional law, the UK Parliament has unlimited power to legislate."

Given that is the case, I am sure Ministers will be keen to accept amendment 22.

The Minister for Europe and the Americas (Sir Alan Duncan): The UK is responsible for the foreign affairs and security of the Crown dependencies and overseas territories. That is the constitutional position. However, there is another important constitutional point, which is that our long-standing practice is not generally to legislate for those jurisdictions without their consent.

Sanctions are a tool of foreign policy or are used to protect our national security. We have been clear that the overseas territories and Crown dependencies must follow the UK Government's foreign policy, including the sanctions we apply. The Foreign Office has discussed that with the overseas territories and Crown dependencies, and they also accept that point of principle.

The hon. Lady referred to the current distinction. There are two ways in which sanctions are implemented by the overseas territories and Crown dependencies. The UK legislates directly for the majority of the jurisdictions with their consent through Orders in Council. Other jurisdictions choose to legislate for themselves but follow precisely the sanctions implemented in the UK. That model is well established and respects the rights of those different jurisdictions.

The Bill is drafted to reflect that reality. It is consistent with the current implementation model for UN and EU sanctions, as well as measures under the Terrorist Asset-Freezing etc. Act 2010. It allows those jurisdictions that choose to follow UK sanctions through their own legislation to continue to do so. It also allows the UK to legislate directly for certain overseas territories.

The amendment would drive a coach and horses through that well established model by deeming legal entities formed or incorporated in the overseas territories or Crown dependencies to be UK persons. At a stroke, it would bring those legal entities within the ambit of UK sanctions confined to the territory of the UK and subject to UK courts. It would disenfranchise those overseas territories or Crown dependencies by legislating for their legal entities without their consent. It would also give rise to the unusual situation in which a legal entity incorporated in an overseas territory is bound by UK sanctions, but those UK sanctions do not extend to the overseas territory in question and so do not bite on the entity's activities in that territory. The amendment in such a case would not seem, therefore, to have any practical purpose.

I do not see the Bill as the right place to change these long-standing constitutional arrangements, nor do I see a compelling case for needing to do so. I am sure Members would not wish to jeopardise the achievements that friendly co-operation with these jurisdictions has already made. Nor would they seek to disenfranchise

those territories that have chosen to legislate for themselves. For those reasons, I ask the hon. Lady to withdraw the amendment.

Helen Goodman: I accept that the Government are right to proceed through mutual agreement with the Crown dependencies and the overseas territories. I can also see, from what the Minister said, that there is a more elegant way of achieving what I wish to achieve with the amendment later in our proceedings. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 18 ordered to stand part of the Bill.

Motion made, and Question proposed, That further consideration be now adjourned.—*(Mike Freer.)*

Helen Goodman: I think this motion is an extraordinary development on the part of the Government Whip. I have been a Member of this House for 13 years, and I have never been in a Bill Committee where it has been suggested that we adjourn after three hours of sitting and half an hour of the second session. We have another 40 clauses, two schedules, 11 Government amendments and 36 Opposition amendments to consider. They all concern extremely important matters. I am frankly astonished that the Government think it acceptable to behave in this way on these issues.

We agreed yesterday to the Government reshuffling the order of the consideration of the clauses. We agreed to their request that we consider clause 1 after clause 18. We did not demur from that; we asked them why. I do not know whether they are trying to avoid that consideration, whether they are uncomfortable about the many speeches they heard on Second Reading on the Magnitsky amendments that we have tabled, or whether they want to avoid fully debating their record on anti-money laundering. Do they not want us to discuss the secret regimes of the overseas territories? Are they uncomfortable about what they have overseen with foreign corrupt oligarchs buying property in London? Do they wish to supress exposure of those matters? There is certainly not a consensus in this Committee for adjourning now.

Alison Thewliss (Glasgow Central) (SNP): I agree that this motion is quite disrespectful to the Committee. We have only been here for half an hour, and we all want to press on. We have got only two more days to look at this huge number of amendments to a very important Bill. It smacks to me of game playing on the part of the Government move the motion and to be so disrespectful. We are all here in this House, and if the Minister turns around, he will see that the weather outside indicates that we are not going anywhere soon. We are pretty much getting snowed into the building as we speak. We may as well sit here, huddled together, and finish the work that we have begun here this afternoon.

Sir Alan Duncan: I fully respect the fact that the hon. Member for Bishop Auckland has served in the House for 13 years; in the same spirit, I am sure she will respect my 26 years of service. The motion does nothing more than to reflect the understanding that we reached last night, namely that we would debate a very significant amendment in a full session on Thursday. There is no attempt not to discuss anything, because the whole point of Committee is that everything is discussed. There is nothing that will not be discussed as a result of our adjournment this afternoon.

This matter is important, and we are genuinely trying to work out if there is some accommodation that we can make to deal with the issues raised by the hon. Lady and the wider House. There is no game playing and this is not obstruction; it is in the spirit of what was agreed last night. I say that with a smile, looking especially at her. Come Thursday, we will be able to spend a good amount of time getting into the matter in great detail. On that basis, I support the wish to adjourn.

Anneliese Dodds (Oxford East) (Lab/Co-op): I appreciated our discussions last night. As a new Member, I found them very helpful. I took a great deal of notice of what was said during the meeting by both Ministers and by everybody else who was there. I am sorry; we have spent so much time together that I am imagining that the Economic Secretary was there. I remember it being suggested at the meeting that we needed to get into a rhythm of working and establish how the Committee would operate, and that that was the reason for taking clause 1 after clause 18. Having served on two Finance Bill Committees, I absolutely understand the need to get into a rhythm and work out how we will operate as a Committee. I do not, however, recall anybody saying that that meant that we could not consider clause 1 on the first day of Committee. Perhaps other Members can contradict my recollection, but that is certainly what I took from the meeting.

Question put, That further consideration be now adjourned.

The Committee divided: Ayes 10, Noes 9.

Division No. 4]

AYES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Graham, Luke
Courts, Robert	Maclean, Rachel
Duncan, rh Sir Alan	Prentis, Victoria

NOES

Bardell, Hannah	Rowley, Danielle
Dodds, Anneliese	Smith, Nick
Duffield, Rosie	Stevens, Jo
Goodman, Helen	Thewliss, Alison
Norris, Alex	

Question accordingly agreed to.

2.33 pm

Adjourned accordingly till Thursday 1 March at half-past Eleven o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

SANCTIONS AND ANTI-MONEY LAUNDERING BILL [*LORDS*]

Third Sitting

Thursday 1 March 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 5 March 2018

The Committee consisted of the following Members:

Chairs: † Dame Cheryl Gillan, Steve McCabe

† Badenoch, Mrs Kemi *(Saffron Walden)* (Con)
† Bardell, Hannah *(Livingston)* (SNP)
† Benyon, Richard *(Newbury)* (Con)
† Chalk, Alex *(Cheltenham)* (Con)
† Courts, Robert *(Witney)* (Con)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Duffield, Rosie *(Canterbury)* (Lab)
† Duncan, Sir Alan *(Minister for Europe and the Americas)*
† Freer, Mike *(Finchley and Golders Green)* (Con)
† Glen, John *(Economic Secretary to the Treasury)*
† Goodman, Helen *(Bishop Auckland)* (Lab)
† Graham, Luke *(Ochil and South Perthshire)* (Con)
† Maclean, Rachel *(Redditch)* (Con)
† Norris, Alex *(Nottingham North)* (Lab/Co-op)
† Prentis, Victoria *(Banbury)* (Con)
† Rowley, Danielle *(Midlothian)* (Lab)
† Smith, Nick *(Blaenau Gwent)* (Lab)
† Stevens, Jo *(Cardiff Central)* (Lab)
† Thewliss, Alison *(Glasgow Central)* (SNP)

Mike Everett, *Committee Clerk*

† attended the Committee

Public Bill Committee

Thursday 1 March 2018

(Morning)

[Dame Cheryl Gillan *in the Chair*]

Sanctions and Anti-Money Laundering Bill [*Lords*]

11.30 am

The Chair: Before we resume our consideration of the Bill, I have a few standard announcements to make. Could you all ensure that your mobile devices are switched to silent mode? As usual, amendments on similar issues have been grouped together and we shall take them in the order in which they appear on the selection list. My fellow Chair and I will use our discretion over whether to allow separate stand part debates on individual clauses.

I apologise to Committee members for the unacceptably low temperature in the Committee Room. We have brought in some heaters, and I hope we will bring in some more. You are perfectly welcome to wear outside garments, including headgear, to keep warm. I know that that is very unusual, but I must put it on record, with no word of a lie, that we are working in very low temperatures. I really appreciate everyone's diligence in being here and agreeing to go ahead with our considerations in these extreme conditions. I have looked at other available Committee Rooms, but they seem also to lack the wherewithal to be heated to a reasonable temperature.

Without further ado, let us consider clause 1.

Clause 1

Power to make sanctions regulations

Helen Goodman (Bishop Auckland) (Lab): I beg to move amendment 1, in clause 1, page 2, line 16, at end insert

"or

(i) further accountability for, or act or as a deterrent to, the commission of a gross human rights abuse or violation."

This amendment would enable sanctions regulations to be made for the purpose of preventing, or in response to, a gross human rights abuse or violation.

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

Amendment 13, in clause 1, page 2, line 16, at end insert

"or

(i) further the prevention of serious organised crime and trafficking, in the United Kingdom or elsewhere."

This amendment would enable sanctions regulations to be made for purposes which included the prevention of serious organised crime and trafficking.

Amendment 2, in clause 1, page 2, line 37, at end insert—

"(6A) In this section, conduct constitutes 'the commission of a gross human rights abuse or violation' if each of the following three conditions is met.

(6B) The first condition is that—

(a) the conduct constitutes the torture of a person or a group of people who have sought—

(i) to expose illegal activity carried out by a public official or a person acting in an official capacity, or

(ii) to obtain, exercise, defend or promote human rights and fundamental freedoms, or

(b) the conduct otherwise involves the cruel, inhuman or degrading treatment or punishment of such a person or a group of people.

(6C) The second condition is that the conduct is carried out in consequence of that person having sought to do anything falling within subsection (6B) (a) (i) or (ii).

(6D) The third condition is that the conduct is carried out—

(a) by a public official, or a person acting in an official capacity, in the performance or purported performance of his or her official duties, or

(b) by a person not falling within paragraph (a) at the instigation or with the consent or acquiescence—

(i) of a public official, or

(ii) of a person acting in an official capacity, who in instigating the conduct, or in consenting to or acquiescing in it, is acting in the performance or purported performance of his or her official duties.

(6E) Conduct that involves the intentional infliction of severe pain or suffering on another person or a group of people is conduct that constitutes torture for the purposes of subsection (6B) (a).

(6F) Conduct is connected with the commission of a gross human rights abuse or violation if it is conduct by a person that involves—

(a) acting as an agent for another in connection with activities relating to conduct constituting the commission of a gross human rights abuse or violation,

(b) directing, or sponsoring, such activities,

(c) profiting from such activities, or

(d) materially assisting such activities.

(6G) The cases in which a person materially assists activities for the purposes of subsection (6F) (d) include those where the person—

(a) provides goods or services in support of the carrying out of the activities, or

(b) otherwise provides any financial or technological support in connection with their carrying out."

This amendment, which is consequential on Amendment 1, would define what constitutes the commission of a gross human rights abuse or violation. This would include the torture of a person who has sought to expose the illegal activity of a public official, or the torture of a person who had sought to defend human rights or fundamental freedoms, by a public official or a person acting in an official capacity.

Helen Goodman: On this very cold morning, Dame Cheryl, I am grateful to you for allowing me to keep my overcoat on.

Amendment 1 and its consequential amendment, amendment 2, are Magnitsky amendments. I think by now hon. Members understand what they are all about: they would enable us to sanction people who have committed gross human rights abuses. Very briefly, the history is that Sergei Magnitsky, a Russian lawyer who uncovered and tried to expose a big tax fraud, was imprisoned and tortured for a whole year and finally beaten to death. After his death, he was tried for tax fraud, which was obviously completely ridiculous.

I draw Committee's attention to the wording of amendment 2, which covers not only the perpetrators of torture but the people who manage it and give the orders. Once upon a time, people used to make the excuse, "I was only following orders," but nowadays we more often hear, "I am only giving the orders," which is really not acceptable. In the amendment's definition of "conduct", we have therefore included

"directing, or sponsoring, such activities…profiting from such activities, or…materially assisting such activities",

including by providing goods or services. In other words, the amendment covers those who turn the thumbscrews, those who order others to turn them, and those who supply them.

Similar legal provisions have been made in other countries. The Government argued on Second Reading that such a provision would make no difference,but we have seen the Magnitsky list of people who have been sanctioned in the USA but whom we have not sanctioned. It includes a man called Maung Maung Soe, one of the Myanmar generals responsible for the genocide, ethnic cleansing and serious abuse of the Rohingya over the past few months. To be honest, I do not understand why the Government did not say on Second Reading that they thought such a provision was absolutely fine and they agreed with it. Everyone is appalled by such human rights abuses and we do not want to provide any comfort to people who commit them, so I am really puzzled.

I am further puzzled because the Government agreed to include similar provisions in the Criminal Finances Act 2017. The Minister for Security and one of the Justice Ministers, I think—people keep being reshuffled, so I am not sure—argued strongly for such provisions to be included in that Act, so I do not grasp why the Government do not want them in the Bill. The Minister said on Second Reading that the Home Office can ban people and that those provisions are adequate. It is not clear to me that the Home Office has banned the people on the American Magnitsky list, so I am uncomfortable relying on that process. That is why we tabled these amendments.

Amendment 13 concerns serious organised crime and trafficking. Amendments 1 and 2 would amend the part of the clause that relates to the purposes for which sanctions can be imposed. We think that serious organised crime and trafficking should be included, because it, too, is a long-standing problem. We had the cockle pickers who died on the beaches of Morecambe bay, and we discussed on Tuesday the hundreds of thousands of people in Libya. The National Crime Agency estimates that between 10,000 and 13,000 people are trafficked into this country every year. One of my constituents was trafficked into this country as a 10-year-old and forced to work in a cannabis farm. The Government are very firm on modern slavery, but they do not seem to want to see it through in other legislation. I do not intend to press amendment 13 to a vote, but the Government need to be a bit more thoroughgoing, consistent and comprehensive when it comes to the victims and perpetrators of serious organised crime and trafficking.

Richard Benyon (Newbury) (Con): It is a great pleasure to speak in this important debate. I pay tribute to the hon. Member for Bishop Auckland for what she said. I have been involved for some time in the campaign to get the equivalent of the American Magnitsky Act into UK law. It was a considerable surprise to find myself on the Committee—it may have been a surprise to others, too —but it is nevertheless a delight.

To start, I will use the words of David Cameron. In a recent speech to Transparency International, he said:

"One of my regrets of my time in office was that we didn't introduce the Magnitsky Act. The Foreign Office argument was that Britain's existing approach was better, because we could sanction all the people on that list—and more besides. And I went along with it.

But I soon realised this ignored the advantages of working together—with other countries—under a common heading. It's not PR, it's a fact. You get extra clout from coming together across the world and saying with one voice to those who are responsible for unacceptable acts: 'We are united in our action against you.'

I pay tribute to my successor Theresa May for adding Magnitsky provisions to the recent Criminal Finances Act. And I also pay tribute to someone who has fought longer and harder and at more risk to himself than anyone else—the man behind that campaign, the legislation and a brilliant book, 'Red Notice', on it, Bill Browder."

It has been a great privilege for me to get to know and work with Bill in his fearless efforts to get equal provisions and consistency. International organised crime is more fluid today than ever, with the ability to move money and take advantage of different activities and opportunities. There are two central reasons why those criminals come to the United Kingdom. One is that we have a prosperous economy with good property and intellectual property rights and a large percentage of the world's financial institutions based here. The other, to be perfectly honest, is that the kinds of people we do not want investing in our economy—the fellow travellers of the criminals, be they lawyers, accountants or other financiers, who are able and willing to work with them—can exploit gaps and make investments in this country. David Cameron said, with typically honest, self-effacing candour, that the position that has been taken for so long by the United Kingdom Government is that adequate provisions apply. However, we know that they have not been applied.

I pay tribute to the hon. Member for Bishop Auckland. I will always remember her rage of two days ago, and there will be times when I try to find my inner Helen Goodman. However, I have say to her that the last 48 hours have been extremely beneficial to me—I hope they have also been beneficial to the Bill—because they have allowed me to spend a lot of time with human rights lawyers who have brains that are infinitely bigger than mine, and an understanding of international law and human rights law that is infinitely bigger than mine, and to spend time with the Minister for Europe and the Americas, my right hon. Friend the Member for Rutland and Melton, and his officials. I know there is a public perception that the process involves thumbscrews and all kind of threats, but I think the system knew that I, as somebody who has no ambition, was not persuadable on anything.

We have to get this right, and there are two areas of consistency that we need to achieve. First, as I have already mentioned, the Bill that receives Royal Assent must be consistent with similar legislation that has been brought in by other jurisdictions abroad. Secondly, the Bill must be consistent with our own judicial system. I was on the verge of supporting the hon. Lady, had her amendment been tabled at an earlier stage. However, I have a few suggestions that I hope my right hon. Friend the Minister might be able to support.

[Richard Benyon]

There are two key elements of Magnitsky: the one we are debating now—essentially, it concerns definitions and a few other bits—and the review structure, which we will talk about later today. A good Magnitsky amendment, of the sort that I would like to see, would put into the Bill a definition of gross human rights abuse. Such a definition is, at present, absent from the Bill, which only refers to generic, undefined

"international humanitarian and human rights law"

and respect for human rights and their promotion. It does not contain any specific requirement for sanctions or accountability for human rights violations.

Victoria Prentis (Banbury) (Con): I ought to declare an interest as a human rights lawyer, but certainly one whose brain is no bigger than, and probably nothing like as big as, my right hon. Friend's. I was confused by the repetition of "gross human rights abuse" in amendment 2, and I am concerned that the fact that it appears several times will encourage future readers and users of the legislation to define it differently in each case. Does that concern him?

11.45 am

Richard Benyon: My hon. Friend makes a valid point, which I was coming on to. When we talk about consistency across our judicial system, definitions are important. If we have differing definitions in similar types of Bills that seek to achieve similar things, courts can be worked by clever lawyers to try to find a hole through which to escape. Consistency here is therefore really important.

The people behind the Magnitsky campaign tell me that they would be happy with a definition that accorded with section 241A of the Proceeds of Crime Act 2002. If my right hon. Friend the Minister could assure us that in the few weeks before Report he can produce an amendment that satisfied that requirement, we would have consistency across law. That seems important.

I entirely accept what the hon. Member for Bishop Auckland says about the kind of people we are talking about. One of the many brave people I have met in the campaign is Vladimir Kara-Murza, who has survived being poisoned twice and now works fearlessly for Open Russia. He says that this element of the Bill is the most pro-Russian piece of legislation we could make: it is about helping honest, decent Russians and holding back the chances of the corrupt, wicked people who have made their lives such misery. It builds on what my hon. Friend the Member for Esher and Walton (Dominic Raab) did in driving through the amendment to the Criminal Finances Act 2017, for which he deserves credit.

As the Minister knows, I have been prepared to support amendments that we are debating today, but after burning much midnight oil I suggest to the hon. Lady that consistency is very important, and the two differing definitions could allow for confusion.

Helen Goodman: I have the Criminal Finances Act in front of me, and I am a little unclear as to where the inconsistency is. The conditions in that Act are about:

"a public official, or a person acting in an official capacity…instigating the conduct, or in consenting to or acquiescing in it",

with conduct connected

"with the commission of a gross human rights abuse…acting as an agent…directing, or sponsoring, such activities…profiting from such activities, or…materially assisting such activities."

That seems to be the same wording as in the amendment, as does

"provides goods or services in support of the carrying out of the activities, or…otherwise provides any financial or technological support in connection with their carrying out."

I cannot quite understand where the inconsistency is, but I am sure the right hon. Gentleman can tell us.

Richard Benyon: I am reliably informed that there are inconsistencies. I suggest that, for simplicity, if the Bill were to say that any reference to "gross violation of human rights" is to conduct that constitutes, or is connected with, the commission of a gross human rights abuse or violation, and whether conduct constitutes or is connected with a commission of such an abuse or violation is to be determined in accordance with section 241A of the Proceeds of Crime Act 2002, we would have the consistency that the campaigners—and, I think, the Government—seek.

I understand that the Government want to achieve this. They want to see the full Magnitsky on the statute book. This suggestion offers a way of making sure that we get the definitions right.

Alex Chalk (Cheltenham) (Con): It is a pleasure to serve under your chairmanship, Dame Cheryl, and to follow my right hon. Friend the Member for Newbury. There is no one in this House who has done more than he has to prosecute this matter. I am also grateful for the contribution from the hon. Member for Bishop Auckland.

Although I am entirely sympathetic to the Magnitsky principle, there are three reasons why, on careful textual analysis, amendment 2 is flawed—not just a bit, but quite significantly—and should therefore be rejected. That should not be taken in any way as a disagreement with the principle, but it echoes the point, which has already been made, that we have got to get this right.

The overarching point is that, although the amendment intends to transpose the substance of section 241A of the Proceeds of Crime Act 2002, as amended by section 13 of the Criminal Finances Act 2017, which the hon. Member for Bishop Auckland referred to, there are three errors in the transposition that will cause confusion, hold back the Magnitsky principles and create a field day for lawyers.

First, in the context of defining a gross human rights abuse or violation, amendment 2 would insert subsection (6B), which says,

"The first condition is that the conduct constitutes the torture of a person or a group of people".

The expression "a group of people" is not to be found in the 2002 Act, which is the UK's primary criminal financing legislation and allows for civil recovery of cash on the basis of non-conviction proceedings. Property can be forfeited irrespective of whether a person has been convicted. That is the key piece of legislation, but the amendment contains a crucial inconsistency. The insertion of "a group of people" creates a problem, because lawyers will look at it and say, "Why has Parliament inserted that here, but not in the Proceeds of Crime Act?"

Helen Goodman: The hon. Gentleman raises an interesting point. I will tell him why we did that; I do not know whether this was considered when the 2017 Act went through. Gross human rights abuses may involve, as in the case of Magnitsky, one person being tortured and abused, or they may involve—as in the case of the Rohingya, who are being pushed out of Rakhine state across the Bangladeshi border—a whole group of people. We did not want to exclude the latter because the treatment was substantially different. That was our thinking, and it was so that we did not just solely focus on the Russian situation. We are obviously interested in disincentivising human rights abuses across the globe.

Alex Chalk: I entirely commend that intention, but I fear that in reality, the wording risks causing confusion and potentially having precisely the opposite effect. The Interpretation Act 1978 indicates that, in any event, the single includes the plural. In other words, where the text says,

"the torture of a person"

that is apt to include "a group of persons". Lawyers and judges will look at the insertion and ask why it has been included. On the basis that Parliament does not legislate in vain, they will have to try to allocate a meaning to it, which is simply going to cause confusion. That is the first textual difference, which creates confusion rather than clarity.

Secondly, the amendment, in inserting subsection (6D)(b)(ii), would import another change that will cause worrying inconsistency. That includes the qualificatory words,

"who in instigating the conduct, or in consenting to or acquiescing in it, is acting in the performance or purported performance of his or her official duties".

In the Bill, that applies only to a person acting in an official capacity. It does not apply to a public official. That inconsistency could lead to the perverse outcome that the net will be drawn more widely in this Bill than in the Proceeds of Crime Act 2002, and that public officials, under subsection (6D)(b)(i), could be off duty but a person acting in an official capacity could not. That would be perverse and would create confusion.

The third and most important confusion is in proposed new subsection (6E). By omitting a key phrase, the amendment would create a vast loophole in the legislation. In its definition of torture, the amendment excludes the following very important text from the 2002 Act:

"It is immaterial whether the pain or suffering is physical or mental and whether it is caused by an act or omission."

Proposed new subsection (6E) talks about

"the intentional infliction of severe pain or suffering",

but because that is not defined as including mental suffering and omission, it means that inflicting mental suffering and omitting to provide heat, water, food or light—I hope that hon. Members perceive those things to be torture—would be excluded. They are included in the 2002 Act but would not be included under the amendment.

Helen Goodman: The hon. Gentleman seems to be running two arguments at once. I cannot see any mention of such deprivations in the 2002 Act, so I am not sure whether he is criticising the substantive drafting. Is his overriding concern that he does not like the drafting, or that it is inconsistent?

Alex Chalk: My overriding concern is that I do not like the drafting because it is inconsistent. Although I am very sympathetic to the Magnitsky principle, for which the hon. Lady and my right hon. Friend the Member for Newbury have powerfully advocated—I look forward to what the Minister has to say about that—this drafting has gone not just a bit awry but quite seriously awry. Creating confusion and inconsistencies between the two key pieces of legislation will mean that lawyers will have a field day and that the victims will not be protected. For those reasons, we need to look at this again, get it right and ensure that what ends up on the statute book is truly fit for purpose.

The Minister for Europe and the Americas (Sir Alan Duncan): We genuinely appreciate that this issue is of significant concern to right hon. and hon. Members, as the hon. Member for Bishop Auckland and hon. Members from both sides of the House who spoke on Second Reading made clear. I acknowledge the long-standing and heartfelt commitment to this important cause that my right hon. Friend the Member for Newbury has demonstrated. We do not want to do anything other than take seriously what Members from both sides of the House are arguing.

Let me go into some of the details and suggest how we might proceed. Amendments 1 and 2 relate to including in the Bill gross human rights abuses as a basis on which sanctions may be imposed. As Lord Ahmad made clear in the other place, the list of purposes currently in the Bill ensures we can continue to implement sanctions for the same reasons we do now—for example, in the interests of international peace and security or to further a foreign policy objective of the UK. As my right hon. Friend the Foreign Secretary said on Second Reading last week, we already implement human rights-based sanctions against 10 countries, including Iran, Libya, South Sudan and the Democratic Republic of the Congo. Overall, that means that sanctions against more than 200 individuals and entities are in place now, and that approach will continue under the Bill.

12 noon

However, I fully recognise why hon. Members want to make an explicit reference to gross human rights abuses, particularly in the light of the abhorrent case of Sergei Magnitsky, which we have heard about graphically from the hon. Member for Bishop Auckland. I put on record again that the Government are committed to promoting and strengthening universal human rights, and to holding to account states and individuals who are responsible for the worst violations. We will continue to do that after we leave the EU. We intend the powers in the Bill to allow us to be part of a global network of like-minded jurisdictions that work together to tackle those who commit gross human rights violations. We will continue to work with international partners to meet that end.

The Bill already gives the Government the power to do that. In fact, in the other place, the Opposition defeated the Government on a vote to include specific references to human rights in the purposes for which sanctions can be imposed, and I confirm that the Government will not seek to overturn that vote. Those purposes include promoting compliance with international human rights law and promoting respect for human rights.

If someone has been designated under the Bill, they can be subject to an asset freeze and become an excluded person for the purposes of section 8B of the Immigration Act 1971; and they can be subject to a travel ban, which prevents them from being granted leave to enter or remain in the UK. They will also lose any leave that they hold to enter or remain in the UK. The hon. Member for Bishop Auckland asked whether certain people were currently banned, but the point for consideration is that even if we are not doing certain things now, we will be able to do them autonomously—as the UK—in future, because of the Bill.

My right hon. Friend the Home Secretary regularly uses domestic immigration powers to exclude people whose presence is not conducive to the public good. For example, last year, we refused entry to 328 Russians, 17 Libyans and 72 Syrians for a variety of reasons, including concerns of national security and involvement in war crimes or crimes against humanity. The Treasury also uses domestic powers in that area. For example, a freezing order under the Anti-terrorism, Crime and Security Act 2001 was used against the two individuals directly connected with the death of Alexander Litvinenko.

Last year, we amended the Proceeds of Crime Act 2002, through the Criminal Finances Act 2017, which received cross-party support. That allows law enforcement agencies to use civil recovery powers to recover the proceeds of human rights abuses or violations, wherever they take place, when that property is held in the UK. I recognise the strength of feeling on this issue, so I wish to work closely with right hon. and hon. Members to establish the maximum possible consensus before Report.

Amendment 13 would add a new purpose to the Bill to explicitly state that sanctions regulations could be created for the purpose of preventing serious and organised crime. The Government agree with the principle of the amendment—preventing serious and organised crime is an important objective—but it is not necessary to include it explicitly in the Bill. I think the hon. Lady said that she did not intend to press the amendment anyway.

As drafted, the Bill already provides the powers to impose sanctions in such cases. If we were obliged to tackle serious or organised crime under an international obligation, clause 1(3)(a) would allow us to do so. If we wished to tackle it in the interests of national security, subsection (2)(b) would allow us to do so. If we desired to tackle it as a foreign policy objective, subsection (2)(d) would give us the power to do so. It is not necessary, therefore, to add an additional purpose. To include unnecessary detail in the Bill could create confusion about the effect of those purposes.

Richard Benyon: I am grateful to my right hon. Friend for his remarks. My hon. Friend the Member for Cheltenham and I have gone quite a long way in looking at an alternative definition that would meet the requirements of the Magnitsky standard and that is consistent across our judicial system. Does my right hon. Friend support that direction of travel, and will what he commits to bringing forward on Report satisfy those who have campaigned on the matter for a long time?

Sir Alan Duncan: I can certainly say to my right hon. Friend that we will endeavour to work towards that destination. He will appreciate that in Government, agreement to certain processes requires collective responsibility. I want to see what we can do to head in the direction that he has campaigned for, but we will have to wait until the days leading up to Report to get to the point when I can say so for certain. I hope the hon. Lady will withdraw amendment 1.

Helen Goodman: That was a very interesting exchange. I wish to thank and commend the right hon. Member for Newbury for what he has said and for the thought that he has put into this matter. Obviously, we all want legislation to be good, and we do not wish to create a fest for lawyers. That is not the purpose here. The Government might have done the more reasonable thing and accepted amendments 1 and 2 and said, "By the way, they are not absolutely perfect, so parliamentary counsel will have to dot the i's and cross the t's and get the drafting absolutely perfect." The Minister has not done that. In the spirit of compromise and consensus building, in which the Minister has said consistently that he is interested, I would like to draw a distinction between amendment 1 and amendment 2. Questions about the drafting seem to relate to amendment 2, but everybody who has spoken seems to agree with amendment 1. For that reason, I will press amendment 1 to a vote.

Sir Alan Duncan: In my everlasting search for consensus, may I put this logical argument to the hon. Lady? Those who feel fervently about this issue see the two amendments as part of a package. If we were to take one without the other, it would deny us the opportunity to have a broader debate in the whole House on the entire issue known as the Magnitsky Act. Cutting off one from the other would not necessarily please the campaigners, so it would be advantageous to put this matter to the whole House, should it get that far.

Helen Goodman: Our objective is not to satisfy campaigners in this House, but to get the law right.

Richard Benyon: May I assure the hon. Lady that I am not a lone voice in my party? In fact, quite the reverse. There are a lot of people and a head of steam now on these issues. If we get to Report and we are not satisfied, we are prepared to vote accordingly. I will continue to work with her, as I will continue to work with the Government, to make sure we get the measures we need.

Helen Goodman: I appreciate the right hon. Gentleman's offer. I think that the Committee can take a decision in principle. I am not trying to prevent debate on the Bill—far from it. It was the Government Whip who did that on Tuesday, so I am certainly not going to have that laid at my feet now. We can come back to the matter on Report in the way that the Minister suggests, but I would like—

Alex Chalk: May I respectfully suggest that amendments 1 and 2 do go together? I say that because to legislate for a purpose that would provide

"further accountability for, or act…as a deterrent to, the commission of a gross human rights abuse or violation"

and then not to define what is meant by "gross human rights abuse or violation" would be to legislate for the bow, but not for the arrow. The two things go together. To leave out the definition would be to create such a

gaping hole in the legislation that we would be in dereliction of our duty, it seems to me. I hope that saying that will not be perceived as being in any way unsympathetic to the principle, but leaving out the definition would mean that we were left with not just inadequate legislation, but incomplete legislation.

The Chair: It may be helpful if I let the Committee know that if amendment 1 is withdrawn or negatived, amendment 2 falls as well.

Helen Goodman: I was aware of that, Dame Cheryl.

The Chair: I knew that you knew.

Helen Goodman: But I did not necessarily think that it would be helpful for the whole Committee to understand all the interstices of this. There is an issue of principle here. The Government are perfectly capable of sorting out the drafting. They have had since 20 February—10 days ago—when these matters were raised on Second Reading by several right hon. and hon. Members, notably the right hon. Member for Sutton Coldfield (Mr Mitchell). The Government have had ample time to sort out the drafting and therefore I wish to have a vote on amendment 1.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 5]

AYES

Bardell, Hannah	Rowley, Danielle
Dodds, Anneliese	Smith, Nick
Duffield, Rosie	Stevens, Jo
Goodman, Helen	Thewliss, Alison
Norris, Alex	

NOES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Graham, Luke
Courts, Robert	Maclean, Rachel
Duncan, rh Sir Alan	Prentis, Victoria

Question accordingly negatived.

Helen Goodman: I beg to move amendment 14, in clause 1, page 2, line 21, at end insert—

'(3A) Regulations under this section must be accompanied by the publication of a written memorandum by the appropriate Minister, and such a memorandum must set out—

(a) how the relevant sanctions are consistent with the overall foreign policy objectives of the UK government, including any specific regional objectives where appropriate;

(b) clear objectives for the relevant sanctions, including well-defined and realistic demands against which compliance can be judged;

(c) a coherent overarching diplomatic strategy for achieving the relevant objectives, including steps to actively and systematically communicate with targeted countries or persons on the specific concerns underpinning the sanctions against them;

(d) a clear exit strategy, including specific and measurable changes in the behaviour of any target or targets to be required as a precondition of any future suspension or lifting of the relevant sanctions; and

(e) specific steps to be taken by Ministers to promote co-operation with, and where possible the adoption of, any autonomous UK sanctions by other countries."

This amendment would require the Government to publish a memorandum setting out the objectives of any sanctions issued under this Act, and how they are consistent with the UK's foreign policy objectives.

This amendment is about making coherent and sensible plans when we impose sanctions. We want the Government to lay before the House a public document that sets out how the relevant sanctions are consistent with the Government's overall foreign policy objectives; clear objectives for the relevant sanctions; a coherent overarching diplomatic strategy for achieving the relevant objectives; an exit strategy; and specific steps to be taken by Ministers to promote co-operation with or adoption of any autonomous UK sanctions by other countries.

Lord Ahmad said in the other place that through sanctions we are looking to change people's behaviour. We are not interesting in hitting ordinary people rather than regimes. We want to minimise the humanitarian impact on innocent civilians. That is why we think that being a bit clearer about the aim of particular sanctions on particular regimes is extremely important.

12.15 pm

Hannah Bardell (Livingston) (SNP): I commend the hon. Lady on the amendment. Does she agree that public perception is very important—people understanding why we have sanctions and what they look to achieve? Her amendment speaks to that. It will be absolutely vital to have that detail set out by Government, which they so often do not do.

Helen Goodman: I am grateful to the hon. Lady for her remarks. Let me give a couple of examples about two different sanctions regimes where the content of sanctions and object of the sanctions are quite different. Sanctions on the Democratic People's Republic of Korea are aimed at preventing it from developing weapons of mass destruction. That is a really big foreign policy objective for all of us. Nobody wants the proliferation of nuclear weapons, and not in that region; it is an extremely destabilising occurrence. At the same time, we need a parallel diplomatic strategy. The South Koreans are doing quite well on that following the Olympics, with efforts to shift the discussion from sport to politics. I am not absolutely clear what the Government's view is on the exit strategy and precisely what changes in behaviour they want. This has been difficult and fraught and the Government have made serious efforts at the UN, but we are trying not to starve the North Korean people, who anyway have an extremely low standard of living and a horrible quality of life; we are trying to stop the regime from developing weapons of mass destruction.

The situation in Myanmar and its risks and problems are different. Those sanctions are aimed at preventing the ethnic cleansing of Rohingya and ensuring their safe, voluntary and dignified return to their homeland in Rakhine state. We want the UN to be able to oversee that return and the full implementation of the Annan commission recommendations. Again, we are trying to influence the regime to do something. We have an aid programme to other parts of Myanmar and we are not trying to undermine that, but we want to shift the

[Helen Goodman]

military, which is why the position of Her Majesty's Opposition on sanctions on Myanmar is different from the Government's position. We agree on the North Korean sanctions, but not on Myanmar, because we would like the sanctions to cover the whole of that part of the Myanmar economy that is controlled by the military.

Those two examples show that different problems need different approaches. We need to be clear about that. We will be better at running our foreign policy if we are clearer. This co-operation was very strongly commended by UK Finance, which is the collaboration between banks and financial service providers. For them, life just becomes extremely difficult if we do not have the same approach as the Europeans and the Americans. They have said to us that they want us very much to maintain our integration with the EU on our sanctions policy, because they are worried that if we were to have a different tweak here and there, other international finance actors would be very risk averse, and would not want to put money into British banks and then find that they were suffering second round sanctions, particularly from the Americans.

To be honest, I thought that the speech the Foreign Secretary made on Second Reading—it was typical of him—did not really take that into account. It began and ended with a lot of Brexity rhetoric, but it did not really focus on the detailed policy reality of what to do when we are operating sanctions. He said:

"The Bill will give us the freedom to decide on national sanctions as we see fit".—[*Official Report*, 20 February 2018; Vol. 636, c. 77.]

He went on to say that "Britain can act independently", that we will have "freedom of manoeuvre", be an independent global power, and be able to

"exert our rightful influence on the world stage".—[*Official Report*, 20 February 2018; Vol. 636, c. 80.]

The thing about this is that we can and we will, but the truth is that we do that much better by collaborating with other countries. Everybody knows that sanctions are much more effective when we co-operate with other countries. That is why we included paragraph (e) in this amendment.

Richard Benyon: I am confused by this one. I may be a member of the Intelligence and Security Committee, and I would not want anyone in this Committee to think that I have gone native and that somehow we want everything hushed up. I am entirely in favour of transparency of strategy, because that is the easiest way for Parliament to hold the Government of the day to account. But it seems to me that elements of this amendment would make it unworkable. It would favour the kind of state that we might seek to sanction, by laying bare before the world a strategy that, at times, it is worth while keeping within the corridors of power. I am sure some people will accuse me of being part of some sort of elite or believing in closed government, but it is absolutely not true.

The amendment calls for a memorandum that would show

"clear objectives for the relevant sanctions, including well-defined and realistic demands against which compliance can be judged…a coherent overarching diplomatic strategy".

That is available, to an extent, and is discussed. It is part of our national security strategy. But to communicate in a way that would be helpful to—the actual words used in this amendment—"targeted countries," would burden future Governments and that of today in a way that concerns me. I hope we may get some clarification on this, either from my right hon. Friend the Member for Rutland and Melton or the hon. Member for Bishop Auckland.

Sir Alan Duncan: I can confidently say that if anyone has a hot water bottle, I am prepared to offer them very good money for it. I have not got quite as many layers on as some others in the Committee. I will respond to the points made about this amendment and in large part concur with the comments made by my right hon. Friend the Member for Newbury.

The Bill as drafted already requires a Minister to lay before Parliament a report alongside the introduction of any sanctions regulation. Amendment 14 appears to duplicate that duty, setting out a number of specific factors to be included in such a report. I have some sympathy with the aim of the amendment. Given the potential effects of sanctions, they should only be used where it is appropriate and where the Government have thought through all of the consequences. It is right and proper that the Government can and should be held to account over the use of this power. As I have said, clause 2 already requires the Government to lay a report before Parliament alongside the introduction of any sanctions regulation.

The report would set out why a Minister considered the sanctions regulations to be consistent with the purposes outlined in the Bill, and why they were a reasonable course of action. I assure hon. Members that it will clearly state the objectives of the sanctions, their place within a broader diplomatic and foreign policy strategy and, if appropriate, the conditions under which they might be lifted—for example through the resolution of an armed conflict to which they were designed to apply.

In addition, the Government have committed to publishing an annual review of each of the sanctions regimes, which will be laid before Parliament as set out in clause 27. That report will explain why the sanctions regimes continue to be appropriate and how they meet the objectives set out in the original report.

Helen Goodman: Which clause is the Minister referring to?

Sir Alan Duncan: Clause 27. I hope that helps the hon. Lady.

The requirements in the Bill demonstrate that we are committed to being open before Parliament about the objectives of our sanctions regimes. To that extent, I do not disagree with the principle behind the amendment; rather, it is our view that the provisions are already sufficiently covered by clause 2 and the annual report under clause 27.

I want to make it clear that the Government will ensure that we have a coherent diplomatic strategy in place as part of the process by which we consider whether sanctions are appropriate; but to set that out publicly on the introduction of the regime, as would be required under new subsection (3A)(c), which the amendment would add to the clause, would, as my right

hon. Friend the Member for Newbury has said, risk exposing our hand in sensitive areas and at inopportune times. It could be counterproductive and result, therefore, in less effective sanctions and foreign policy overall.

That is also the case with setting out an exit strategy at the start. Sometimes an exit strategy is clear from the purpose of the regime—for example, as I have said, promoting the resolution of an armed conflict. However, it might be inadvisable to oblige the Government to be so explicit in advance, especially where doing so might prejudice sensitive negotiations or affect our work with international partners.

The same is true for the amendment's new subsection (3A)(e), which would oblige the Government to take the steps that we are taking with our international partners to promote co-operation on our individual sanctions regimes. As we have said many times, sanctions are most effective when they are implemented multilaterally, and we are committed to working closely with our partners to ensure that sanctions are implemented by the widest possible groupings. Setting that out in Parliament in advance risks undermining those discussions, which, by their nature, are private and sensitive. Therefore, while we respect the intentions behind the amendment, I urge the hon. Lady to withdraw it, on the basis of the detailed explanation I have given.

Helen Goodman: I was interested to hear what the Minister said. In the previous debate, on Magnitsky, he prayed in aid of his position paragraphs (f), (g) and (h) of clause 1(2), which were of course tabled by Labour Lords and added to the Bill in the other place. I notice that he has just done the same thing again: he prayed in aid clause 27, which was also added.

I take seriously the points about not being foolhardy in being open. It is a difficult, tricky balance, but in view of the arguments made by the right hon. Member for Newbury and the Minister, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The Chair: I have been making inquiries about whether there is a warmer Committee Room for this afternoon's proceedings, but I am sad to report that this is now one of the warmest rooms on the corridor. It is with some dismay that I put on the record that it is still absolutely freezing in here.

12.30 pm

Sir Alan Duncan: I beg to move amendment 3, in clause 1, page 3, line 2, leave out "(d)" and insert "(h)".

This amendment expands the reference in Clause 1 to subsection (2) so that it covers paragraphs (e) to (h) of that subsection (as well as paragraphs (a) to (d)).

The Chair: With this it will be convenient to discuss Government amendments 5 and 6.

Sir Alan Duncan: These are straightforward consequential amendments to the Bill. The purposes for which sanctions regulations can be introduced, set out in clause 1(2), were amended in the other place through an amendment tabled by Opposition peers. That amendment added four additional purposes for which sanctions could be imposed, as we have just discussed. They are: promoting the resolution of armed conflicts or the protection of civilians in conflict zones; promoting compliance with international humanitarian and human rights law; contributing to multilateral efforts to prevent the spread and use of weapons and materials of mass destruction; and promoting respect for human rights, democracy, the rule of law and good governance.

The Government opposed the amendment at the time, on the basis that those areas were all covered by the Bill as it was drafted. However, I reassure hon. Members that we will not seek to overturn the change. Given that, consequential amendments 3, 5 and 6 are necessary to update cross-references to the list of purposes throughout the Bill. They update references to purposes (a) to (d) in three separate places to include the additional purposes (e) to (h) in clause 1(2). I commend the amendments to the Committee.

Amendment 3 agreed to.

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

Sir Alan Duncan: The purpose of the clause, as we have discussed in detail, is to enable the Secretary of State or the Treasury to make sanctions regulations for a number of purposes, such as to comply with international obligations or for other specified reasons, including in the interests of national security or the prevention of terrorism in the UK or elsewhere. Mr Speaker, the clause is in many ways the core of the Bill.

Mike Freer (Finchley and Golders Green) (Con): Mr Speaker?

Sir Alan Duncan: Did I say Mr Speaker? I have been so chilled to the marrow, Dame Cheryl, that I am losing my bearings.

The Chair: I have not morphed into Speaker Bercow.

Sir Alan Duncan: Dame Cheryl, the clause gives the Government the ability to create sanctions regulations and to ensure that we can do so in order to continue to comply with our international obligations, such as UN Security Council resolutions, after we leave the European Union. Alongside allowing us to meet our international obligations, it will ensure that we can continue to use sanctions to meet our foreign policy and national security goals.

As a result of the amendment in the other place, the clause now specifies a range of other purposes for which sanctions can be imposed, including to promote compliance with international humanitarian law and international human rights law and to promote respect for human rights, democracy, the rule of law and good governance. That list shows that we can continue to implement sanctions for the purposes for which they are currently used. I reassure colleagues that the UK will also be able to implement measures in the same sectors as currently—financial, migration, trade, aviation and maritime. The clause is the foundation of the legislation, so I ask that it stand part of the Bill.

Helen Goodman: This is the most important clause in the Bill, and it was much improved in the Lords. I am slightly disappointed that we have not been able to make more progress, but it was clear from the debate that the right hon. Member for Newbury felt that he

[Helen Goodman]

had been given assurances that progress will be made between now and Report. We hope very much that that progress is made. We take the Minister at his word on that, and we will undoubtedly come back and look at these issues on Report. For now, we are completely happy for the clause to stand part of the Bill.

Question put and agreed to.

Clause 1, as amended, accordingly ordered to stand part of the Bill.

Clauses 19 and 20 ordered to stand part of the Bill.

Clause 21

PERIODIC REVIEW OF CERTAIN DESIGNATIONS

Helen Goodman: I beg to move amendment 32, in clause 21, page 18, line 34, leave out "3 years" and insert "12 months".

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

Amendment 33, in clause 21, page 18, line 36, leave out "3 years" and insert "12 months".

Amendment 34, in clause 25, page 20, line 14, leave out "3 years" and insert "12 months".

Amendment 35, in clause 25, page 20, line 16, leave out "3 years" and insert "12 months".

Helen Goodman: The purpose of these amendments is to increase the frequency of the periodic review of designations from every three years to every year. I owe this idea to the hon. Member for Glasgow Central, who suggested it on Second Reading. I thought that she might table amendments but that I had better do so in case she did not. It was a very sensible suggestion, and I am sure she wishes to explain why it is a good idea.

Alison Thewliss (Glasgow Central) (SNP): I thank the hon. Member for Bishop Auckland for tabling these amendments—she was just a little swifter getting them in than I was.

I spoke about this issue on Second Reading. First, there is an important point about consistency: the EU has a 12-month review period for its sanctions, and we ought to make the Bill consistent with that. There seems to be no reason why we should want to leave it as long as three years to review sanctions, particularly given that situations can change rapidly and that we should hope that sanctions take effect in a shorter period than three years. We are trying to promote good behaviour and resolution, and we should hope to achieve that within three years, making the three-year period redundant in some cases.

It makes sense to maintain consistency and allow constant review by keeping the review period to 12 months. If things take longer than that, it makes sense to look at them within 12 months to ensure that the Government's foreign policy objectives are making progress and that things are actually happening. If they are not, perhaps they ought to be reviewed. A 12-month period would give us a good deal more flexibility and accountability. It certainly seems logical to me, and I very much hope the Government accept the amendments.

Sir Alan Duncan: I rather sense this will forever be known as the bobble hat amendment.

Alison Thewliss: The Minister is just jealous.

Sir Alan Duncan: I certainly am.

Reviews are crucial to maintaining effective sanctions regimes, and sanctions should not remain in place where there is no longer a reason for them to do so. Clause 21 requires the Government to conduct a comprehensive re-examination of each designation decision at least every three years. That is one of a number of safeguards that the Bill provides for designated persons. The amendments would oblige the Government to re-examine each designation annually.

I agree completely that sanctions designations need to be based on solid, legally robust evidence. The UK has pushed hard for that in the EU—that is widely recognised, including, for example, in the House of Lords European Union Committee's recent report, "The legality of EU sanctions"—and we are committed to maintaining those high standards. I recognise that the EU generally reviews its sanctions regimes annually. However, as noted during the passage of the Bill in the other place, EU reviews are relatively light touch. Designated persons are invited by the Council to present new information, and member states are able to make observations, but they are under no obligation to engage. In contrast, the triennial review envisaged in the Bill would be a comprehensive re-examination of each and every designation.

The Bill as drafted includes a robust package of procedural safeguards, including a number of amendments introduced in the other place. The combined package would provide a higher level of protection for designated persons—at least as strong as current EU standards, if not better. The Government would review all sanctions regulations annually and present the results in a written report to Parliament. If the report concluded that there were no longer good reasons for maintaining a UK sanctions regime, we would lift it. Any changes made to the equivalent sanctions regimes of the EU or other international partners would be examined closely as part of the annual review.

Alongside this annual review of the regulations, the Bill requires the Government to put in place a dynamic process to reassess designations on request. The triennial review is not the only opportunity; a designated person can request a reassessment of their designation at any time, and can request a further reassessment where a significant matter has not previously been considered by the Minister. I take the point that a designated person who has requested a reassessment, challenged it in court and failed to establish any unlawfulness will not have a further review until a significant new matter arises or until the triennial review. However, there will be no need for a further review if the lawfulness of the designation has been established and nothing has changed since. If there are new arguments to be tested or if the passage of time has changed the situation, a further reassessment can be requested. If not, there will be no need for one.

Ministers can instigate a reassessment at any time—for example, if the person concerned has been delisted by the EU. They will have every interest in initiating reassessments proactively, both in the interests of justice and to minimise the risk and cost of legal challenges—

a compelling argument in many a ministerial decision. In any case, if the EU decided to revoke the designation of a person also designated in the UK, I would certainly want to reassess the corresponding UK designation.

The provisions will ensure that UK sanctions are under constant scrutiny and that the Government are obliged to respond swiftly to new information and challenges. The triennial review will provide a further backstop to ensure that each and every determination is considered afresh on a regular, predetermined cycle. This aligns with current practice in Australia and will put us ahead of countries such as the US and Canada, which have no such process at all. It will not prevent more frequent reviews; indeed, we have mechanisms in place that oblige us to carry out more frequent reviews where appropriate.

Requiring the Government to conduct such reviews every year would be extremely resource-intensive and—given the finite Government resources dedicated to sanctions—would take resources away from other important areas. It could also make litigation more complex.

Alison Thewliss: Will the Minister give way?

Sir Alan Duncan: I am on my last three words, but yes. The hon. Lady has got in under the wire.

Alison Thewliss: I did not realise that the Minister had reached his last three words. He mentions resources and cost implications. Can he give us more specific detail?

Sir Alan Duncan: If something has to happen three times as frequently, it will take up a lot more resource.

I hope that the arguments I have put to the Committee have convinced the hon. Lady that the compulsion to have a review every year is superfluous, given all the other layers and safeguards that exist in the Bill.

Jo Stevens (Cardiff Central) (Lab): If the Minister cannot tell us what the triple cost is, can he tell us what this costs at the moment?

Sir Alan Duncan: We do things as part of the EU, so it is not possible to segregate the cost in the way the hon. Lady asks. What we are doing is setting up an autonomous regime instead of being part of a collective regime.

I hope that the arguments that I have put to the Committee have persuaded the hon. Member for Bishop Auckland to withdraw her amendment.

Helen Goodman: I think the Minister has noticed some scepticism towards the points he made. We will press the matter to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 6]

AYES

Bardell, Hannah	Rowley, Danielle
Dodds, Anneliese	Smith, Nick
Duffield, Rosie	Stevens, Jo
Goodman, Helen	Thewliss, Alison
Norris, Alex	

NOES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Graham, Luke
Courts, Robert	Maclean, Rachel
Duncan, rh Sir Alan	Prentis, Victoria

Question accordingly negatived.

12.45 pm

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

Sir Alan Duncan: Reviews are crucial to maintaining effective sanctions regimes. Sanctions should not remain in place where there is no longer a reason for them to do so. This clause ensures best practice by requiring a comprehensive re-examination of every sanctions designation at least once every three years. The process will ensure that all sanctions designations are based on up-to-date information and that any that are not are revoked. There is nothing preventing a Minister from instigating a reassessment at any time, for example if new evidence comes to light. An individual is also able to challenge their designation, requiring a reassessment by the Minister—*[Interruption.]*

The Chair: Order. Could the Whips have conversations outside the Committee room on this matter, please? I am trying to give them a break; it is warmer out there.

Sir Alan Duncan: An individual is also able to challenge their designation, requiring a reassessment by the Minister and potentially further examination by a court.

The clause should be seen alongside other safeguards in the Bill, in particular clause 27, which requires the overall sanctions regime to be reviewed annually. In that review, the Minister must be assured that sanctions are appropriate for their purpose; that, apart from United Nations or other international obligations, there are still good reasons to pursue that purpose; and that proposing sanctions is a reasonable course of action for that purpose. The results of the review must be laid before Parliament. I make it clear that the only time a designated person will not be able to request a reassessment is when they have challenged their designation, it has been upheld either by a Minister or by the court, and there have been no significant changes.

The review provided by this clause is a provision that stands behind all the others. Therefore, combined with the other safeguards in the Bill, I believe that reviewing each individual listing at least every three years is appropriate. This is a backstop measure to ensure that each and every designation is reviewed afresh at least every three years.

Question put and agreed to.

Clause 21 accordingly ordered to stand part of the Bill.

Clauses 22 to 26 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. —*(Mike Freer.)*

12.50 pm

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

SANCTIONS AND ANTI-MONEY LAUNDERING BILL [LORDS]

Fourth Sitting

Thursday 1 March 2018

(Afternoon)

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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 5 March 2018

The Committee consisted of the following Members:

Chairs: Dame Cheryl Gillan, † Steve McCabe

† Badenoch, Mrs Kemi *(Saffron Walden)* (Con)
† Bardell, Hannah *(Livingston)* (SNP)
† Benyon, Richard *(Newbury)* (Con)
† Chalk, Alex *(Cheltenham)* (Con)
† Courts, Robert *(Witney)* (Con)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Duffield, Rosie *(Canterbury)* (Lab)
† Duncan, Sir Alan *(Minister for Europe and the Americas)*
† Freer, Mike *(Finchley and Golders Green)* (Con)
† Glen, John *(Economic Secretary to the Treasury)*
† Goodman, Helen *(Bishop Auckland)* (Lab)
† Graham, Luke *(Ochil and South Perthshire)* (Con)
† Maclean, Rachel *(Redditch)* (Con)
† Norris, Alex *(Nottingham North)* (Lab/Co-op)
† Prentis, Victoria *(Banbury)* (Con)
† Rowley, Danielle *(Midlothian)* (Lab)
† Smith, Nick *(Blaenau Gwent)* (Lab)
† Stevens, Jo *(Cardiff Central)* (Lab)
† Thewliss, Alison *(Glasgow Central)* (SNP)

Mike Everett, *Committee Clerk*

† attended the Committee

Public Bill Committee

Thursday 1 March 2018

(Afternoon)

[Steve McCabe *in the Chair*]

Sanctions and Anti-Money Laundering Bill [*Lords*]

2 pm

The Chair: Welcome to the cold blast. I understand that this morning Dame Cheryl said that hon. Members should wear their coats and hats as they saw fit, and there is no reason for me to dispense with that advice.

Clause 27

Review by appropriate Minister of regulations under section 1

Helen Goodman (Bishop Auckland) (Lab): I beg to move amendment 24, in clause 27, page 20, line 39, leave out

"the purpose stated in them under section 1(3)"

and insert—

"(a) the purpose stated in them under section 1(3);

(b) the humanitarian impact;

(c) any British citizen, a British Overseas Territories citizen or British overseas citizen who is not the intended target of sanctions issued under this Act but who is directly or indirectly impacted by the imposition of such sanctions".

This amendment would require the Government to review whether the sanctions regulations are still appropriate for their specified purposes, including their humanitarian impact and impact on British citizens who are indirectly affected by the imposition of sanctions.

The Chair: With this it will be convenient to discuss amendment 25, in clause 27, page 20, line 40, at end insert—

'(2A) The review of the humanitarian impact under subsection (2)(b) must be conducted according to the methodology set out in Chapter 5 of the UN Inter-Agency Standing Committee's Sanctions Assessment Handbook: Assessing the Humanitarian Implications of Sanctions, published in 2004."

This amendment, which is consequential on Amendment 24, would require the Government to carry out a humanitarian impact assessment when reviewing the regulations issued under section 1.

Helen Goodman: Welcome to cold Committee Room 12, Mr McCabe. As we discussed this morning, clause 27 was inserted by those in another place because it was agreed that we need reviews of what is going on. Amendment 24 would extend the coverage of the reviews. At the moment, the clause proposes one question for review: "whether the regulations" relating to the sanctions

"are still appropriate for the purpose stated in them under section 1(3)",

which is whatever purpose the sanctions have. That is absolutely fine; we agree with it and think it completely sensible, but we want to add two other things that we think should be covered by the reviews. One is the humanitarian impact, and the other is the impact of the sanctions on British citizens who are not their intended target.

Let me tell the Committee about two episodes in which the humanitarian impact of sanctions was very significant and may have made them counterproductive, because they were simply punishing poor people in the countries involved, who were not responsible for the bad behaviour of their leaders. The sanctions had horrendous negative consequences, which led to a lot of anti-western feeling.

The first example is the comprehensive, multilateral, international sanctions imposed on Iraq in August 1990 under UN Security Council resolution 661. As some of us can remember, it was after the first invasion of Kuwait. Before the sanctions, Iraq had imported roughly 70% of its food, medicine and chemicals for agriculture. Obviously, Iraq was a very wealthy country because of its oil reserves, but with trade sanctions imposed, it could not use that wealth to buy food. Some time later, in 1998, Denis Halliday, the United Nations humanitarian co-ordinator in Iraq, said:

"We are in the process of destroying an entire society. It is as simple and terrifying as that."

UNICEF came to the view that the sanctions caused the deaths of half a million Iraqi children. That is a terrible death toll and not one that any of us can be comfortable with. Although the idea was to have sanctions instead of hot war, the toll of death and suffering for the Iraqi people was probably as bad from the sanctions as it would have been from hot war. We think that should be taken more into account.

Of course, the situation in Iraq was and is highly contested, but that is why we have tabled amendment 25, saying that the assessment must be done in accordance with the UN Inter-Agency Standing Committee's "Sanctions Assessment Handbook". We are saying we should have an agreed methodology for making this assessment, because that way we are more likely to reach an agreed assessment of what the impact of sanctions is; then people can stop arguing about the facts and start considering whether sanctions are justifiable or not. We are not saying that this is the only question to be considered. We are saying the questions should be, "Does it achieve the objectives?" and "What is the humanitarian impact?"

There was another serious case a few years later—all of this happened some time ago, but it is significant none the less. In Haiti, following the military coup of 1991 and the fraudulent elections of 2000, the international community reacted by imposing sanctions. Here again the impact on ordinary citizens was devastating. By 1994, the rate of malnutrition among children under five in many health institutions had increased from 27% to more than 50%. The UNICEF view was that thousands of children died as a consequence.

Of course, both those cases involved countries with a history of bad governance, so disentangling the results of bad governance and the results of the humanitarian sanctions is not absolutely straightforward, and I am not saying that it is absolutely straightforward. Nevertheless, these cases reinforce the argument for amendment 25.

We have also proposed adding that the impact on British citizens who are not the targets of the sanctions should be taken into consideration. It is quite easy to stand back in the Chamber and say, "Oh, we think we

should impose sanctions on this person or that person." The hon. Member for Witney is nodding fiercely; I hope he is nodding at what I am saying.

Robert Courts (Witney) (Con): Oh, certainly.

Helen Goodman: Of course, sanctions also have an impact on British commercial and economic interests, and on British commercial and economic actors. I will give the Committee a couple of examples of that.

In a more recent example, from 2014, we decided to impose sanctions against Russia after the intervention in Ukraine and the annexation of Crimea. One of the things that the sanctions covered was technology for oil and gas, which is obviously a very big sector in the Russian economy. SMD, a specialist engineering firm in Newcastle, makes sophisticated robots that operate on the seabed, doing the job of deep-sea divers. Those robots were banned and the chief executive of SMD—Andrew Hodgson, who I have met—highlighted the damage to his business. He said:

"Imagine we're a 500 employee business and 20% of your business doesn't exist, that's 100 jobs and obviously we've been working hard on the technology",

which is very modern technology. Normally, the company would have exported £20 million worth of equipment, but that business was lost, straight away. Another reason for considering the impact of sanctions on British citizens and the cost to the British economy is the possibility of counter-sanctions imposed by the person or country we are sanctioning. Russia retaliated by banning imports of agricultural and other produce from both the European Union and the United States, including mackerel from Scotland. That was not great for Scottish fishermen.

Nissan was also extremely badly affected, because the effect of the sanctions on Russia was that the rouble plummeted. Nissan had been paid for its car exports in roubles and was not hedged sufficiently to deal with a big drop in the rouble. It halted all the orders because it could not afford to take the loss, which was significant, although not as bad as if it had sold the cars at a loss.

We are pleased that the Government inserted clause 27 and that they are taking a consensual approach to the Bill—

The Minister for Europe and the Americas (Sir Alan Duncan): Yo!

Helen Goodman: The Minister is encouraging me to go for it—

Sir Alan Duncan: Consensus.

Helen Goodman: I will therefore ask for an extension to what is covered in the review. We have given an explanation as to how we think that should be done.

Sir Alan Duncan: The Government are well aware of the concerns in the House about the humanitarian impact of sanctions. We are committed to finding constructive solutions through close engagement with non-governmental organisations and other humanitarian actors.

As part of the process of considering when to apply sanctions, the Government already consider the humanitarian impact on the individual or entity being sanctioned and on the general population, if the sanctions are countrywide. That is kept under close review, and we will continue to ensure that NGOs and other humanitarian actors can access the licences and exemptions needed to carry out their work in countries that are subject to sanctions.

In 2016, the UK secured amendments to the EU's sanctions regime on Syria to provide a specific exemption for fuel purchases by humanitarian organisations, which assisted them in carrying out their operations in Syria while ensuring that they were still compliant with sanctions. As part of the consultation on the Bill, we hold regular roundtable meetings with NGOs and we take into account their concerns about the humanitarian impact of sanctions. A variety of tools and guidance are available for assessing that humanitarian impact, of which the UN handbook, which the hon. Member for Bishop Auckland referred to, is just one.

We take a case-by-case approach to the assessment of the humanitarian impact of each sanctions regime. We work closely with Department for International Development, as I recall happening when I was a DFID Minister, and with staff from the Foreign and Commonwealth Office, who may be in the relevant country—I am now familiar with what the FCO does on this as well. That ensures that the humanitarian impact is minimised and that licences and exemptions can be made available to NGOs carrying out humanitarian work.

The design and implementation of sanctions has moved on considerably since the handbook was drafted more than 10 years ago. Sanctions are now more targeted and focused directly on people whose behaviour we are trying to change. To restrict the way in which we assess the humanitarian impact to the methodology laid out in the UN handbook would limit our flexibility in making that assessment. In any case, of course, handbooks can change.

The hon. Lady also mentioned Iraq, where sanctions were imposed almost 30 years ago. Those were blanket sanctions. Modern sanctions practice is very different: sanctions are precise and targeted, and the humanitarian implications are much better taken into account. We have learned lessons from historical sanctions regimes. The example of Iraq is useful because it shows exactly the journey that we have been on to make sanctions more precise and effective.

The Government recognise the risks of unintended effects of sanctions on British citizens, as mentioned in the amendment, and on other individuals and entities. A thorough consideration of the possible unintended effects of sanctions is already part of the process of designing and implementing sanctions regimes, and it will continue to be in future. Given that sanctions have an international dimension, it is important that we do not just look at British citizens, but have safeguards for anybody who is unintentionally affected by a sanctions regime. Our concern for justice should not be confined to British citizens.

I assure the Committee that our review, which we will report annually to Parliament under clause 27, will assess the humanitarian impact of each sanctions regime; our approach to mitigating the risks of unintended effects; and our approach to humanitarian licences and exemptions that allow non-governmental organisations to continue their work in countries affected by sanctions.

[Sir Alan Duncan]

I hope that that explanation has reassured the Committee sufficiently for the hon. Member for Bishop Auckland to withdraw her amendment.

2.15 pm

Helen Goodman: I accept what the Minister says about amendment 25, but I do not understand. Basically, he is saying that he agrees with our proposal but does not want it in the Bill, which I do not find very reassuring, to be honest. I wish to divide the Committee.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 7]

AYES

Bardell, Hannah	Rowley, Danielle
Dodds, Anneliese	Smith, Nick
Duffield, Rosie	Stevens, Jo
Goodman, Helen	Thewliss, Alison
Norris, Alex	

NOES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Graham, Luke
Courts, Robert	Maclean, Rachel
Duncan, rh Sir Alan	Prentis, Victoria

Question accordingly negatived.

Amendment made: 5, in clause 27, page 21, line 5, leave out "(d)" and insert "(h)"—*(Sir Alan Duncan.)*

The provision amended here concerns a Minister's review of regulations made under Clause 1 which state a purpose within Clause 1(2). The amendment expands the reference to Clause 1(2) so that it covers paragraphs (e) to (h) of Clause 1(2) (as well as paragraphs (a) to (d)).

Helen Goodman: I beg to move amendment 26, in clause 27, page 21, line 8, at end insert—

"(d) the steps taken to promote the adoption of sanctions on a multilateral basis;

(e) a summary of any representations made in relation to the exercise or proposed exercise of the powers and the response of the appropriate Minister to the same;

(f) a review from the Independent Reviewer, appointed pursuant to section 20 of the Terrorism Prevention and Investigation Measures Act 2011 ('the 2011 Act'), of the operation of this Act in the reports by the Independent Reviewer produced pursuant to the 2011 Act."

This amendment would require the review of regulations to include consideration of the steps taken to promote the adoption of sanctions, a summary of the representations made in relation to powers under this Act and an independent review of the operation of this Act.

I will not press the amendment to a vote, but moving it gives me the opportunity to make a couple of points and perhaps to ask a question. Proposed new subsection (d) takes us back to whether we accept the Foreign Secretary's rhetoric about being independent in how we implement sanctions, or whether we know that sanctions are most effective when we do them multilaterally. It is our firm view that we should implement sanctions multilaterally and that Ministers should explain to the House what they have done to secure international consensus on them.

Proposed new subsection (e) was inspired by representations made to us by the voluntary sector, which wanted to be reassured that Ministers were listening to NGOs in their assessments. The clause says that Ministers have to explain the reasonableness of their "course of action". That is a sensible thing to do. People will be confident that it is reasonable if they know that the views and information of NGOs have been taken into account. Mr Browder, whom the right hon. Member for Newbury referred to, was keen to have something along those lines, in order to demonstrate that the Government were in listening mode on the sanctions.

Proposed new subsection (f), with the read-across to the Terrorism Prevention and Investigation Measures Act 2011, was also part of our Magnitsky package of measures. Rather than having a separate amendment with a new clause, I thought it was neater to wrap it in to the review at clause 27, to which Ministers have already agreed. I thought Ministers would find it easier to agree if we made this an amendment to clause 27.

Richard Benyon (Newbury) (Con): The hon. Lady is right that this is a key part of the Magnitsky elements of the Bill. There may be a more elegant way of landing this and I am looking forward to hearing what the Minister says about it.

The review aspects are fundamental to achieving what I was talking about earlier: consistency with other jurisdictions. I know the Government are keen to work with us. It may be that that happens in the coming weeks and we find some mechanism by Report stage. Again, the Minister has this in his gift. There are those who say that what we propose would somehow be more than other countries have adopted as part of their Magnitsky legislation, but the US, for example, has a far more onerous oversight provision. It allows certain members of Congress the right to demand that the Government consider sanctioning certain individuals, and the Government have to respond within 120 days to give the reasons why they did or did not. That is called the congressional trigger, and there are other mechanisms in other jurisdictions elsewhere.

What we would like to achieve is that as soon as practicable after six months have elapsed, beginning with the day the Act is passed, and every 12 months thereafter, the Secretary of State prepares a report about the exercise of the powers conferred by the Act and lays that report before Parliament. Subject to issues of clear confidentiality—I absolutely accept that is a requirement—that report should include a summary of any representations made in relation to the exercise or proposed exercise of powers and the response of the appropriate Minister to do the same.

I think there may be some work to be done on the question of who the independent reviewer should be. I note the form of words, which I was initially attracted to by the hon. Member for Bishop Auckland. There may be machinery of Government issues, which mean that that is not the right place for the independent reviewer to reside, but I think there are many ways of skinning this particular cat. The review element is fundamental, because it is important that those organisations that are taking forward evidence are able to have that evidence independently verified and Government held accountable.

On a related issue, which is not specific to this Bill but that makes my point, campaigners—with very good evidence—have brought cases about people connected

to serious organised crime from overseas who operate in this country. They have taken that to agencies such as the Serious Fraud Office, the National Crime Agency and others, but it has not been taken up. When they have done that in other countries, assets have been frozen, people have been subject to visa denials and other measures have been taken. Somehow, people slip between the cracks in our system, and this is an opportunity to close that gap.

On where that independent reviewer resides, I am open to suggestions from my right hon. Friend the Minister or anyone. I am glad that the hon. Member for Bishop Auckland has given us a bit of breathing room to resolve this. By Report, we really need to have a review process that is independent and comprehensive; that addresses the measures that we require to allow people who have access to information to bring it forward; and that holds Government accountable for how they deal with that kind of information.

Sir Alan Duncan: The amendment is important because it overlaps with our earlier discussions about the broader Magnitsky issue. It also introduces two other elements, so it has three distinct elements.

The first element is the issue of adopting sanctions on a multilateral basis, which is what sanctions are really for. It is quite rare for sanctions to be adopted by only one country. Their whole effectiveness depends on multilateral co-operation. UN sanctions, which we are obliged to implement, are multilateral by their very nature. All the other sanctions that we have imposed in the past have also been multilateral, because we have imposed them as part of the EU. Although our departure from the EU necessitates our having an autonomous sanctions regime, we envisage that its operation will almost inevitably be multilateral. We agree that sanctions are more effective when they are adopted by a greater number of countries.

The UK plays a leading role as a permanent member of the UN Security Council in negotiating sanctions measures that build on the entire international community. We also work closely with the EU and other international partners in a range of groupings, such as the G7, and we will continue to work hard internationally to gain the widest possible support for sanctions measures.

In the second element of the amendment, the hon. Member for Bishop Auckland asks us to show our hand at all stages and to show the manner in which we piece sanctions together. However, to publicly reveal our discussions and the steps that we take to work with international partners could be damaging to those efforts. We would not wish to embarrass partners who, for their own reasons, decline to align with our sanctions policy or to risk the targets of sanctions understanding too much about which country was in which position on any given sanctions regime.

A related issue is whether an individual can nominate someone to be sanctioned, which they can. Any person can write to the Government and the Government will respond. Individuals may request that the Government apply new or additional sanctions regimes, and we will of course consider that.

Helen Goodman: How often does that happen in the real world? Does the Minister get a long letter from Amnesty International every week or every month that says, "We've seen this person and this person, and we think there is a problem"? I give that as an example, because one might imagine that it happened in that kind of way.

2.30 pm

Sir Alan Duncan: I cannot quite say that it happens in that way, although there are some issues, and of course countries being discussed in the UN—because, for instance, they may be developing nuclear weapons—obviously does come across a Minister's desk. That happens less frequently in the case of any individuals, particularly because at the moment we do not have an autonomous sanctions regime that would make all such representations come directly to the desk of a Minister or his close officials, because we are part of the broader EU system. So, when we have an autonomous regime, I envisage that that type of thing is more likely to happen than it does now, because it tends to happen much more within the EU system at the moment.

The third issue about the amendment is the question of oversight. May I just say to my right hon. Friend the Member for Newbury that I totally understand that the two key words in what he is pressing for are "independent" and "reviewer"? He suggests the need for some kind of independent entity, force or person that perhaps represents the interests of those calling for sanctions, rather than just the interests of the Government in executing sanctions. I understand what he is saying and we will have to consider this matter further.

However, I have to be firm in my view that the counter-terrorism figure suggested in the amendment is not the suitable person to do this work. The amendment is about counter-terrorism, if it is counter-terrorism, but this measure is more broadly about sanctions. So what would happen under the amendment is that someone whose job at the moment is counter-terrorism would have their job widened. It may be too burdensome; the whole job description would have to be changed. They would not necessarily have the required skillset, so they would be the wrong person to try to designate for this purpose. In simple language, they are not the right horse for the course. However, given what my right hon. Friend has said, we will of course need to discuss this matter further, as we approach Report.

Richard Benyon: I am grateful for that assurance. I am not qualified to say who this person should be and where they should reside. However, my right hon. Friend is right to say that the words "independent" and "reviewer" are fundamental to those who have been campaigning for this change for some time, and they would put the final icing on the cake of the Magnitsky element to this Bill.

However, will my right hon. Friend allow me, in as mild-mannered a way as I can put it, to convey to him that if other forces in the orbit of the postal district of SW1 were to rain on his parade of the assurances he has given us—I am mixing my metaphors here—there would be a problem for him on Report, and I want to make his life easy? I want this Bill to breeze through the Chamber with universal support and adulation for him, and that we will not find any need to argue the point.

Sir Alan Duncan: I both thank and congratulate my right hon. Friend for the elegance with which he has made his point, and I can say in clear and simple language, "Message received".

[Sir Alan Duncan]

Perhaps I can also take this opportunity to inform the Committee, in a little more detail, our feeling and understanding of what we know are the independent oversight powers in the Bill, because they are a central part of the broader picture of oversight.

We think the Bill finds the right balance of powers and independent oversight of those powers, because—rightly—the powers to impose sanctions are placed in the hands of the Executive. As such, the Government will decide whether or not to impose sanctions and on whom. Likewise, in the first instance the Government will decide when to lift sanctions. That is in line with the standard practice of the Executive deciding foreign policy and is consistent with international practice.

However, the role of the courts—as the independent arbiter and judicial authority overseeing the powers in the Bill—is significant. The courts can look at decisions made by the Government under the Bill and judge whether those decisions were correct. If not, the courts' judgment will of course be binding on the Government. Furthermore, the Bill has significant transparency requirements and the Minister has numerous reporting obligations to Parliament. The reports will all be laid before and scrutinised by Parliament. As is the case now, parliamentary Committees can produce their own independent reports and can take evidence and make recommendations. That will continue. There is far more scope for such independent oversight by Parliament than there is now, where decisions are taken in Brussels and there are limited reporting requirements to the UK Parliament. As such, we believe that the Bill finds the right balance of Executive decision making, independent judicial arbitration by the courts and independent political oversight and scrutiny by Parliament.

Helen Goodman: We have had another interesting exchange. We are extremely grateful to the right hon. Member for Newbury, who knows about the issues in great detail. When it was first suggested to me that we involve the independent reviewer for terrorism, I was a bit taken aback as well. At first blush, one thinks that sanctions and terrorism are not quite the same thing. However, that person is looking at assets frozen under terrorism legislation as well, so it is appropriate, and I do not think that the job description-type points that the Minister made quite hit the nail on the head.

Had the Minister said to us, "No, we have thought about this, but the independent reviewer for terrorism is not the right person—we would propose that it would be X,Y or Z," that would have been a good response. Then, we would have had more confidence in the Minister's willingness to engage in the consensus-building process that we are all, across the House, looking for on the Bill. It seems to me that the Minister is being extremely cautious, to the point of not acknowledging that some changes will have to be made if the Government are to get the Bill on to the statute book. The Minister would have done well to have thought about that between 20 February and today, and he would do well to be more flexible now than he has been.

The suggestion that we rely on the courts is not very practical. That means, in effect, that people have to take the Government to court using the judicial review processes. It is incredibly ad hoc and unsystematic. It will mean that somebody with a lot of money who is critical of the Government's actions can go to court and get their justice. This is not a place where we are about to have legal aid, is it?

Sir Alan Duncan: There are many stages to be gone through before it ever needs to go to court. One of the issues that I really pressed hard for in the preparation of the Bill was that there could be swift and direct redress for someone caught up in sanctions unfairly—as they might see it—who needs to defend themselves but does not have money. That is why there is a process for being able to submit arguments that say they have been wrongly caught up. If they are justified, those issues can hopefully be resolved before there is any need to go to court. The hon. Lady is making a very valid point, and, if it were the case, that is addressed in the Bill.

Helen Goodman: I am sorry, but I think we are now conflating two things. The Minister is conflating the arguments that were had in the other place on designated persons, and the arguments here. The changes that were made with respect to designated persons were completely reasonable. I would go further than that: I would say that the Minister in the other place, Lord Ahmad, was right to resist the blandishments of Lord Pannick, who wanted to provide a court process for UN sanctions as well as non-UN sanctions, but that is not what we are talking about here. I am disappointed that the Minister has not shown a more flexible posture, and indicated more clearly that he is prepared to think again. His intervention was really a defence of the Bill. He did not indicate that he was prepared to go some way, but not to have this precise wording. That being the case, I think we do want to test the will of the Committee.

Richard Benyon: Perhaps there is an opportunity, in the relatively short period of time between now and Report, for us to work collectively with the Government to try to identify a structure that would read better in the Bill, and that would give the kind of assurances that the hon. Lady is after. Without having gone into the weeds of the issue, I am quite attracted by what Congress has—the congressional trigger is a relatively powerful means of holding the Executive to account. The Joint Committee on Human Rights may be a vehicle in Parliament to give it an added degree of independent oversight. I have not consulted to any great degree with those who have been working on this matter for longer than I have, or with those who understand more about drafting a Bill, but I would be very keen to work with the hon. Lady on trying to achieve that.

Helen Goodman: I am grateful to the right hon. Gentleman. I do not know whether the Minister would like to intervene again in the light of that, or whether he is content with what he has said.

Sir Alan Duncan: Content.

Helen Goodman: Okay. In the light of the intervention from the right hon. Member for Newbury, I will stick with what I had first thought to do, and will not press the amendment. However, the Minister needs to understand that we will have to come back to this matter on Report. From his point of view, it would be best if he took the initiative. He has not taken any initiative so far. If he does not, we will. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Helen Goodman: I beg to move amendment 36, in clause 27, page 21, line 17, at end insert—

"(5A) The Appropriate Minister who made the regulations must in each quarterly period lay before Parliament a report for each sanctions regime and regulation containing—

(a) the aggregate value of funds and other assets frozen;

(b) the number of suspected breaches and the aggregate value of such breaches; and

(c) actions taken on suspected breaches."

This amendment would require the Government to report to Parliament on a quarterly basis about the impact of sanctions regimes, including the number and value of suspected breaches of those sanctions.

We discussed this matter a bit the other day. The amendment is a request for information from the Government on breaches to sanctions. I will not embarrass the Treasury Minister again by going into the full detail of how, on 8 February, he told me that the sanctions busting in 2017 was £117 million, but by 22 February it had shot up to £1.4 billion, and how concerned I was by that. Our interest in transparency did not begin with that episode. We think that it is important to have more information about this subject.

The amendment would require Ministers to report regularly on the value of funds and assets frozen, the number of breaches, and the actions taken on those breaches. We discussed this issue when we were looking at the Crown Prosecution Service guidelines on breaches. We need to understand this matter better, and we think that without shining the light of transparency on it, breaches can very easily be swept under the carpet and not acted on. We are not happy about that, particularly given how the Government have acted in the past when challenged.

I will share an episode with the Committee—it will take a couple of minutes, but I think that it is relevant. In July 2011, information was sought from the Treasury on its reasons for approving and licensing the CAMEC platinum deal—the CAMEC being the Central African Mining and Exploration Company. It bought a platinum mine in Zimbabwe from the sanctioned regime of Robert Mugabe. It transferred $100 million to the Mugabe regime as part of the purchase, and that injection of hard currency funded a campaign of violence against opposition supporters. The funds appear to have paid for weapons, trucks and the dispatch of youth militias and war veterans to crush the opposition.

2.45 pm

The Treasury was asked to give some information about what had happened, including the amounts and the sale of the shares. When it responded, it relied on an exemption under the Freedom of Information Act, which prohibits disclosing information that is incompatible with any EU obligation. The UK had signed up to EU sanctions, and in the Government's view article 8 of Council regulation No. 314/2004 of 19 February 2004, which implemented sanctions on Zimbabwe, prevented the disclosure of any information gathered. That article is repeated under most EU sanction regimes. Of course, Brexit means that we will be free of those European constraints. We will be an independent nation, as the Foreign Secretary put it, so it seems to me that that excuse for not providing the information no longer holds, and that we ought to be able to keep track in public of what is going on.

Richard Benyon: I will not to detain the Committee for long. The Government have an opportunity to show off their virtue here. Yesterday, we saw the first application of the criminal finance powers to go after the people we are talking about. I gather that yesterday the courts granted us the first unexplained wealth order on a foreign person to freeze £22 million-worth of property assets in London. Within the constraints of what is wise in terms of disclosure, I think that some element of this proposal might be acceptable to the Government, although I feel that it could all be drawn together in a much simpler amendment. I refer to my earlier comments about how I think we should take that forward.

The Economic Secretary to the Treasury (John Glen): I am grateful to the hon. Member for Bishop Auckland for not seeking to embarrass me again.

Amendment 36 requires the Government to provide quarterly reports on the impact of all sanction regimes, including the number and value of suspected breaches of sanctions. In considering the sorts of scenario that are in play here, hon. Members will remember that sanctions breaches are highly complex and involve multiple parties across various time periods. Sometimes they take place across borders and in different jurisdictions. The complexity of most sanctions breaches means that the investigation process from initial report to action often takes significant time and resources. There is also often a time lag between the breach taking place and being reported. The Government therefore continually adjust their figures as new information comes to light. Hence, it is very challenging to make the process fully accurate. It would be extremely difficult for the Government to report accurately on the number of breaches suspected or found at any one time. That would render the information published in the quarterly reports of little practical value.

The amendment would also place a significant burden on businesses. Currently, the Office of Financial Sanctions Implementation collects information on the value of funds frozen annually, which is onerous on businesses but important for compliance purposes.

Anneliese Dodds (Oxford East) (Lab/Co-op): I understand that the US Office of Foreign Assets Control routinely releases details of licences and other information. It believes it has achieved an appropriate balance between commercial confidentiality and public accountability, and it does not appear to be overly onerous in the US context. I wonder why we view it as being overly onerous in the UK context.

John Glen: It is not about the reporting, but the frequency of the reporting. The point I am making is that to increase it to quarterly would add unnecessary compliance cost to industry, when that cost is already considerable if necessary. It would also result in an administrative burden for Government to produce figures that may not be of much practical use. We do not think that is the best way to spend the limited resource of public money.

Providing quarterly reporting regime by regime may also risk breaking other laws. At the moment we only provide regime figures for the largest regimes. For the small regimes there may only be a small number of designated persons with frozen funds in the UK so providing that specific information, which can easily be traced back to them, may risk breaching data protection laws.

[John Glen]

The Government have already committed to being transparent where appropriate. As part of the monetary penalty guidance published last year by the Office of Financial Sanctions Implementation, the Government committed to publishing details of breaches and criminal prosecutions. That is a matter of public record.

For those reasons, I urge the hon. Member for Bishop Auckland to withdraw the amendment.

Helen Goodman: I am sorry, but notwithstanding the blandishments of the right hon. Member for Newbury, I do not think that the Minister has made the case for keeping that information secret. The fact that the numbers can jump around in the way that they did last month suggests that the Government have not got a grip. One way to incentivise Ministers is through the OFSI, which after all is the body that the Treasury set up to run sanctions policy. We have a whole group of people there devoting their lives to that—perhaps they are even in room, supporting the Minister today—and to supporting Ministers to do that. It is a perfectly reasonable piece of information for us to be requesting. It would help Ministers to manage things better and help to give the public confidence that breaches of sanctions are being dealt with properly. I am afraid that I therefore wish to press the amendment to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 8]

AYES

Bardell, Hannah	Rowley, Danielle
Dodds, Anneliese	Smith, Nick
Duffield, Rosie	Stevens, Jo
Goodman, Helen	Thewliss, Alison
Norris, Alex	

NOES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Graham, Luke
Courts, Robert	Maclean, Rachel
Duncan, rh Sir Alan	Prentis, Victoria

Question accordingly negatived.

Clause 27, as amended, ordered to stand part of the Bill.

Clause 28 ordered to stand part of the Bill.

Clause 29

Temporary powers in relation to EU sanctions lists

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

Helen Goodman: I have some questions about chapter 3. It would not be appropriate to table amendments, but I want to ask the Minister for some explanation of what is going on with clauses 29 to 32, because I could not really follow them. It looks to me as if Ministers are taking the powers in chapter 3 for a transition period—we will leave the European Union at the end of March 2019, we will use the powers under chapter 3 during the transitional period, and then, when we move into our new deep and special relationship with the European Union thereafter, as the Prime Minister would describe it, we will use the other powers in the Bill. Will the Minister tell me whether I have understood that properly?

That being the case, we flip back to the end of the Bill. This is where I am slightly puzzled by what Ministers intend. Clause 55 on commencement says:

"The Secretary of State may by regulations make transitional or saving provision in connection"

with the provisions of the Bill coming into force. It is all about Ministers making regulations when they want to. I do not understand why Ministers have not tied up the commencement provisions, the transitional provisions and the enforcement of the regulations with the definitions that we have used in the European Union (Withdrawal) Bill, and why we are not using the words "exit day" here, which we defined in that other Bill.

Let me remind the Minister what it says in the European Union (Withdrawal) Bill:

" 'exit day' means 29 March 2019 at 11.00 p.m."

and

"A Minister of the Crown may by regulations...amend the definition of 'exit day' in subsection (1) to ensure that the day and time specified in the definition are the day and time that the Treaties are to cease to apply to the United Kingdom, and...amend subsection (2) in consequence of any such amendment."

The Minister will remember that we had a long debate, with the right hon. and learned Member for Beaconsfield (Mr Grieve) putting forward a new way of deciding on exit day, and the right hon. Member for West Dorset (Sir Oliver Letwin) tabling an amendment that was eventually accepted. I do not understand why a different approach is being used here.

The point matters not just for neat-and-tidiness, but because it will need to tie up with the rest of the negotiations and the deal that Ministers are negotiating on Brexit. For sanctions to work, it will be necessary to have an agreed approach to information sharing, on criminal justice and on border control. None of that is covered in the Bill and it is therefore very unclear what will happen in practice.

I did not know how to table amendments to raise the point, which is why I am asking a simple question to the Minister on how he is handling it. I am not the only person who has noticed the problems. UK Finance, the coalition of the banks, has said that

"the 'jurisdictional' description is left rather open ended."

They are saying, "We know when EU law applies and when it does not apply, but will European Court of Justice judgments apply?" I would like the Minister to explain in concrete terms how he thinks that will work in the period before we leave, in the transitional period and in the post-transitional world of the new deep and special relationship.

3 pm

Sir Alan Duncan: I will explain the clause, and I hope answer the hon. Lady's questions. As part of our membership of the UN and the European Union, we currently impose sanctions on more than 2,000 people and organisations. Upon our departure from the EU, it may be that there has been insufficient parliamentary time or civil service capacity to comprehensively review

all EU sanctions listings, and to prepare and pass appropriate statutory instruments to incorporate them under the regular powers conveyed by the Bill.

In those circumstances, to ensure that we meet our international obligations and do not become a route through which sanctioned individuals can move their assets, it may be necessary to retain some lists of persons sanctioned by the EU, as frozen EU laws under the European Union (Withdrawal) Bill. The freezing of existing EU sanctions via the withdrawal agreement is a safeguard measure to make completely sure that there are no gaps in our sanctions regimes as a result of leaving the EU. If that proves necessary, Ministers will need powers to amend those lists by adding or removing individuals from them, and the clause provides that power. It is a backstop measure, operable only for a maximum period of two years after the date of departure. All it does is allow Ministers to amend the list of designated persons. It does not allow new regimes to be set up, or substantive changes to be made to retained regimes, such as setting up a new arms embargo. That would require action under clause 1.

Helen Goodman: We can debate the matter when we come to clause 55, if the Minister has been better briefed by then, but when does he picture Ministers starting to use the powers? Is it on 1 April 2019 or 1 January 2021? If it is not until 1 January 2021, what will happen during the intervening period? Is he satisfied that simply using the lists will work if we are in a period when we do not have integration on borders, criminal justice and so on?

Sir Alan Duncan: The clause enables us to exercise those powers, but we cannot at this stage provide the date specificity that the hon. Lady is seeking, because that is a matter of negotiation.

Question put and agreed to.

Clause 29 accordingly ordered to stand part of the Bill.

Clauses 30 to 33 ordered to stand part of the Bill.

Clause 34

COURT REVIEWS: FURTHER PROVISION

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

Alison Thewliss (Glasgow Central) (SNP): I have a quick query about the clause raised in a briefing by the Law Society of Scotland about the extension of the measure to Scotland. Will the Minister tell us a wee bit more about that? Will he also tell us what consultation was done with Law Officers in Scotland?

Sir Alan Duncan: The purpose of the clause is to ensure that those acting in good faith and in compliance with this legislation are properly protected from damages being awarded against them. The clause will not protect individuals if they are found to have been negligent or to have acted in bad faith. The measure is aligned with existing EU law and is necessary to ensure, for example, that enforcement officers acting under the law may perform their duties without fear of destitution.

The clause also restricts the circumstances in which the court may award damages against the state. Sanctions are imposed to counter unacceptable behaviour. They may need to be applied quickly and in situations in which there is incomplete information. However, the clause will still allow damages awards where there is evidence of negligence or of acts in bad faith. In practice, therefore, the clause restricts damages awards only in cases where the Government act in accordance with the information available to them and lawfully apply a sanction on the basis of sufficient evidence.

If damages awards were allowed in those circumstances, applying sanctions would carry a very significant risk to the public purse. Indeed, it is likely that the larger and more important the sanction target, the higher the financial risk to the taxpayer. It is therefore important to allow the Government to respond swiftly to developing situations and to protect the taxpayer to restrict the availability of damages as a remedy in the specific circumstances of negligence or acts of bad faith.

There was consultation before the Bill. As a piece of legislation that covers the whole of the UK, we believe that the powers should be as consistent as possible.

Question put and agreed to.

Clause 34 accordingly ordered to stand part of the Bill.

Clauses 35 and 36 ordered to stand part of the Bill.

Clause 37

GUIDANCE ABOUT REGULATIONS UNDER SECTION 1

Helen Goodman: I beg to move amendment 28, in clause 37, page 29, line 39, at end insert—

'(d) reporting obligations;

(e) licensing requirement provisions.

(3) Where civilian payments and humanitarian activity are exempt from any prohibitions and requirements imposed by the regulations, the appropriate Minister must issue guidance.

(4) The guidance under subsection (3) must include—

(a) best practice for complying with the processing of civilian and humanitarian activities to reduce the risk of funds benefiting designated individuals, entities or organisations;

(b) mechanisms to limit the impact of prohibitions and requirements on a permissible civilian and humanitarian activity;

(c) circumstances where the prohibitions and requirements may be relevant in the context of the otherwise permissible delivery of a humanitarian activity; and

(d) options setting out effective banking and payment corridors for the processing of payments in support of a civilian and humanitarian activity which is not subject to any prohibitions or requirements.'

This amendment would require that the guidance issued about regulations under section 1 includes guidance on reporting obligations and licensing requirements. It would also require the Government to issue guidance on civilian payments and humanitarian activity exempt from prohibitions and requirements imposed by regulations.

The Chair: With this it will be convenient to discuss amendment 27, in clause 37, page 29, line 39, at end insert—

'(3) Where regulations under section 1 make provision as to the meaning of any reference in the regulations to a person "owned" or "controlled" by another person pursuant to section 50(3), the appropriate Minister must issue guidance.'

This amendment would require the Government to issue guidance setting out the meaning of a person "owned" or "controlled" by another person when regulations are issued to make provision for this purpose under section 50(3).

Helen Goodman: The amendments relate to the importance of having guidance. There is considerable concern in the voluntary and financial sectors that the regulations as provided for under clause 36—

"an appropriate Minister may make regulations"—

are a piece of volunteerism and not an obligation on the Minister. That is causing some anxiety and confusion among those actors who have to implement the sanctions, whether NGOs or the financial sector. I will give a slightly more detailed description of this, because it is a bit complicated.

Last year Chatham House looked at the issue in some detail. It concluded that a number of UN Security Council sanctions regimes authorise the imposition of targeted sanctions against non-state armed group parties to armed conflicts. Of particular relevance to humanitarian action are financial sanctions such as asset freezes, which, among other things, require member states to ensure that funds, financial assets or economic resources are not made available to or for the benefit of designated entities. Asset freezes can be problematic for humanitarian action. There is a risk that the obligation not to make assets available to designated groups will be interpreted as covering incidental payments that must be made to such groups—for road tolls or locally purchased fuel, for example—so that humanitarian relief reaches civilians in need. It may also be interpreted as covering humanitarian goods or equipment that are diverted to such groups or otherwise benefit them, directly or indirectly. The scope of potential liability for violating asset freezes is very broad, and no intent or knowledge is required for that to be an offence, which is harsher than the bar for other kinds of breaches.

Although asset freezes are most likely to have an adverse impact on humanitarian action and, consequently, they have received the greatest attention, other forms of sanction may have a similar impact. In Syria, the problem was oil and petrol. Broader financial crimes risks arising from the Financial Action Task Force have also complicated humanitarian work.

The role of the UK financial sector in implementing sanctions is also relevant. It is not clear whether, when assessing the impact of sanctions, the UK intends to borrow the EU's 50% rule for ownership and control. UK Finance states that

"the clarity of the ownership and control structures becomes of paramount importance and can be one of the most complex elements of ensuring sanctions compliance. If ownership or control is established in accordance with set criteria, the making available of funds or economic resources to non-listed legal persons or entities which are owned or controlled by a listed person or entity will in principle be considered a sanctions breach. The EU, and indeed many other jurisdictions, tend to apply a 50 percent rule and criterion to establish the ownership and control of an entity…if a listed individual has 50 percent or more ownership of a non-listed entity, EU persons/entities are prohibited from making available funds".

There is no reference in the Bill to existing EU standards. The purpose of amendment 27 is to clarify that.

Alison Thewliss: I am concerned about the use of the word "may" in the clause, which states that the guidance "may include guidance" about certain things. I am concerned that that is not sufficiently well developed. I very much support the hon. Member for Bishop Auckland's amendments, which would add a wee bit more clarity, detail and guidance. The clause is worth while, but the Government would do well to listen to the detail that she laid out.

John Glen: I am grateful for those questions. I am a little confused, because both hon. Members referred to clause 36, which states, "An appropriate Minister may," but I thought these amendments were pursuant to clause 37, which states in subsection (1) that

"the appropriate Minister who made the regulations must issue guidance".

I acknowledge that these amendments are about guidance. We have just agreed clause 36, which states, in subsection (1),

"An appropriate Minister may make regulations".

The two amendments as tabled by the hon. Member for Bishop Auckland are on clause 37, subsection (1) of which states

"the regulations must issue guidance".

3.15 pm

Alison Thewliss: We seem to be at cross purposes. The amendment is about the line further to that; subsection (2) states, further to "regulations must issue guidance", that

"guidance may include guidance about"—

it is about the expansion of what that guidance may be.

John Glen: I am very grateful for that clarification. I hope that I will be able to address that in my remarks and give sufficient reassurance about the Government's plan.

I should make clear from the outset that the Government are in favour of good guidance and we intend to produce it. It is in the Government's interest to produce thorough guidance, to improve sanctions implementation and to ensure that sanctions can be enforced robustly. It was clearly set out that amendment 27 would require Government to provide guidance on the definition of ownership and control on the face of the Bill.

Hannah Bardell (Livingston) (SNP): Further to the points made by my hon. Friend the Member for Glasgow Central about the efficacy of these amendments, Governments come and go, and I fully appreciate that the Minister is committed to giving proper guidance, but with the greatest respect, his party may not always be in power. Is it not important that if they have the intention, they should put these things on a statutory footing?

John Glen: I will address those points in my remarks, and I will be happy for the hon. Lady to come back if she is not content at the end.

Amendment 28 would broaden the scope of guidance to areas such as providing best practice on compliance with financial sanctions and establishing effective banking and payment corridors. As I said at the start, the Government are committed to producing clear and accessible guidance on sanctions implementation and enforcement. Clause 37 requires Ministers to issue guidance about any prohibitions and requirements imposed by

sanctions regulations. There is already a mandatory requirement to provide comprehensive guidance for all those affected by sanctions and implementation.

The Government have been consulting extensively; across Whitehall, they have been meeting with NGOs and financial institutions that have asked for this guidance. I can reassure the Committee that we will give them what they have asked for. The Government do not believe that further amendments to clause 37 are needed to provide the type of guidance sought on "owned" and "controlled" in amendment 27. Where sanctions regulations contain prohibitions or requirements about entities that are owned and controlled by a designated person, we are already under a duty to issue guidance. I can reassure hon. Members that the Government already provide guidance on ownership and control and will continue doing so.

The additional guidance sought in amendment 28 would greatly extend the scope of the guidance to specific areas such as mechanisms to limit the impact of prohibitions and requirements on civilian and humanitarian activity, and establishing effective banking and payment corridors. Although I can understand the concerns of NGOs that lie behind this amendment, some of them clearly are beyond the remit of the Government to provide. For example, the Government do not have the powers to require banks to make payments on behalf of particular customer or to open new payment channels. Although I appreciate the spirit of the amendments, the Bill already caters for them insofar as it addresses matters within the Government's control. Adding extra text to the Bill will only create confusion.

Alison Thewliss: Does the Minister not agree that it is in the public interest for the Government to support payment channels being created? If, for example, there is a Disasters Emergency Committee emergency appeal and the NGOs gather lots of funds, but those funds cannot reach the beneficiaries because there is no appropriate payment channel that gives everybody reassurance, surely it is in the Government's interest to make that happen.

John Glen: I acknowledge what the hon. Lady says, but this is a non-exhaustive list. We intend to issue guidance on those issues listed in the Bill and more, as new issues evolve. We may also not need guidance in some areas that the sanctions do not cover. Where we are at cross purposes here is that people think the list is exhaustive when it is enabling and allows the Government to give the necessary guidance as required and as circumstances evolve.

We understand the concerns behind the amendments and have worked closely with NGOs to understand their needs, and we will continue to do so.

Hannah Bardell: I appreciate the Minister's response to my hon. Friend the Member for Glasgow Central, but if he does not think it is the Government's role to create those channels, whose role is it?

John Glen: I am not necessarily denying the role of Government in issuing guidance in a whole range of areas. What I am dealing with here is the necessity of adding the provision into the Bill when the need to give guidance is sufficiently catered for in the text of the Bill.

The Bill will put the requirements in a better place because of the new flexibility on exemptions, licensing grounds and the ability to provide general licences. We are therefore unable to agree to the level of guidance sought, and I ask the hon. Member for Bishop Auckland to withdraw her amendment.

Helen Goodman: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 37 ordered to stand part of the Bill.

Clause 38 ordered to stand part of the Bill.

Clause 39

REVOCATION AND AMENDMENT OF REGULATIONS UNDER SECTION 1

Amendment made: 6, in clause 39, page 30, line 24, leave out "(d)" and insert "(h)"—*(Sir Alan Duncan.)*

The provision amended here is a condition which applies to the power to amend regulations made under Clause 1 which state a purpose within Clause 1(2). The amendment expands the reference to Clause 1(2) so that it covers paragraphs (e) to (h) of Clause 1(2) (as well as paragraphs (a) to (d)).

Clause 39, as amended, ordered to stand part of the Bill.

Clause 40 ordered to stand part of the Bill.

Clause 41

POWER TO AMEND PART 1 SO AS TO AUTHORISE ADDITIONAL SANCTIONS

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

Alison Thewliss: I want to express some concerns that I mentioned on Second Reading. The clause grants a lot of powers to Ministers. It allows them to amend the definition of sanctions. What I and the House of Lords Constitution Committee are concerned about is how that is then scrutinised by Parliament. I do not know whether the Minister has had any time to think about how it might work since Second Reading, but I am concerned that the legislation does not include a mechanism to look at sanctions that is similar to the one that exists in the European Scrutiny Committee. I would like a wee bit further clarity on whether the Government have plans to do that. If not, why not? What might the mechanism look like?

Sir Alan Duncan: The hon. Lady makes a perfectly fair request, and I think I can give her the reassurance she is seeking. Clause 41 enables an appropriate Minister to alter the legislation to introduce new types of sanctions measures where the UK has been subject to a UN or other international obligation to do so. That, I think, is the basis of her concern, but the power is for types of sanctions measures that have not previously been predicted and therefore cannot be and are not included in the Bill.

Common types of sanctions include asset freezes, travel bans, arms embargoes and prohibitions on aviation and maritime transport. These types of sanction are included in the Bill. A recent example of where the international community developed a new type of sanction

[Sir Alan Duncan]

was in the UN sanctions imposed in respect of North Korea. A recent UN resolution, which we are obliged to follow, requires that UN member states do not grant work permits to North Koreans, save where the UN agrees in advance on a case-by-case basis. That type of restriction did not exist prior to the resolution, and in the future there may be other unforeseen types of sanction that we would be under an obligation to introduce.

Under the powers in the clause, new types of sanction can only be introduced if the UK is, or has been, under a UN or other international obligation to impose them. The clause does not enable any modification to be made to the purposes for which sanctions can be made, as set out in clause 1(1) and (2). Changes will be made through regulations via the draft affirmative procedure, to ensure that Parliament is given a full role in scrutinising such changes.

The clause will ensure that we remain in close co-ordination with our international partners and can respond to changes in how sanctions are used as a foreign policy tool. That will help to maintain the UK's leading role in this field and to address global challenges in collaboration with our partners.

Question put and agreed to.

Clause 41 accordingly ordered to stand part of the Bill.

Clause 42 ordered to stand part of the Bill.

Clause 43

MONEY LAUNDERING AND TERRORIST FINANCING ETC

Anneliese Dodds: I beg to move amendment 38, in clause 43, page 33, line 12, at end insert—

"(1A) Provision made under subsection (1)(a) may in particular include provision for enabling or facilitating the detection or investigation of money laundering, or preventing money laundering, through limited partnerships registered in Scotland."

This amendment would ensure that regulations under this section made in relation to money laundering particularly applied to money laundering through limited partnerships in Scotland.

It is a pleasure to serve under your chairmanship, Mr McCabe. I will probably try to move around a little bit while I am speaking to warm myself up. It is wonderful to be able to speak to amendment 38. As colleagues will have seen, it is designed to ensure that regulations made under clause 34 in relation to money laundering also apply to money laundering through Scottish limited partnerships—SLPs, as they are commonly known and as I will call them for the purpose of this speech.

SLPs are a unique form of company. We tabled the amendment because we are concerned that, in addition to their use for modern business purposes—particularly by private equity firms and property investment funds—there appears to be considerable evidence that the huge surge in their use may be linked to money laundering. That concern has certainly been raised extensively in Scotland. It needs to be heard in the House, and action surely needs to be taken.

The key difference between SLPs and other forms of limited partnership is that they have a distinct legal personality; an SLP is able to sue and be sued, but the liability of the directors is still limited. In many respects, principally on tax, the partners within an SLP behave as they would elsewhere in the UK as part of a normal partnership, but the structure enables the company to maintain secrecy. They can also carry out other activities that other partnerships cannot—it can open bank accounts on its own account, for example. SLPs also have limited management participation requirements; the limited partners do not have to be involved directly in management, so there is less of a necessity for accountability there.

There has been some suggestion that SLPs initially proliferated partly for tax reasons. They reduce the liability of partners to UK or foreign tax on income and chargeable gains, as well as to stamp duty land tax. However, the recent increase in their number has been quite astonishing. The number of limited partnerships in Scotland has more than doubled, from just over 6,000 to nearly 15,000, since 2009. Now Scotland has more of those partnerships than England and Wales put together have ordinary limited partnerships.

3.30 pm

One worrying matter is the new regime in which companies are required to name a person with significant control. There seems to be varied evidence in this regard: Global Witness suggested that only 20% of SLPs had named a person with significant control, but other commentators have said that 30% are now complying, although that is still an incredibly low compliance rate with an important requirement. It is also interesting to note the very high number of beneficial owners named as PSCs who are either nationals or former nationals of former Soviet countries, or companies incorporated there. That compares with only about 0.01% of all limited companies across the UK. Of course, in and of itself that might just indicate that there is more awareness of this type of partnership in different areas, but the concern that many campaigning groups, lawyers and others have raised is that these SLPs can be used for the purposes of money laundering and corruption.

Transparency International, which as colleagues will know has done a lot of research on the issue, suggests that 71% of all SLPs registered in 2016 were controlled by anonymous companies based in secrecy jurisdictions such as Belize, Seychelles and Dominica. Furthermore, 113 SLPs were used to launder $20 billion to $80 billion between 2010 and 2014 as part of what has been called the "global laundromat". I will go into some of the different examples in a minute.

Hannah Bardell: I congratulate the hon. Lady on making an excellent speech. Will she join me in paying tribute to the former Member for Kirkcaldy and Cowdenbeath, our colleague Roger Mullin, who did a huge amount of work on this? Will she acknowledge as well that despite their name—Scottish limited partnerships—these companies have little to do with Scotland? They were introduced by the UK Government under Liberal Chancellor Herbert Asquith in 1907. The operation, regulation and dissolution of SLPs remain exclusively the preserve of Westminster, so it is vital that this legislation goes through and the changes happen.

Anneliese Dodds: I am very grateful to the hon. Lady for bringing those matters to light; I will return to the point about this being a UK Government responsibility later, because it is enormously important. It is important

to raise our recognition of those who have done so much to uncover what has been occurring with SLPs. I also pay tribute to *The Herald* newspaper, which has done a good investigative job in this regard, and I know that Labour's Jackie Baillie has expressed her concern about Scotland's name being used potentially to enable offshore tax arrangements and worse. It is important that we look at these arrangements.

Also related to the hon. Lady's comment, there is huge concern that the unfortunate link between the name SLP and Scotland itself is potentially darkening Scotland's name. I understand that there is an advertisement that is run on a Belarus TV station, Varyag, saying,

"A company operating in the UK does not need to register with the tax authorities and is therefore automatically freed from any tax payments on an absolutely legal basis. Having registered a company in Scotland, by using offshore rules, you do not need to carry out any audits and, furthermore, there is no requirement to provide financial reports."

The TV station stressed the kudos of Scotland and the fact that it is part of Britain:

"As a result of Scotland being part of the United Kingdom it does not fall in to the black list of offshore zones",

presumably meaning either the OECD blacklist or the EU blacklist.

I will briefly mention a couple of specific cases where SLPs have been shown to be problematic, before looking at the current legal context, why this is a UK Government responsibility, and why we require Government to act and hopefully to accept our amendment. The first, which is very worrying, is the Moldovan case. According to the Organised Crime and Corruption Reporting Project, in November 2014 $1 billion was reported to have gone missing from three Moldovan banks. Hon. Members will know that Moldova is not a well-off country—quite the opposite: although it is one of the most beautiful countries in Europe, it is one of the poorest. The corruption that was revealed in that case was enormously damaging for that nation, which has many governance challenges. The World Bank and the International Monetary Fund suspended financial aid to it after revelations about what had occurred in that siphoning off. Two companies registered on Brunswick Street in Edinburgh—a street I know well, as I am sure others do, too—kept coming up in the records for the case, which has had such a significant impact on that nation.

Another example that is commonly adduced in this regard is the Ukrainian one. A Lancashire-based firm called Fuerteventura Inter, which sounds rather like a football team, appears to have been used as an SLP. It was created in February 2015, and was used to siphon off funds from the sale of cannon shells to the United Arab Emirates. The SLP was an intermediary in that deal. The prosecutors allege that it enabled officials to take a large slice of the value of that contract.

Then there is the Azerbaijani laundromat, which I will come back to later. I am sure colleagues have heard of it, and I am sure we will hear a lot more about it in our discussions next Tuesday. "The Global Laundromat" was a piece of investigative journalism that looked into Russian money being laundered through different shell companies. That was going on until 2014. More recently, an investigation of Azerbaijani companies that came out in 2017 showed how companies including SLPs appear to have been used to hide the real ownership of payments.

This is not just about stealing from very poor people; it is about political influence. Some of the payments from the Azerbaijani laundromat were going to individuals who sit on Council of Europe working groups, including those involved in producing reports about human rights in Azerbaijan. Of course, many of the individuals involved have rejected any accusation that those funds had any influence on them. We will draw our own conclusions from looking at the paperwork and what has been said legally about that matter.

Hannah Bardell: I declare an interest: I represent my party in the Council of Europe. I spoke to some activists from Belarus, who raised that issue with me and talked about the damage and devastation it is causing in their country. That again highlights why this is so very important.

Anneliese Dodds: I am grateful to the hon. Lady for raising that issue. It is particularly important that highly respected international bodies are above any insinuation or reproach. It may be that there has been confusion and a lack of knowledge about the provenance of some of those funds, but we need to remove from the system any opacity that could give that impression.

Operation Car Wash, which came up only last month—it is funny that all of these cases use the washing metaphor, but it is clearly because they are about washing out the provenance of money—covered Brazil and Peru. A giant construction firm in those countries paid £1 billion in bribes for, it appears, political purposes, and it appears that some of the payments went through SLPs. When we look at the evidence, we see we need to have a far stronger grip on this problem.

In early summer last year, legislation was introduced by the Department for Business, Energy and Industrial Strategy to try to regulate SLPs, under which they were to be forced to disclose their beneficial owners within the next 28 days or face daily fines. I am concerned that we still do not know how many such firms have genuinely indicated their beneficial owners—I hope we will hear from the Minister on that now. I am not privy to information on how many fines have been levied, and most commentators suggest that not a single business has been prosecuted. Perhaps some have been fined but not prosecuted. Perhaps we can find out more about that.

The Opposition are concerned that more action needs to be taken. To return to our earlier exchange, it is important that the UK Government take responsibility, because they have reserved powers over Scots corporate law. The Scottish Government have asked the UK Government to act, and it appears that previous actions to require more ownership information may not have gone far enough. I hope the Minister will enlighten us on that and support our amendment.

Alison Thewliss: The hon. Lady has already said much of what I was going to say, so I am sure that, if that I am a bit briefer, that will be okay with everyone. We have serious concern about SLPs, and the Bill provides an opportunity to do something about it. When we know there is a problem and an opportunity to put it right, it would be negligent of us as parliamentarians to look the other way.

I understand that, even in the new regime where people with significant control should be registered, up to December 127 or so SLPs had registered via law

[Alison Thewliss]

firms, but 489 had registered via anonymous mailbox addresses, which means that the people with significant control are not there, are barely identifiable and are very hard to trace. We know from recurring stories in *The Herald* worked on hard by David Leask and the researcher and expert in this field, Richard Smith, that such companies keep the issues, scandals and money laundering behind the scenes, and that it keeps going on. We therefore need to do everything we can in every area to tackle these problems.

There is the broader issue of SLP non-compliance and the inadequacies of Companies House, which we may speak about later in our proceedings. Not having a postcode when registering a company should be a pretty simple compliance issue—the process could be stopped at that point, never mind going into the more technical detail. We therefore need to look at this issue carefully. Never mind all the overseas territories; we are allowing it to happen here, in this country, behind mailboxes in Scotland. Frankly, that is unacceptable. We need to do something about it. If we continue to let it go, the problem will not go away.

We can talk about how we might go ahead with this issue in terms of enforcement, because other countries have tackled it. My colleague Roger Mullin and others have worked on it for many years, and we should take the opportunity to look at it here and now. If the Government are not willing to accept any of the amendments, I urge them to table their own and not to let the opportunity pass.

John Glen: I am grateful to both Front-Bench spokespeople for their speeches, and I will try to address the detail of the points they raised. The essence of the case made by the hon. Member for Oxford East was about whether the Bill covers SLPs. First, I draw attention to clause 9(5), which confirms that "person" includes individuals, corporate bodies, unincorporated bodies, organisations and

"any association or combination of persons."

The Bill therefore does include SLPs, and we can make anti-money laundering provisions for them.

3.45 pm

Amendment 38, as the hon. Lady set out, makes it explicit that future regulations made under clause 43 have the power to include provisions that enable or facilitate the detection, investigation or prevention of money laundering through limited partnerships registered in Scotland. However, the amendment would have no effect on the powers contained in clause 43. The power to make provision that relates to Scottish limited partnerships for the purposes of the detection, investigation or prevention of money laundering is already contained in clause 43(1)(a).

I recognise that hon. Members have legitimate concerns, as I do, about the transparency of certain Scottish limited partnerships. The hon. Member for Glasgow Central set out on Second Reading that

"SLPs have become a cover for all manner of murky and dubious behaviour."—[*Official Report*, 20 February 2018; Vol. 636, c. 93.]

I assure her and other hon. Members that the Government have an active and ongoing reform agenda in this area.

Hannah Bardell: Does the Minister recognise the reputational damage to Scotland? We have a Liberal Chancellor to thank for that, but it is very important that we make these changes, because Scotland's reputation is being damaged through no fault of its own and by legislation over which we have no power.

John Glen: Absolutely, and that is why it is important that the UK Government act. In June last year, Scottish limited partnerships were brought into the scope of the public register of corporate beneficial ownership maintained by Companies House. That was welcomed by the former Member for Kirkcaldy and Cowdenbeath, who is a leading campaigner on the issue, as was mentioned earlier. He said it was

"the first practical recognition SLPs have been a significant problem".

That reform further required SLPs to submit an annual confirmation statement that information held on the register is accurate, and to keep the information updated on an ongoing basis. In cases of non-compliance with the duties to deliver information about people with significant control—PSC information—to Companies House and to keep it up to date, officers of Scottish limited partnerships convicted on indictment can face a sentence of up to two years' imprisonment, a fine, or both.

Additionally, the Department for Business, Energy and Industrial Strategy sought views last year on whether changes need to be made to limited partnership law to further address the concerns that have been raised about misuse of structures, including Scottish limited partnerships. Responses to that call for views are being analysed and options for reform actively considered. BEIS will announce its next steps shortly, and after a response to the call for evidence is published, identified options for reform will be subject to public consultation in the usual way. That process will be used to inform any necessary further reforms to the UK's treatment of limited partnerships, including Scottish limited partnerships.

I hope that I have addressed in detail the range of concerns about Scottish limited partnerships.

Alex Norris (Nottingham North) (Lab/Co-op): Does the Minister feel that it is possible for just 20 Companies House staff to have oversight of perhaps 400,000 entities under these arrangements?

John Glen: I would hope that BEIS will address the issue of what resourcing is necessary to do that sort of work. That will be something that the Department will seek to respond to in the consultation.

Jo Stevens (Cardiff Central) (Lab): Is the Minister aware that Companies House has been making large-scale redundancies for the past few years?

John Glen: The issue is really about the effectiveness of the regime. As I said, it is matter of what BEIS determines it needs to do to address the problem. Clearly, questions can be asked about the plans that will be put in place when they are forthcoming.

As clause 43 already gives the Government the power to make provision for the purposes of combating money laundering by Scottish limited partnerships, I ask the hon. Member for Oxford East to withdraw the amendment.

Anneliese Dodds: I am grateful to the Minister for his comments. I know that he is a very sincere and engaged Minister, but I am concerned that the direct questions that we levelled have not been answered. We asked for an indication of exactly how many of these SLPs had provided that beneficial ownership information. We asked for an update on that, but we have not had it. I also asked for an indication of how many of these SLPs have been prosecuted; I did not receive that, either. I did not receive an indication of how many have been fined under this new regime, which was set up last June. Surely we have had a number of months of operation of that new regime in order to adjudge whether it is truly effective.

I appreciate what the Minister said about BEIS conducting a review, but if the existing system is not working correctly, or if we have doubts about its operation, given the huge damage that these structures already seem to have inflicted, surely we need to have a reference to them in the Bill? We need to show that we are taking this matter seriously, and particularly that the Westminster Government are taking it seriously, in the light of comments from Government figures in other nations and their concerns about the use of SLPs.

I give the Minister one last chance to answer those questions and give that information: the number of prosecutions, the number of fines, and the number of SLPs indicating beneficial ownership information. If we do not get that information, we will have no choice but to press our amendment to a vote.

John Glen: I am very sorry but I cannot give those precise details at this point. I undertake to write to the hon. Lady, as soon as I can with that information, but I can do nothing from this place at this moment to provide it.

Anneliese Dodds: I wish to press the amendment to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 9]

AYES

Bardell, Hannah	Rowley, Danielle
Dodds, Anneliese	Smith, Nick
Duffield, Rosie	Stevens, Jo
Goodman, Helen	Thewliss, Alison
Norris, Alex	

NOES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Graham, Luke
Courts, Robert	Maclean, Rachel
Duncan, rh Sir Alan	Prentis, Victoria

Question accordingly negatived.

John Glen: I beg to move Government amendment 7, in clause 43, page 33, line 13, leave out subsection (2).

This amendment removes the provision that prevents contraventions of regulations under Clause 43 (money laundering and terrorist financing etc) from being enforceable by criminal proceedings.

In moving this amendment, I acknowledge the recognition that this House has given to the importance of a rigorous anti-money laundering regime. To ensure the robustness of future anti-money laundering regulations, corresponding powers to create criminal offences are necessary. At the same time, I recognise that Lord Judge and others in the other place expressed significant concerns about the scope of criminal offence powers in the Bill upon its introduction. It is important to note that those concerns were not about the existence of offences for breaching anti-money laundering regimes; instead, they were concerns about the unchecked ability of Ministers to create offences.

The amendment reinstates the power to create criminal offences, while the package of amendments as a whole directly addresses those concerns through additional safeguards, which narrow the scope of and the ability to use these powers. I shall elaborate upon these safeguards, which the Government have discussed with Lord Judge since the passage of this Bill through the other place, and then I will turn to amendments 10, 11 and 12. Before I do so, however, it would be useful to consider how anti-money laundering regulations have operated with criminal offence powers in the past.

In accordance with standard practice, when implementing EU directives on money laundering, criminal offences in this area have been created by Ministers in secondary legislation made under the powers in the European Communities Act 1972. That was done under the negative procedure, with no prior consultation with Parliament and no need to seek Parliament's consent. That position will be improved for future money laundering regulations made under the Bill. They will now be made under the draft affirmative procedure, so Parliament will consider and vote on them before they come into force. Using the affirmative procedure is a direct response to the concerns raised, to ensure that where changes need to be made, they will be properly scrutinised.

Criminal offences were created by both the Money Laundering Regulations 2017 and their predecessors, the Money Laundering Regulations 2007, which were brought into force by the then Labour Government. As hon. Members can see, the approach has been supported on a cross-party basis in the past. The detailed provisions in such regulations set standards and procedures for regulated businesses. They are designed to prevent money laundering and terrorist financing and to help law enforcement authorities to investigate those crimes, and should also be seen in the context of a separate penalty regime for the key substantive money laundering offences. Such offences are established under part 7 of the Proceeds of Crime Act 2002, which provides for more punitive prison sentences of up to 14 years, for example for those guilty of directly laundering the proceeds of crime. Money launderers are typically prosecuted through those offences as they allow for longer sentences.

Without the power to create new criminal offences in secondary legislation, the enforceability of new regulations would be seriously weakened. That would dramatically lower the effectiveness of the UK's anti-money laundering regime. More generally, it is not unusual for requirements to be set in delegated legislation that can be enforced using criminal penalties, In the area of financial services, for example, the regulated activities order, made under the Financial Services and Markets Act 2000, specifies which activities are or are not regulated. Carrying on such activities without permission from the regulator is

[John Glen]

a criminal offence. It remains the position of the Government that it is neither unusual nor improper for Parliament to confer powers of that type to Ministers.

Helen Goodman: I just want to clarify with the Minister the status of his conversations with Lord Judge. I do not know if he was trying to give us the impression that Lord Judge had agreed the amendments. I felt on Tuesday that he was trying to give that impression, so I spoke to Lord Judge, who told me that he had indeed had conversations with Ministers, but he did not say to me that he had approved the amendments. Is the Minister now trying to tell us that Lord Judge has agreed Government amendment 7?

John Glen: What I can tell the Committee is that officials have had sensitive conversations with Lord Judge. It is not for us to presume the outcome of his deliberations at this point. I am setting out what we have discussed and the consequence of those discussions. Clearly, Lord Judge will make his position known in his own way in due course.

I would like to set out why the ability to create criminal offences for the UK's anti-money laundering regimes is necessary. The issue has been considered previously, when the Government consulted specifically on whether to remove the criminal offence provisions in the Money Laundering Regulations 2007. The British Bankers Association stated that removing such provisions would be at odds with the objective of driving an effective anti-money laundering regime.

Further, the Crown Prosecution Service argued that provisions for creating criminal offences in the Money Laundering Regulations that are different from those of the Proceeds of Crime Act 2002 serve a separate and useful function in tackling money laundering. In some instances, prosecuting according to the Proceeds of Crime Act could jeopardise ongoing investigations. It said that in such cases, the ability to prosecute for a regulatory offence relating to defective anti-money laundering counter-terrorist financing systems can be an important tool. Finally, HMRC noted in response to the same consultation that abolishing criminal sanctions for breaches of regulations carries significant risk to its ability to tackle money laundering.

4 pm

Those organisations, representing industry, law enforcement and AML supervisors, were all clearly of the view that the criminal offences contained within money laundering regulations are a valuable tool in the UK's wider work to combat illicit finance. Removing the power to create further, appropriately targeted criminal offences through secondary legislation would simply restrict future Governments' abilities to continue the UK's existing approach to criminalising breaches of anti-money laundering requirements. The effect would be to preserve the existing criminal offences contained in our current regulations but to weaken our anti-money laundering regime as future regulations are brought into force, whether to address emerging risks or to comply with new international standards.

Hon. Members should also be aware that the amendment is part of a wider package. Government amendment 11, to which I hope to speak very shortly, provides appropriate safeguards around the use of the power. When it is to be used, the appropriate Minister must report to Parliament that, on consideration, there are good reasons for creating an offence and for setting penalties at the given levels; and the Minister must inform Parliament what those good reasons are. Parliament may then consider those reasons before voting to bring the regulations into force. The safeguards were created specifically to address concerns expressed by Lord Judge in the other place. We listened carefully and Government amendment 11 is our response.

Anneliese Dodds: I am grateful to the Minister for his clarification. I do not want to go around the houses again, as we did at some length on Tuesday. I am grateful to my hon. Friend the Member for Bishop Auckland for explaining why we are concerned about the lack of accountability in general for measures imposing criminal sanctions throughout the Bill. I recognise what the Minister said about this being a separate regime; it is obviously not the same one as is applied in the case of sanctions. The offences that can be applied are lesser in their extent—for example, we are talking about shorter prison sentences in the Bill—but we still have many of the same concerns that we expressed previously.

There has been some shift on the part of the Government, but I suppose it is difficult for any of us to judge whether the spirit of Lord Judge has been complied with, or whether there has merely been some kind of interpretation of a clutch of some of his words. Certainly we will look at what is written on the tin, but to us it does not appear to constitute recognition of the concerns expressed or the kind of meaningful engagement that we need. We are doing something very significant in the Bill, which in effect creates de novo a sanctions and anti-money laundering regime. Much stronger accountability is needed than is in the Bill, even as amended by the Government. We have the same concerns as we expressed previously, so we will resist the amendment.

John Glen: I acknowledge the outstanding concerns. I think I have set out clearly the rationale, why we need the provisions and how they respond suitably to Lord Judge's concerns. I acknowledge the genuine difference of opinion, but I have set out the Government's position and it is now for the Opposition to do as they wish.

Question put, That the amendment be made.

The Committee divided: Ayes 10, Noes 9.

Division No. 10]

AYES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Graham, Luke
Courts, Robert	Maclean, Rachel
Duncan, rh Sir Alan	Prentis, Victoria

NOES

Bardell, Hannah	Rowley, Danielle
Dodds, Anneliese	Smith, Nick
Duffield, Rosie	Stevens, Jo
Goodman, Helen	Thewliss, Alison
Norris, Alex	

Question accordingly agreed to.

Amendment 7 agreed to.

Clause 43 ordered to stand part of the Bill.

Schedule 2

MONEY LAUNDERING AND TERRORIST FINANCING ETC

John Glen: I beg to move Government amendment 10, in schedule 2, page 53, line 32, leave out paragraph 15 and insert—

"15 Make provision—

(a) creating criminal offences for the purposes of the enforcement of requirements imposed by or under regulations under section 43, and

(b) dealing with matters relating to any offences created for such purposes by regulations under section 43,

but see paragraphs 18 and 19."

This amendment, read with Amendment 12, makes clear that any offences included in regulations under Clause 43 must be for the purposes of enforcing requirements imposed by or under regulations under Clause 43 or (while they remain in force) the Money Laundering Regulations 2017.

The Chair: With this it will be convenient to discuss Government amendment 12.

John Glen: Amendment 10 is a consequence of the proposed new paragraph 20A, which will be inserted by amendment 11. Paragraph 20A(1) refers to offences created for the purposes of the enforcement of requirements imposed by or under regulations under clause 43.

The amendment further narrows the powers for future regulations to make provision for new criminal offences, as I referred to in the discussion on the previous amendment, as compared with the Bill when it was first introduced in the other place. It would make the powers subject to the requirement for a report to Parliament, along the same lines as amendments to part 1 of the Bill. That report would identify the offences created and their respective penalties, and would confirm that the Minister has considered that there are good reasons for creating those offences and setting the penalties at the levels at which they have been set. It would ensure that the Minister does not use the power lightly and is fully accountable to Parliament for doing so.

I take the opportunity to remind hon. Members that these safeguards are contained in Government amendment 11, to which I will turn shortly. These amendments are part of the wider package that inserts safeguards on the use of this power, and have been designed to directly address the concerns raised by Lord Judge and others in the other place.

The amendment restricts the scope of the power to create future offences to offences created for the purposes of enforcing future anti-money laundering regulations. Amendment 12 ensures that references made to regulations made under clause 43, with respect to paragraph 15 of schedule 2, and requirements imposed by regulations made under clause 43, with respect to paragraph 20A of schedule 2, also include reference to, or requirements imposed by, the Money Laundering Regulations 2017. That ensures that the safeguards proposed by Government amendment 11 will also apply to possible future changes made to the 2017 regulations.

The amendment ensures that it is possible for new money laundering offences to be created by amending the 2017 regulations. It will therefore enable the Government to create new offences in order to respond to, for example, emerging risks identified by the national risk assessment of money laundering and terrorist financing, which was published in October 2017, or in response to the ongoing review of the financial action taskforce of the UK's anti-money laundering and counter-terrorist finance regime. When the Government do so, using the powers contained in clause 43, the enhanced procedural protections set out in the amendment will apply.

Anneliese Dodds: I am grateful to the Minister for that explanation. First, in relation to Government amendments 10 and 11, the Opposition would like the accountability provisions to be much more extensive than they are. However, given that the Government just won the last vote on an amendment, it would be rather self-defeating for us to oppose these amendments at this stage.

I have a question on Government amendment 12; perhaps the Minister can enlighten us a little bit. I understood that the whole Bill, when it comes to its money laundering provisions, amends the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. I am therefore slightly confused about the timing and scheduling. Why are the Government bringing those regulations into the Bill when they were not there in the first place? I wonder whether the Minister can enlighten us.

John Glen: This is an enabling measure that allows us to take the action necessary. I am not sure I quite grasped the hon. Lady's point. I think I will need to write to her to clarify that so that I do not say anything that misrepresents the Government's position.

Amendment 10 agreed to.

John Glen: I beg to move amendment 11, in schedule 2, page 54, line 11 at end insert—

"20A (1) In this paragraph 'relevant regulations' means regulations under section 43 which create any offence for the purposes of the enforcement of any requirements imposed by or under regulations under section 43.

(2) The appropriate Minister making any relevant regulations ('the Minister') must at the required time lay before Parliament a report which—

(a) specifies the offences created by the regulations, indicating the requirements to which those offences relate,

(b) states that the Minister considers that there are good reasons for those requirements to be enforceable by criminal proceedings and explains why the Minister is of that opinion, and

(c) in the case of any of those offences which are punishable with imprisonment—

(i) states the maximum terms of imprisonment that apply to those offences,

(ii) states that the Minister considers that there are good reasons for those maximum terms, and

(iii) explains why the Minister is of that opinion.

(3) Sub-paragraph (4) applies where an offence created by the regulations relates to particular requirements and the Minister considers that a good reason—

(a) for those requirements to be enforceable by criminal proceedings, or

(b) for a particular maximum term of imprisonment to apply to that offence,

is consistency with another enactment relating to the enforcement of similar requirements.

(4) The report must identify that other enactment.

(5) In sub-paragraph (3) 'another enactment' means any provision of or made under an Act, other than a provision of the regulations to which the report relates.

(6) In sub-paragraph (2) 'the required time' means the same time as the draft of the statutory instrument containing the regulations is laid before Parliament.

(7) This paragraph applies to regulations which amend other regulations under section 43 so as to create an offence as it applies to regulations which otherwise create an offence."

This amendment requires that where regulations under Clause 43 are made which include offences, a report specifying the offences and giving reasons for any terms of imprisonment that apply to them must be laid before Parliament.

As I said earlier, amendment 11 provides for an important safeguard that will apply when powers are used to create criminal offences. It will require the Government to lay a report before Parliament explaining the Minister's reasons for using the powers—amendments 10, 11 and 12 are really a package—whenever a criminal offence is created in new or amended anti-money laundering regulations under clause 43.

The amendment requires such a report to be laid at the same time as the draft statutory instrument containing the relevant regulations. Regulations under clause 43 will of course be made using the draft affirmative procedure, unless they update the UK's list of high-risk jurisdictions in connection with which enhanced due diligence measures are required. The report will therefore facilitate effective parliamentary scrutiny of changes to the UK's AML regime and will go further than the status quo in enabling Parliament to scrutinise the creation of criminal offences through money laundering regulations.

The amendment specifies that the following elements should be included in the report: the offences that have been created and the requirements to which they refer; the good reasons why those requirements need criminal offences; the maximum prison terms for any offences created that are punishable by imprisonment; the good reasons for setting the maximum prison terms at the levels at which they have been set; and, where the creation of an offence is justified by reference to an existing offence in another enactment, reference to that other enactment.

The requirement for the Minister to demonstrate that they have good reasons for using the power ensures that it cannot be used lightly. I hope hon. Members agree that such reports will provide increased transparency about the reasons for creating criminal offences and give Members a solid basis for holding the Government to account when debating anti-money laundering regulations made under the Bill.

Nevertheless, the Government remain very aware that creating criminal offences and setting penalties in regulations is a serious matter that is not to be undertaken lightly. I am therefore happy to repeat reassurances and existing safeguards that the Government introduced in the other place. As it stands, a criminal offence can be established under clause 43 only if regulations provide either a mental element necessary for the commission of the offence or a defence to it, or both. That will maintain the existing policy position under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 and preserve the deterrent effect established by criminalising breaches of anti-money laundering and terrorist financing regulations.

The amendment is an additional safeguard to the changes the Government have already introduced in response to concerns raised in the other place by Lord Judge and others. We listened to those concerns, and the amendment addresses them. It will ensure that Ministers cannot create criminal offences or set penalties —up to a maximum of two years' imprisonment—without good reasons, and that Parliament has all the information it needs to hold Ministers to account.

That contrasts starkly with current practice, in which new criminal offences are created through statutory instruments made under section 2(2) of the European Communities Act 1972 under the negative procedure, without any need to state reasons, with no information about such reasons being provided to Parliament, and with no requirement for a vote in Parliament to approve them. The measure is, therefore, a better way of ensuring that proper safeguards are placed in the Bill, with respect to offences—rather than removing the ability to create them, and so weakening the UK's anti-money laundering regime.

Anneliese Dodds: I am grateful to the Minister for his comments. I shall not dwell on the matter, because we have already talked about the amendment to an extent in a previous debate. I repeat our concern that the regime is not sufficiently accountable. Reference to the previous regime may be inappropriate, because the framework in that case was set at EU level, and it was a question of implementing it in the UK. Surely with the brave new dawn that some see coming as we leave the EU, we should be aiming at a system that is as accountable as possible.

In our previous discussions about offences in relation to sanctions, Ministers suggested that there could be a need for speed in the creation of new regimes or new types of criminal offence, because, for example, a human rights challenge could arise suddenly, or there could be gross violations of human rights in a particular country, and we might need to respond quickly. Surely such a situation does not apply to money laundering. It is peculiar that the same almost fast-track, post hoc style of system should be applied to criminal offences to do with money laundering. It would be helpful to have more information about why the Government believe that in the relevant category of criminal offence, there cannot be the same—or at least movement towards the same—degree of scrutiny as there would be in other contexts, when the question of speed surely does not apply. In fact, the Minister did not mention speed.

John Glen: I take the hon. Lady's concerns seriously. As my right hon. Friend the Minister said earlier, when we were discussing similar matters on Tuesday, we should be happy for hon. Members to meet officials to discuss outstanding concerns. I have set out in the amendments a clear affirmative process for laying a statutory instrument before the House, in a situation where Parliament will be able to discuss the requirement and its extent, the underlying rationale, and a mechanism for reporting to Parliament. If there are particular issues and specific cases that the hon. Lady wants to raise, I suggest that we convene a conversation with officials to deal with them. As we move forward, I am keen to secure the widest possible support and consensus about the Bill.

Amendment 11 agreed to.

Amendment made: 12, in schedule 2, page 54, line 39, at end insert—

'( ) In paragraph 15 (offences), any reference to regulations under section 43 includes the Money Laundering Regulations 2017.

( ) In paragraph 20A (report in respect of offences)—

(a) the reference in sub-paragraph (1) to requirements imposed by or under regulations under section 43 includes requirements imposed by or under the Money Laundering Regulations 2017, and

(b) the reference in sub-paragraph (7) to other regulations under section 43 includes the Money Laundering Regulations 2017."—*(John Glen.)*

This amendment has the effect that, while the Money Laundering Regulations 2017 remain in force, offences may be created by regulations under Clause 43 for the purposes of enforcing requirements in the 2017 regulations.

Schedule 2, as amended, agreed to.

Ordered, That further consideration be now adjourned. —*(Mike Freer.)*

4.20 pm

Adjourned till Tuesday 6 March at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

SAMLB 01 Richard Osborne, founder of eFiling

SAMLB 02 Amnesty International

SAMLB 03 Transparency International UK

SAMLB 04 Global Witness

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

SANCTIONS AND ANTI-MONEY LAUNDERING BILL [*LORDS*]

Fifth Sitting

Tuesday 6 March 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 10 March 2018

The Committee consisted of the following Members:

Chairs: Dame Cheryl Gillan, † Steve McCabe

† Badenoch, Mrs Kemi *(Saffron Walden)* (Con)
Bardell, Hannah *(Livingston)* (SNP)
† Benyon, Richard *(Newbury)* (Con)
† Chalk, Alex *(Cheltenham)* (Con)
† Courts, Robert *(Witney)* (Con)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Duffield, Rosie *(Canterbury)* (Lab)
† Duncan, Sir Alan *(Minister for Europe and the Americas)*
† Freer, Mike *(Finchley and Golders Green)* (Con)
† Glen, John *(Economic Secretary to the Treasury)*
† Goodman, Helen *(Bishop Auckland)* (Lab)
† Graham, Luke *(Ochil and South Perthshire)* (Con)
† Maclean, Rachel *(Redditch)* (Con)
† Norris, Alex *(Nottingham North)* (Lab/Co-op)
† Prentis, Victoria *(Banbury)* (Con)
† Rowley, Danielle *(Midlothian)* (Lab)
† Smith, Nick *(Blaenau Gwent)* (Lab)
† Stevens, Jo *(Cardiff Central)* (Lab)
† Thewliss, Alison *(Glasgow Central)* (SNP)

Mike Everett, *Committee Clerk*

† attended the Committee

Public Bill Committee

Tuesday 6 March 2018

(Morning)

[Steve McCabe *in the Chair*]

Sanctions and Anti-Money Laundering Bill [*Lords*]

9.25 am

The Chair: Before we resume line-by-line consideration, may I ask everyone to ensure that their electronic devices, including phones, are turned off or silenced? I remind hon. Members that Mr Speaker does not allow tea or coffee to be brought into Committee sittings.

Today's selection list is available in the Committee Room and on the Bill website. It shows how the selected amendments—generally those on the same or a similar issue—have been grouped for debate. I will use my discretion to decide whether to allow a separate stand part debate on individual clauses and schedules after debate on the relevant amendments.

Clause 44

Reports on progress towards register of beneficial owners of overseas entities

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

Helen Goodman (Bishop Auckland) (Lab): It is nice to see you in the Chair again, Mr McCabe, in this much warmer Committee Room 12.

Clause 44 is a concession that the Government made in the other place because there was a lot of concern that they had not cracked on with making progress towards a register of beneficial owners of overseas entities—an extremely important part of the machinery for preventing money laundering. It is rather a pathetic clause, so the Opposition have tabled a new clause that would speed up the timetable, for reasons that I will explain when I move it. I want to register the fact that although we do not intend to vote against clause 44, we think it somewhat weak as a concession.

The Economic Secretary to the Treasury (John Glen): As the hon. Lady says, clause 44 fulfils a Government commitment made at an earlier stage of the Bill in response to a call for clarity on our intentions for the delivery of a separate anti-corruption policy. My noble Friend Lord Ahmad of Wimbledon committed us to reporting on progress made on our policy to create a register of beneficial owners of overseas entities that own or buy property in the UK or that participate in UK Government procurement. We are committed to the register being operational in 2021.

The clause requires the Secretary of State to publish and lay before Parliament three reports on the progress made towards putting the register in place, each of which will be due after the expiry of a 12-month reporting period. The first and second reports must set out

"the steps that are to be taken in the next reporting period towards putting the register in place, and…an assessment of when the register will be put in place."

The third

"must include a statement setting out what further steps, if any, are to be taken towards putting the register in place."

The obligation to report to the House on progress reinforces the commitments on our timetable that the Government have given elsewhere.

Question put and agreed to.

Clause 44 accordingly ordered to stand part of the Bill.

Clause 45

Crown application

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

The Minister for Europe and the Americas (Sir Alan Duncan): Clause 45 allows sanctions regulations under clause 1 and regulations under clause 43 to make provision binding the Crown, but not to make the Crown criminally liable. It also stipulates:

"Nothing in this Act affects Her Majesty in Her private capacity".

Both are common provisions in law. I commend the clause to the Committee.

Question put and agreed to.

Clause 45 accordingly ordered to stand part of the Bill.

Clause 46 ordered to stand part of the Bill.

Clause 47

Regulations: general

Helen Goodman: I beg to move amendment 39, in clause 47, page 34, line 33, leave out paragraph (a).

This amendment would remove paragraph 2(a) from Clause 47, which enables the appropriate Minister to amend, repeal or revoke enactments for regulations under section 1 or 43.

We return to the vexed issue of Henry VIII powers and the Government over-reaching themselves once again. I want to recall for the Committee what happened on this matter in the Lords. Lord Judge moved an amendment to leave out paragraph (a), because he was concerned that it was a Henry VIII provision. Our amendment covers the same issue. Lord Judge said that

"with Clause 44, there is no primary legislation at all...It just says, 'Let's give the Minister regulation-making powers for this, that and the other'...This is all being done on the basis of an unknown law, because the Minister has not yet brought the regulations into existence."

One might say that clauses 47 and 48 are pure Henry VIII powers. They give Ministers the power to change this piece of legislation and other pieces of legislation in perpetuity before the regulations under the clauses have been made. This is perhaps slightly more difficult to understand than the problems with making new criminal offences by regulations, but it is wholly objectionable.

Lord Judge continued:

"In advance of the law being made by regulation, we are giving the Minister power to amend the regulations and to do away with statute. This is in a world where, as we discussed earlier, we already have the Terrorism Act, the Counter-Terrorism and Security Act, the Terrorism Asset-Freezing etc Act and the Proceeds of Crime Act…all of which bear on this Act, and all of which will be susceptible to amendment repeal at the Minister's behest…the secondary will override the primary; and the Minister is in effect going to replace Parliament".—[*Official Report, House of Lords,* 17 January 2018; Vol. 788, c. 718.]

It was not just the Cross-Bench peers who expressed concern about this. Viscount Hailsham, another Lord with a great deal of legal experience, also argued against it. He said:

"It could be used in amending, revoking or repealing existing legislation or to extend classes of offence to which the amended legislation applied. It could be used to increase penalties. It could be used to remove statutory defences. It could be used to amend the definition of criminal intent. Indeed, it could make absolute offences that presently require proof of a specific intent. Because it is an amending power, it could be used to give further powers to the investigating officials or to increase the penalties imposed by the courts."—[*Official Report, House of Lords,* 17 January 2018; Vol. 788, c. 719.]

Lord Pannick, as everybody will recall, was the lawyer who ensured that article 50 was brought to Parliament rather than exercised through the royal prerogative, and he is a person with a strong commitment to this House. He argued that this excess of Henry VIII powers could lead to a point where,

"the courts are not prepared to accept them and are showing every sign that they will give them the narrowest possible interpretation because, as a matter of constitutional principle, they are objectionable".—[*Official Report, House of Lords,* 17 January 2018; Vol. 788, c. 721.]

The Committee has gone over the argument about the problem with Henry VIII powers before, and we have debated it in the Chamber on the European Union (Withdrawal Bill.) People may begin to find it slightly boring, but we are debating it repeatedly because the Government have stuffed it into the Bill so many times. That is the problem, so we really need to persuade Ministers that it is excessive and we need to demonstrate how much they are going down that path.

Of course Ministers think, "When we write these regulations it will all be absolutely fine, because we are nice chaps. It will all be perfectly okay," but they need to remember that they might not always be in power. Other Ministers might write regulations, about which the current Ministers might not be quite so enthusiastic. We need to be a lot more cautious. I do not understand why Minsters have structured the Bill in such a way. They should have put into primary legislation the overall structure for making regulations on both sanctions and anti-money laundering. Ministers are in an even weaker position on anti-money laundering than they are on sanctions.

There is a case for saying that individual sanctions must be made swiftly, and therefore having the negative resolution procedure for statutory instruments is common sense. We all understand that. However, I cannot fathom why Ministers have not said to the lawyers, "Can we please structure this so that we have the overall shape of the way these things work and the penalties in primary legislation?", and Ministers could categorise them. They could say, "We will have a class A, a class B and a class C, and then we will name them quickly," in the way that we do with drugs when people make new chemical formulae and we have to swiftly designate things. That would have got over the problem.

We started with clause 1(1), which states that Ministers may make sanctions regulations. Here we are, right at the end of the Bill, and the pattern is still the same. We still have the same problem.

Sir Alan Duncan: Amendment 39 would remove the power to make certain consequential modifications to existing primary and secondary legislation through regulations made under the Bill. Such power is not unusual. It is worth noting that the Delegated Powers and Regulatory Reform Committee made no comment on the inclusion of the delegated power in its report on the Bill. I recognise that concerns have been expressed—we have just heard them—about the breadth of the regulation-making powers conferred by the Bill. The consequential power is both appropriate and necessary, and I hope I can provide reassurance on that.

The power can be used only to make consequential provisions. It also enables other provisions that are supplemental, incidental or transitional, or that make savings to the sanctions or money-laundering regulations. It is important to note that it does not confer the power to make any changes to legislation that are independent of the sanctions and money-laundering power. For example, the power can be used to repeal frozen EU legislation saved by the European Union (Withdrawal) Bill, so when we use the powers in the Bill to replace a sanctions regime in frozen EU law with one in a statutory instrument, the power will enable the frozen EU law to be repealed even if all that has happened in practice is that the sanctions have been relabelled. Without the power we would be unable to do so without another Act of Parliament. I am sure hon. Members agree that that would not be a good use of parliamentary time and that it would be impractical.

The power simply provides a tool to make changes to ensure that the statute book works as a result of sanctions being imposed or anti-money laundering regulations created. It does not give the Government the ability to change swathes of legislation without regard to the purposes of sanctions and anti-money laundering.

I want to reassure hon. Members that any regulations made that use the power to amend, revoke or repeal any primary legislation would be required to use the draft affirmative procedure. That means both Houses would need to give their consent before the changes would come into effect, and it is fully in line with the standing advice of the Delegated Powers and Regulatory Reform Committee about the appropriate parliamentary procedure for such powers.

In other words, we know what these laws will be. They will be sanctions and anti-money laundering regimes of the types set out in the Bill and for the purposes listed in it. I hope that I have been clear that this power is appropriately limited to what is necessary, and that on that basis the hon. Lady will withdraw the amendment.

Helen Goodman: The Minister said that this power to amend primary legislation through regulations will apply only to sanctions and anti-money laundering; however, he did not and could not say, because it would not be true, that that will mean amendments only to this Bill. That is because sanctions and anti-money laundering offences are already covered by other pieces of legislation on the statute book. This will not be the one Act that says everything anybody ever dared to ask about sanctions and anti-money laundering. This is part of a large carpet, and it has been woven in, I feel, in a most unsatisfactory way. The principle is broken when Ministers take the power to make regulations that may amend primary legislation.

Sir Alan Duncan: May I point out that if there is an amendment to another Bill, it is because those offences would become out of date, and therefore these are consequential?

Helen Goodman: I am grateful to the Minister for that interjection. As I said, and as he has just admitted, this does affect other pieces of legislation. Even if that were not the case, the problem is an issue of principle. We are changing primary legislation with secondary legislation. That is what we find objectionable, and that is why I wish to test the will of the Committee on the amendment.

Question put, That the amendment be made.

The Committee divided: Ayes 8, Noes 10.

Division No. 11]

AYES

Dodds, Anneliese	Rowley, Danielle
Duffield, Rosie	Smith, Nick
Goodman, Helen	Stevens, Jo
Norris, Alex	Thewliss, Alison

NOES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Graham, Luke
Courts, Robert	Maclean, Rachel
Duncan, rh Sir Alan	Prentis, Victoria

Question accordingly negatived.

John Glen: I beg to move amendment 8, in clause 47, page 34, line 38, leave out subsection (3) and insert—

"(3) Regulations under section 1 may amend the definition of "terrorist financing" in section 43(4) so as to remove any reference to a provision of regulations that is revoked by regulations under section 1.

(3A) Regulations under section 1 may amend the definition of "terrorist financing" in section 43(4) so as to add a reference to a provision of regulations under section 1 that contains an offence, but only if—

(a) each purpose of the regulations containing the offence, as stated under section1(3), is compliance with a UN obligation or other international obligation, or

(b) paragraph (a) does not apply but the report under section 2 in respect of the regulations containing the offence indicates that, in the opinion of the appropriate Minister making those regulations, the carrying out of a purpose stated in those regulations under section1(3) would further the prevention of terrorism in the United Kingdom or elsewhere."

This amendment provides that regulations under Clause 1 may amend the definition of "terrorist financing" in the Bill to add a reference to an offence only where the purpose of the regulations containing the offence is compliance with a UN or other international obligation or a purpose related to the prevention of terrorism.

There are two purposes behind the amendment. The first is to allow us to update the definition of "terrorist financing" in regulations. The nature of terrorist finance has a tendency to change over time and it is important that we are able to update our counter-terrorism measures to take account of the changes. This will allow us to continue to maintain a robust counter-terrorism regime, while meeting our international UN obligations.

While that is crucial, we also seek to restrict the ability to add to the definition of terrorist financing in the second part of the amendment. The Government listened to the concerns expressed by noble Lords about the aims of the regimes and the need for a proportionate approach. Having engaged with noble Lords, we agreed to restrict the ability to add to the definition of terrorist financing. The definition may be changed only to comply with international obligations or to further the prevention of terrorism, as set out in the clause. If the amendment were not agreed to, we would be unable to update our terrorist finance regime to respond to changing events.

Helen Goodman: Of course, nobody thinks that we should not have effective measures to tackle terrorist financing. That is plain and there is an obvious consensus about that. There are two questions. First, is this the appropriate way to go about it? Secondly—I would like the Minister to elucidate on this a little further—could the Minister give us some examples of the kind of changes to terrorist financing, which are not caught at the moment, but which could be dealt with in regulations as the issues arose?

John Glen: I am grateful for that challenge. As I set out, the Government would only amend the definition when necessary to meet UN obligations to further the prevention of terrorism. The clause is designed just to give the scope to amend the definition of terrorist financing.

Anneliese Dodds (Oxford East) (Lab/Co-op): It is good to be here with you in the Chair, Mr McCabe. My reading of the Government amendment—maybe I have interpreted something wrong—is that it says,

"or a purpose related to the prevention of terrorism."

9.45 am

John Glen: As I was about to say, the Government will be allowed to amend the definition only if it is necessary to continue to meet our new UN obligations or if it would further the prevention of terrorism in the UK or elsewhere.

The hon. Member for Bishop Auckland asked me to speculate on potential uses. That is difficult to do, by the very nature of these things, but, for example, we are seeing the use of cryptocurrencies such as Bitcoin. It may be that there is potential risk associated with that and there may be a need to include that, but I am making a speculative observation. It would depend on the circumstances, and what other jurisdictions and the UN were bringing forward.

Amendment 8 agreed to.

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

Alison Thewliss (Glasgow Central) (SNP): It is a pleasure to see you in the Chair, Mr McCabe.

I would like to reiterate the concerns that I raised on Second Reading about the overruling of any Acts made by the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly. I have a solution to this, to some degree, in amendment 37. That is coming up, so I will speak about it more then. However, I am deeply concerned that UK Ministers are being empowered in this Bill to make changes to devolved legislation without the involvement or the permission of the Scottish Government or the Scottish Parliament. That is deeply concerning. If not this Government, it makes future Governments capable of amending Acts of another Parliament and I remain deeply concerned about that.

Sir Alan Duncan: The hon. Lady's fears are utterly unfounded. I do not think there are any such examples. These are reserved matters, so changes are for this Parliament. The question of overriding the devolution settlement simply does not apply to this clause or to the Bill.

Question put and agreed to.

Clause 47, as amended, accordingly ordered to stand part of the Bill.

Clause 48

PARLIAMENTARY PROCEDURE FOR REGULATIONS

Helen Goodman: I beg to move amendment 40, in clause 48, page 36, line 1, leave out paragraph (d).

The Chair: With this it will be convenient to discuss new clause 7—*Parliamentary committee to scrutinise regulations*—

"(1) A Minister may not lay before Parliament a statutory instrument under section 48(5) unless a committee of the House of Commons charged with scrutinising statutory instruments made under this Act has recommended that the instrument be laid.

(2) The committee of the House of Commons so charged under subsection (1) may scrutinise any reviews carried out under section 27 of this Act."

This new clause would require a specialised House of Commons Committee to approve all statutory instruments laid under the affirmative procedure under this Act. The Committee would also scrutinise the Government's reviews of sanctions regulations.

Helen Goodman: The clause relates to parliamentary procedure for regulations. Amendment 40 distinguishes between regulations relating to anti-money laundering and those relating solely to sanctions. As I have said in relation to other amendments and clauses, there is a question of whether it is appropriate, in the case of anti-money laundering measures, to use the swift regulatory approach, which does not give either House the opportunity to make changes to the regulations. Although it is proposed that the affirmative procedure be used at this point in the Bill, that does not give us the opportunity to amend. We feel that the Government have not made their case for going down this path. We think it would be better to use the super-affirmative procedure as a bare minimum. There was cross-party consensus on that in the Lords—it was not complete, obviously, which is why the proposal is still in the Bill.

New clause 7 would enable us to create a new Committee of the House. One of the problems with what the Government are doing in the Bill is that they are reducing the amount of scrutiny of regulations on sanctions. We have discussed that issue before. For UN sanctions, the same process—Delegated Legislation Committees and the negative resolution procedure—will be followed, but at the moment EU sanctions go to the European Scrutiny Committee and there is a scrutiny reserve. We will lose that part of the machinery. With this new clause, we seek not simply to replace but to enhance and strengthen that piece of the machinery.

In the European Union (Withdrawal) Bill, we agreed that there should be a sifting Committee of the House, which will decide, for any piece of delegated legislation, whether it is appropriate to use the negative procedure or the affirmative procedure. For sanctions, we all agree that we sometimes have to act quickly and use the negative procedure, so the affirmative procedure clearly would not be appropriate.

I am concerned about the use of Delegated Legislation Committees. I am sure that every member of the Committee will agree that they are the lowest form of parliamentary life; they are the weakest form of parliamentary scrutiny. They are pulled together, people often do not turn up to them, people do not read the papers and the papers are not given to the Opposition Front Bench spokesperson more than two days before. Again, there is no possibility of amending the substance of the measures being considered. Because every single Delegated Legislation Committee is a new Committee, no expertise is built up; there is no institutional memory.

One of the things that we kept being told during the referendum campaign was that we were going to take back control and have parliamentary sovereignty. Accepting the amendment would be a way of strengthening Parliament. It would provide a way for Parliament to structure things, to build up some expertise in this important policy area, to learn from experience and to bring the experience of one situation to the next situation.

It would also be sensible, obviously, for the new Committee to be the Committee that looks at the reviews that the Government have agreed to prepare annually for the House under clause 27. I take the Committee back to clause 27, which sets out that annual reviews will be carried out to consider the effectiveness of sanctions.

At the moment, there is not really a Select Committee that has an overarching view of sanctions policy. There is no Select Committee in this House that examines sanctions policy on a regular basis. That is partly because—

Sir Alan Duncan: There is the European Scrutiny Committee, which looks at every single sanction and every piece of legislation coming from the EU. There is a formalised procedure for that sort of thing.

Helen Goodman: First, we are going to lose that Committee under what Ministers are proposing. Secondly, the European Scrutiny Committee is not a Select Committee. Thirdly, that Committee does not look at the UN-based sanctions, which, as the Minister knows, make up half the sanctions we impose.

Sanctions encompass many things: foreign policy objectives, which is why the Minister for Europe and the Americas is leading for the Government on this Bill; financial measures, which is why we have a Treasury Minister on the Committee; trade measures; and travel bans. Because of that, many Departments are involved with sanctions and therefore many Select Committees have an interest in them, but at the moment we do not have a regular review of sanctions policy by everybody.

It might be possible to set up such a scrutiny Committee on a similar basis to the Committees on Arms Export Controls, which have people from a number of different Select Committees bringing their different expertise to a subject. However, I thought that that would be rather too complex and, in any case, it would not be something that one would legislate for in a Bill; it would be a matter for the Standing Orders of the House.

What we would do is to agree that we wanted to improve scrutiny—that is what the whole Brexit thing is all about—and improve the standing and the role of

[Helen Goodman]

the House. Then, we could consider the detail as to whether we wanted the Committee to be free-standing or a sub-committee of other Committees when we came to amend the Standing Orders of the House.

Both the amendment and the new clause are designed to strengthen Parliament, to strengthen parliamentary sovereignty and to bring back control.

Sir Alan Duncan: Before I speak to the two amendments in this group, perhaps it would be helpful if I restated the Government's case for the approach we are taking—the parliamentary procedures for secondary legislation under this Bill.

The Government recognise that it is important that Parliament scrutinises the use of sanctions and that this Bill allows for such scrutiny. A set of regulations dealing with UN sanctions regimes will be made under the negative procedure. Once sanctions are agreed at the UN Security Council, the UK has an obligation to implement them under the UN Charter. Not doing so would leave the UK in breach of international law.

A set of regulations that do not deal with UN sanctions regimes will be made under the made affirmative procedure. That will allow regimes to come into force immediately, while still allowing Parliament to debate the regulations. That will negate the risk that, before any restrictions take effect, assets are removed, individuals leave or enter the UK, or arms or other prohibited goods are exported to countries that they should not be. It negates that risk.

10 am

Helen Goodman: I do not think the Minister or the officials have understood what the new clause aims to do. It would not change the process or whether the negative, made affirmative or draft affirmative procedure was used for a statutory instrument; it would change the group of people who looked at it, so that we build up some expertise on the matter among parliamentarians across the House.

Sir Alan Duncan: Let me come to the detail of the amendments in a second. I am just outlining the principles behind the Bill and its context.

At present, anti-money laundering regulations are transposed into UK law through the negative procedure in section 2(2) of the European Communities Act 1972. Under the Bill, the vast majority of anti-money laundering regulations will be made using draft affirmative procedures, so parliamentary scrutiny will be increased in that regard. Both the Delegated Powers and Regulatory Reform Committee and the Constitution Committee accepted in their reports on the Bill that the use of delegated powers for sanctions is appropriate. The DPRRC thought that it is

"appropriate for this mechanism to operate through the exercise of delegated powers".

The Constitution Committee confirmed that and thought that,

"In practice, a delegated powers model is inevitable, given the practical difficulties that would arise if Parliament had to legislate to create and amend individual sanctions regimes."

Amendment 40 would delete subsection (5)(d) and so remove the reference to regulations made under clause 43 being made under the draft affirmative procedure, in all but narrowly defined circumstances. The effect of that—which I assume is not hon. Members' intention—would be to reduce parliamentary scrutiny over future money-laundering regulations after the UK ceases to be a member of the EU.

Money-laundering regulations, most recently those that came into force last year, are typically made through the negative procedure. They do not usually require a debate or vote in this House or the other place before coming into force. To enhance scrutiny after the UK ceases to be a member of the EU, subsection (5)(d) provides that substantive changes to money-laundering regulations made under the Bill will be made through the draft affirmative procedure. That will require all such regulations to be debated and voted on by Parliament before coming into force.

The only exception is when the UK is updating the list of high-risk jurisdictions in connection with which enhanced due diligence measures are required. Changes to the list will be made via the made affirmative procedure, as set out in subsections (2) and (3). Again, that will enhance parliamentary scrutiny. Changes to the list are currently made at EU level. If accepted, the amendment would require most regulations under clause 43 instead to be made under the negative procedure, as is provided for clause 48(6). That would weaken parliamentary scrutiny under the Bill as drafted.

New clause 7 would require secondary legislation introduced under subsection (5) to receive the approval of a new House of Commons Committee before being laid before Parliament. I do not think that is necessary, because the new clause would apply to all regulations made using the draft affirmative procedure. Such regulations will be scrutinised directly by Parliament when they are made, as both Houses would need to give consent before they could come into force, thereby negating the need for a scrutiny Committee to look at any of them first.

Were parliamentarians to object, they could reject the regulations. That would force the Government to lay a new instrument, taking into account any concerns that had been expressed. The EU withdrawal Bill is an exception because of the very large volume of statutory instruments that will need to be passed under it in a very short space of time, ahead of the day the UK leaves the EU. That is why a Committee with such a sifting function is appropriate for the powers in that Bill. The same does not apply to the powers mentioned in the new clause. There will not be nearly as much secondary legislation to pass via the draft affirmative procedure. Given that, and together with the points I made on amendment 40, I ask the hon. Lady to withdraw her amendment.

Helen Goodman: I am grateful to the Minister for that explanation. Of course, improvements were made to the Bill in the other place in response to criticisms, and some processes were upgraded from the negative procedure in the original draft to the affirmative procedure in the Bill before the Committee. I do not wish to press amendment 40, but we will wish to press new clause 7 to the vote. I shall explain why, even though we are going to vote on it. First, it is for this House to decide on our processes. We would not dream of telling the other House how to run its affairs. What the Delegated Powers and Regulatory Reform Committee or Constitution Committee in the House of Lords say does not cover

procedures in this House. They are our responsibility. The Minister said there would be far fewer statutory instruments under this Bill, but he has given us no estimate. Does he have any sense of the number of statutory instruments that might come forward? Perhaps he will benefit from inspiration before I sit down, so that he can intervene and tell me what he expects.

Sir Alan Duncan: Our estimate of the regimes that will have to be transferred at the moment is in the region of 33.

Helen Goodman: Thirty-three whole regimes is quite a chunky number, is it not? That is not 33 individuals; it is 33 regimes. Of course, I was extremely concerned about the way that the EU withdrawal Bill looked, as were many Members. However, in one respect the problem is greater in this Bill. This is a Bill with permanent powers; the EU withdrawal Bill is one with temporary powers. Therefore, when we come to the right moment, we will wish to put new clause 7 to a vote. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Alison Thewliss: I beg to move amendment 37, in clause 48, page 36, line 5,

'(5A) A statutory instrument containing regulations under section 1 that repeals, revokes or amends—

(a) an Act of the Scottish Parliament,

(b) a Measure or Act of the National Assembly for Wales, or

(c) Northern Ireland legislation,

must receive the consent of the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly, respectively."

This amendment would require the UK Government to obtain the consent of the devolved administrations before repealing, revoking or amending devolved legislation using a statutory instrument containing regulations under section 1.

As I mentioned before, in this Bill the Government have given themselves the capability—although it is not necessarily their intention—to amend devolved Acts. It is not necessarily that the Government will do that, but we need to be mindful that future Governments may choose to. We cannot foretell exactly what the future will hold. In its response to the consultation on this issue, the Law Society posed the question about whether the Government have consulted the devolved Administrations and for what purpose the measure is in the Bill. Although the Government have given themselves this power, they have not explained the circumstances in which they might need to use it. If they say that nothing in the legislation has to do with the devolved Assemblies, why are they giving themselves the power to revoke devolved Assemblies' legislation, when they would not have any competence to do so? It does make any sense that they would put something in the Bill if they have no intention or need to use it.

I would also like to know—given that the Government have not explained this either—the circumstances in which they would want to override devolved legislation and why they feel a consent provision such as the one I am suggesting is not appropriate. If the Government believe that devolved legislations have no power in this area anyway and would therefore not be legislating in it, why have they put the capability of amending devolved Acts within the scope of this Bill? Would the Minister also explain why our consent provision would be considered inappropriate? That has not been explained up to this point, or during deliberations in the Lords. I have read some of the background, and Baroness Northover and Baroness Sheehan did not quite understand the need for what the Government propose either, so I would be grateful if they made more information available. It is not clear to me, and, as I mentioned previously, this provision strikes me as a power grab, and an unnecessary one at that.

Sir Alan Duncan: If I can set this out again to the hon. Lady's satisfaction I hope she will draw a conclusion. Under the UK's constitutional settlement, matters of foreign policy are reserved to Westminster. This Bill will provide the UK Government with powers to be used in pursuit of the UK's foreign policy as well as to ensure that our national security is intact and to deal with money laundering. The Bill therefore relates to matters that are accordingly reserved. The devolved Administrations were consulted during the Bill's preparation, and they have not disagreed with our assessment that the Bill deals with a reserved matter. Amendment 37 would mean that the consent of the relevant devolved Administration was required for any sanctions or anti-money laundering regulations that made a consequential repeal, revocation or amendment to any law created by the devolved Administrations. This would effectively give devolved Administrations veto rights over legislation relating to UK foreign and security policy, or to anti-money laundering policy. That is contrary to the established devolution settlement between Westminster and the devolved legislatures.

With regard to regulations under the Bill, any amendment to laws created by devolved Administrations would only arise as the consequence of the sanctions or money laundering measures under the Bill. Regulations cannot make free-standing changes to devolved legislation. Their primary purposes will always be a reserved matter. Such consequential amendments are entirely consistent with the constitutional settlement, and it would not be consistent with our devolution settlement to give the right of veto to devolved Administrations. Given that the effect of this amendment would be to rewrite the devolution settlement without consulting other devolved Administrations or seeking their consent, I do not agree with it and I urge the hon. Lady to withdraw the amendment.

Anneliese Dodds: We have had an interesting exchange of views. The Minister, however, did not explain a couple of things that would be helpful for the Committee to understand. He indicated that there was consultation with the devolved Governments, but did not spell out what kind of arrangements he anticipates in future that might fall short of the requested veto but that could constitute consultation. This is important, because we have just been talking about the fact that money-laundering regulations in particular span a range of Government issues, not all of which are reserved. They cut across a number of different powers and it would be helpful to know whether, for example, he anticipates that these matters would be part of the ongoing dialogue between the Westminster Government and the devolved Governments, and whether there is regular exchange of information.

The Committee has discussed SLPs, and there is huge concern about whether there is sufficient action in Westminster on that. Devolved Administrations have

[Anneliese Dodds]

raised the issue, and it would be interesting to know whether that was part of a structured dialogue or whether it was something that occurs in an ad hoc way, and how the Minister anticipates that developing in the future.

Sir Alan Duncan: We have continuous discussions with the devolved Assemblies and, of course, with Scottish Members of this House. Once again, I must make it clear that clause 48 is focused entirely on reserved matters, so it does not affect our devolution settlement in any way, whereas the amendment moved by the hon. Member for Glasgow Central most certainly does.

10.15 am

Alison Thewliss: I am not certain that the Government have answered my points. I can buy what the Minister of State says about sanctions and foreign policy, but Scotland and the Scottish Parliament may have something to say about the money-laundering part. I am concerned that the case has not yet been made for the power grabs in the Bill. Why include powers to overrule Scotland on something that it cannot do in the first place? That is just not logical.

I do not intend to press amendment 37 to a vote at this stage, but I would like the Government to consider the matter further; we might raise it again on Report.

Luke Graham (Ochil and South Perthshire) (Con) *rose—*

The Chair: You have obviously provoked some interest, Ms Thewliss.

Luke Graham: Opposition Members have spoken about power grabs, and hon. Members who are not Scottish have raised issues relating to devolved Administrations, but we need to be really clear that this is a reserved area, that there is ongoing dialogue and that Scotland has a voice here in Scottish MPs. That is why we are part of Westminster, which is our Parliament as much as Holyrood is. We need to make it very clear that we are having a discussion, but these powers are reserved.

Anneliese Dodds: Will the hon. Gentleman give way?

Luke Graham: I will not. These powers are reserved. This is not a power grab; it is a reserved matter. Devolution does not mean "separate". We are in conversations, and Scotland has a strong voice here in its Members of Parliament.

Alison Thewliss: 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.

Schedule 3 agreed to.

Clauses 51 to 53 ordered to stand part of the Bill.

Clause 54

EXTENT

Helen Goodman: I beg to move amendment 41, in clause 54, page 41, line 6, leave out "may" and insert "must".

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

Amendment 42, in clause 54, page 41, line 16, leave out "may" and insert "must".

Amendment 43, in clause 54, page 41, line 22, leave out "may" and insert "must".

Amendment 44, in clause 54, page 41, line 25, leave out "may" and insert "must".

Helen Goodman: Clause 54 defines the territorial extent of the Bill. I did not include an explanatory statement for amendments 41 to 44 because I thought their effect so obvious that it did not need further explanation.

In the sanctions part of the Bill, at the moment, Ministers may, by Order in Council, provide for any of the provisions to the Channel Islands, the Isle of Man and the British overseas territories, whereas the amendment would require an Order in Council to extend the provisions to the Channel Islands, the Isle of Man and any of the British overseas territories. We are obviously making the distinction that the Minister made earlier between Her Majesty in her personal role and Her Majesty as the Crown, which is the representative of the Executive. We think that it is appropriate to extend the sanctions part of the legislation in this way.

I am sure that Ministers have looked at the draft EU withdrawal document produced by the EU Commission last week, but in case not every member of the Committee has done so, I would like to draw their attention to article 3 on territorial scope:

"1. Unless otherwise provided in this Agreement or in Union law made applicable by this Agreement, any reference in this Agreement to the United Kingdom or its territory, shall be understood as referring to:

(a) the United Kingdom;

(b) the Channel Islands, the Isle of Man, Gibraltar and the Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus to the extent that Union law was applicable to them before the date of entry into force of this Agreement;

(c) the overseas countries and territories listed in Annex II to the TFEU having special relations with the United Kingdom, where the provisions of this Agreement relate to the special arrangements for the association of the overseas countries and territories with the Union.

2. Unless otherwise provided in this Agreement or in Union law made applicable by this Agreement, any reference in this Agreement to Member States, or their territory, shall be understood as covering the territories of the Member States to which the Treaties apply as provided in Article 355 TFEU."

Then there is a footnote to list the overseas countries and territories that have that special relation with the United Kingdom:

"Anguilla, Cayman Islands, Falkland Islands, South Georgia and the South Sandwich Islands, Montserrat, Pitcairn, Saint Helena and Dependencies, British Antarctic Territory, British Indian Ocean Territory, Turks and Caicos Islands, British Virgin Islands and Bermuda."

This Bill is a Brexit Bill. We are trying to have new provisions that apply to the United Kingdom post-Brexit. It is absolutely clear that when we leave, the Channel Islands, the Isle of Man, Gibraltar and all the overseas territories will also be affected as set out in that draft agreement. Many things in the Commission's draft were controversial and were challenged and questioned, but the territorial extent was not one of them. It seems reasonable to enable us to move from a situation where Union law applies in the existing way to the

Crown dependencies and the overseas territories, and not to set up a situation where we have great big loopholes.

This raises a question for Ministers. At the moment, European law applies to the United Kingdom, the Channel Islands, the Isle of Man and Gibraltar. There is still a question mark over Ministers' intentions with respect to the fifth anti-money laundering directive. Although my amendment applies to the sanctions part of the Bill, it raises the question of whether Ministers plan to accept the contents of the fifth anti-money laundering directive. The UK is ahead in some respects, but not in all, and clearly the Crown dependencies and the overseas territories are not ahead. I wish to tease that matter out with this series of amendments.

Sir Alan Duncan: I suppose the overarching point is that Brexit will change the UK's relationship with the EU; it is not designed to change the UK's relationship with its overseas territories and Crown dependencies. The starting point is that EU law applies to a certain extent to Crown dependencies and overseas territories, but not entirely. Currently, overseas territories are not bound to apply EU sanctions, but choose to do so to ensure alignment with the UK's foreign policy.

Let me explain that in more detail. As I said last Tuesday, the UK is responsible for the foreign affairs and security of the Crown dependencies and overseas territories. That is the constitutional position. However, another important constitutional point is that our long-standing practice is that we do not generally legislate for these jurisdictions without their consent, except in exceptional circumstances. Sanctions are tools of foreign policy, or are used to protect our national security. We have been clear that the overseas territories and Crown dependencies must follow the UK Government's foreign policy, including the sanctions that we apply.

Currently, there are two ways in which sanctions are implemented by the overseas territories and Crown dependencies. The UK legislates directly for the majority of these jurisdictions, with their consent, through Orders in Council. Other jurisdictions choose to legislate for themselves, but they follow precisely the sanctions implemented in the UK. That model is well established, and respects the rights of the jurisdictions. The Bill is drafted in a way that reflects that reality. It is consistent with the current implementation model for UN and EU sanctions, as well as measures under the Terrorist Asset-Freezing (Temporary Provisions) Act 2010. It allows those jurisdictions that choose to follow UK sanctions through their own legislation to continue to do so. It also allows the UK to legislate directly for certain overseas territories, where they choose.

I do not see the Bill as the right place to change those long-standing constitutional arrangements, nor do I see a compelling case for doing so at all. I am sure that hon. Members would not wish to jeopardise the achievements that friendly co-operation with these jurisdictions has already made, nor would they seek to disenfranchise those territories that have chosen to legislate for themselves. On that basis, I urge the hon. Member for Bishop Auckland to withdraw her amendment.

Helen Goodman: The Minister has set out the position in principle; he has not given any examples. Let me put it like this: if they always do what we want them to, why do we not just have an automatic system? What is the value of the divergence? That is the obvious rejoinder, but I feel that perhaps this is not the right way, and the right place, to deal with this matter, so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 54 ordered to stand part of the Bill.

Clause 55

COMMENCEMENT

10.30 am

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

Helen Goodman: I asked the Minister about commencement last week and he did not have a clear answer. I hope he has had time over the weekend to think about the issue and can now explain the Government's plan to us. While it is perfectly acceptable, normal and understandable, when dealing with some real technicality, to rely on officials, commencement is something for which Ministers themselves are responsible—how the Bill's commencement provisions will interrelate with our withdrawal from the European Union, and whether the intention is to implement the sanctions on 1 April 2019, to wait until 1 January 2020—the projected end of the transition period—or to implement them at some other time.

I am concerned that, in looking at the Bill, thinking about what they wanted to do, and considering how this interrelates with everything else in EU withdrawal, Ministers did not seem to have a clear plan—last week, at any rate. They do not appear to have thought through what they are trying to achieve with these negotiations. It is all very well to say, "It'll all come out in the wash and we'll find out in the end," but that puts us very much in the position of being recipients of whatever the European Union, from on high, prefers to give. I would have thought that Ministers would have an objective, and how they wanted it to happen. We need more clarity from the Minister, not on subsection (1) which covers sections 44 to 56, but on the earlier parts of the Bill. What is his plan?

Sir Alan Duncan: This clause sets out when the Act will commence. It is not part of the negotiations we are currently having with the EU, which are, of course, still a matter of negotiation. I urge the hon. Member for Bishop Auckland to appreciate that what we debating here is the detail of this particular Bill.

Clauses 45 to 49 and 51 to 56 will come into force on the day on which the Bill becomes an Act of Parliament. Those clauses make up part 3 of the Bill, dealing with supplementary provisions, definitions and final provisions, with the exception of clause 50 which deals with consequential amendments and repeals. The remaining clauses will come into force on a day appointed by the Secretary of State, who may allow for clauses to commence on different days. That will enable the Secretary of State to commence the other clauses when required. With that flexibility—which I hope the hon. Lady appreciates—I urge that clause 55 stand part of the Bill.

Helen Goodman: The Minister has not given us a plan; he has not said how he sees this panning out, and he has not even made it clear whether the Secretary of

[Helen Goodman]

State will implement chapters 1 to 5 on the same day, or on multiple days. I think we need to test the view of the Committee.

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

The Committee divided: Ayes 10, Noes 8.

Division No. 12]

AYES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Graham, Luke
Courts, Robert	Maclean, Rachel
Duncan, rh Sir Alan	Prentis, Victoria

NOES

Dodds, Anneliese	Rowley, Danielle
Duffield, Rosie	Smith, Nick
Goodman, Helen	Stevens, Jo
Norris, Alex	Thewliss, Alison

Question accordingly agreed to.

Clause 55 ordered to stand part of the Bill.

Clause 56

SHORT TITLE

Amendment made: 9, in clause 56, page 42, line 3, leave out subsection (2).—*(Sir Alan Duncan.)*

This amendment removes the privilege amendment inserted by the Lords.

Clause 56, as amended, ordered to stand part of the Bill.

New Clause 3

REPORT IN RESPECT OF OFFENCES IN REGULATIONS

'(1) In this section "relevant regulations" means regulations under section 1 which create any offence for the purposes of—

(a) the enforcement of any prohibitions or requirements imposed by or under regulations under section 1, or

(b) preventing any such prohibitions or requirements from being circumvented.

(2) The appropriate Minister making any relevant regulations ("the Minister") must at the required time lay before Parliament a report which—

(a) specifies the offences created by the regulations, indicating the prohibitions or requirements to which those offences relate,

(b) states that the Minister considers that there are good reasons for those prohibitions or requirements to be enforceable by criminal proceedings and explains why the Minister is of that opinion, and

(c) in the case of any of those offences which are punishable with imprisonment—

(i) states the maximum terms of imprisonment that apply to those offences,

(ii) states that the Minister considers that there are good reasons for those maximum terms, and

(iii) explains why the Minister is of that opinion.

(3) Subsection (4) applies where an offence created by the regulations relates to a particular prohibition or requirement and the Minister considers that a good reason—

(a) for that prohibition or requirement to be enforceable by criminal proceedings, or

(b) for a particular maximum term of imprisonment to apply to that offence,

is consistency with another enactment relating to the enforcement of a similar prohibition or requirement.

(4) The report must identify that other enactment.

(5) In subsection (3) "another enactment" means any provision of or made under an Act, other than a provision of the regulations to which the report relates.

(6) In subsection (2) "the required time" means—

(a) in the case of regulations contained in a statutory instrument which is laid before Parliament after being made, the same time as the instrument is laid before Parliament;

(b) in the case of regulations contained in a statutory instrument a draft of which is laid before Parliament, the same time as the draft is laid.

(7) This section applies to regulations which amend other regulations under section 1 so as to create an offence as it applies to regulations which otherwise create an offence.'—*(Sir Alan Duncan.)*

This new clause requires that where regulations under Clause 1 are made which include offences, a report specifying the offences and giving reasons for any terms of imprisonment that apply to them must be laid before Parliament.

Brought up, and read the First time.

Sir Alan Duncan: I beg to move, That the clause be read a Second time.

In view of the debate in the other place I will discuss the new clause in some depth, which I hope will satisfy the Committee. I apologise in advance for speaking at length, but this matter exercised the other place in considerable detail and I feel duty bound to give a proper in-depth explanation.

We debated the offences provisions in the Bill in an earlier sitting, and I recognise the concerns raised by hon. Members about returning control to Parliament. We have listened to the concerns raised here and in the other place by Lord Judge and others, and the new clause is intended to address them directly. As I mentioned in a previous sitting of this Committee, we have had meetings with Lord Judge and others, and my officials and I continue to make this offer. We are happy to meet hon. Members to answer their questions about the new clause and previous discussions.

It might be helpful if I remind hon. Members that the new clause proposes nothing new. Offences are regularly provided for in secondary legislation made under the European Communities Act 1972 by the negative procedure. Every current sanctions regime involves offences that are set out in the secondary legislation relating to that regime. None of the maximum penalties that we are providing for in the Bill are new. They reflect maximums provided for in existing secondary legislation relating to sanctions. However, the new clause recognises that concerns were raised in the other place and ensures that Ministers do not use the powers without good reasons, and that Ministers inform Parliament about the use of the powers so that they can be properly held to account.

The new clause will require the appropriate Minister to lay a report in Parliament whenever a sanctions regime includes criminal offences. The report will confirm that Ministers consider there are good reasons to do so and will set out what those reasons are. The clause specifies what elements should be included in the report, and I will address those in more detail in a minute.

I am sure that we all agree, as was the consensus in the other place, that sanctions are crucial to fulfilling our UN obligations and are a useful foreign policy and national security tool. To be effective, they must be enforced robustly, and those who breach sanctions must face the consequences—for example, it seems appropriate that those contributing to North Korean weapons proliferation should face financial penalties and criminal prosecution for their actions. In April 2017, the UK used the Policing and Crime Act 2017 to increase, using secondary legislation, the maximum sentences available for those who breach sanctions. We drafted this Bill with a view to continuing that practice, but were met with resistance in the other place on constitutional grounds. On Report, Lord Judge tabled an amendment that removed criminal offences provisions from the Bill, asking the Government to think again about the appropriate level of parliamentary oversight on criminal offences.

We accept that the powers of the Executive to create criminal offences and regulations should be subject to appropriate parliamentary scrutiny and we have carefully considered what we can do here. One option we considered was putting all criminal offences in the Bill, but that is both difficult and impractical, as was recognised by the House of Lords Delegated Powers and Regulatory Reform Committee. Setting out the detail of the criminal offences in the Bill solely by reference to the powers under which sanctions regulations will be made would risk producing the wrong results. We would be creating criminal offences about prohibitions and requirements that have not yet been set.

Trying to set out the offences in primary legislation would risk producing offences and penalties that are defective or disproportionate, or both. That would also run counter to the general principle that provisions creating criminal offences should be precisely drafted and clear in their effect, and would not provide the necessary flexibility to respond to fast-moving international events and changing sanctions regimes. For example, we may need a new criminal offence if the UN adopts a new type of sanction to curtail the North Korean regime, which is entirely plausible as the North Korean sanctions regime has gone significantly further than any regime has gone previously, and it is entirely possible that it will continue on that trajectory. It is important that we can implement the sanctions without gaps in our ability to enforce them.

We also considered whether criminal offences relating to breaches of sanctions could be dealt with in their own separate regulations, which could be considered by Parliament in slower time than regulations that contain the sanctions themselves. However, I am sure that Members will appreciate that that is also unworkable because it would mean that, for a period of time, there would be no criminal penalties for breaches of sanctions and people could breach them with impunity.

After much consideration, including meetings with Lord Judge, we proposed that the Government should have to consider whether there were good reasons for creating offences and setting penalties and explain their rationale to Parliament in relation to every offence and penalty in every individual sanctions regime. The new clause and the resultant reports will ensure that the Government must properly consider that there are good reasons for any offences and penalties and justify those decisions in detail to Parliament.

As I said, the new clause indicates what should be included in the report to Parliament: first, the offences and the prohibitions or requirements to which they refer; secondly, the good reasons that the Minister has considered that justify why breaches of those prohibitions or requirements need to be criminal offences; thirdly, the maximum prison terms for any offences created that are punishable by imprisonment; and finally, the good reasons that the Minister considers justify setting the maximum sentences of imprisonment at the level they have been set. That will largely involve replicating the offences and penalties that currently exist in relation to existing sanctions. Where the Minister is using offences and penalties that already exist in law as a precedent, the report must identify the existing offences to Parliament.

Putting offences in secondary legislation is nothing new. The report would give Parliament the opportunity to scrutinise offences and regulations to a greater extent than currently. Importantly, it would give Parliament greater opportunity to scrutinise sanctions regimes than it has while we are in the EU. The new clause would hold the Government accountable to Parliament, ensuring that new criminal offences for sanctions can be questioned following the report.

To clarify, and in response to comments from the hon. Member for Bishop Auckland on the first day in Committee, the enforcement provisions in the Bill do not create Henry VIII powers. Henry VIII powers would allow the Government to alter primary legislation by statutory instrument. The enforcement provisions in the Bill just enable the Government to provide appropriate criminal penalties in secondary legislation. For example, the North Korea regime statutory instrument may say something to the effect that a person who contravenes any of the prohibitions or requirements and regulations commits an offence.

10.45 am

The new clause will ensure that Ministers do not use the power lightly. They must consider what the good reasons for using the power are, and justify themselves in an open report to Parliament. The new clause has to be considered alongside the additional parliamentary scrutiny provided for in the Bill, including the additional parliamentary scrutiny provisions that were added in the other place. Under clause 2, as inserted in the other place, the Government must justify themselves to Parliament regarding the reasons for pursuing the purpose underlying the sanctions regime, and why sanctions are an appropriate means of achieving that purpose. Under clause 39, the Government must continue to justify themselves when they amend regulations, and in clause 27, an amendment inserted in the other place requires the Government to report annually to Parliament on each of the sanctions regimes in place.

We hope that the additional scrutiny provided for in relation to offences satisfies the concerns raised in the other place, to which we have listened very carefully. I hope that it will also satisfy the Committee.

Helen Goodman: That was an extremely useful explanation. We feel that the new clause is a significant step forward, and deals well with some of the issues raised in the other place. We are happy for it to be added to the Bill.

Question put and agreed to.

New clause 3 accordingly read a Second time, and added to the Bill.

New Clause 4

DUTIES TO LAY CERTAIN REPORTS BEFORE PARLIAMENT: FURTHER PROVISION

(1) In this section "a reporting provision" means section 2(4), (Report in respect of offences in regulations)(2) or 40(2) or paragraph 20A(2) of Schedule 2 (duties to lay before Parliament certain reports relating to regulations).

(2) Where more than one reporting provision applies in relation to particular regulations under section 1, the reports to which those provisions relate may be contained in a single document.

(3) If a reporting provision is not complied with, the appropriate Minister who should have complied with that provision must publish a written statement explaining why that Minister failed to comply with it.

(4) Subsection (5) applies where a reporting provision applies and—

(a) a statutory instrument containing the regulations concerned, or

(b) a draft of such an instrument,

is laid before the House of Commons and House of Lords on different days.

(5) Where this subsection applies, the reporting provision in question is to be read as requiring the laying of a copy of the report to which that provision relates—

(a) before the House of Commons at the time the instrument or draft mentioned in subsection (4) is laid before the House of Commons, and

(b) before the House of Lords at the time that instrument or draft is laid before the House of Lords.—*(Sir Alan Duncan.)*

This new clause enables certain reports relating to regulations to be combined in one document, requires a written statement to be made by the Minister if certain reporting requirements are not complied with, and clarifies how those requirements apply.

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

New Clause 1

PUBLIC REGISTERS OF BENEFICIAL OWNERSHIP OF COMPANIES IN THE BRITISH OVERSEAS TERRITORIES

(1) For the purpose of preventing money laundering, the Secretary of State must provide all reasonable assistance to the governments of—

(a) Anguilla;

(b) Bermuda;

(c) the British Virgin Islands;

(d) the Cayman Islands;

(e) Montserrat; and

(f) the Turks and Caicos Islands,

to enable each of those governments to establish a publicly accessible register of the beneficial ownership of companies registered in that government's jurisdiction.

(2) No later than 1 January 2019 the Secretary of State must prepare an Order in Council in respect of any British overseas territories listed in subsection (1) that have not by that date introduced a publicly accessible register of the beneficial ownership of companies within their jurisdiction, requiring them to adopt such a register by 1 January 2020.

(3) In this section a "publicly accessible register of beneficial ownership of companies" means a register which, in the opinion of the Secretary of State, provides information broadly equivalent to that available in accordance with the provisions of Part 21A of the Companies Act 2006 (information about people with significant control).—*(Helen Goodman.)*

This new clause would require the Secretary of State to take steps to ensure the governments of specified British overseas territories introduce public registers of beneficial ownership of companies.

Brought up, and read the First time.

Helen Goodman: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 8—*Public registers of beneficial ownership of companies in the British Crown Dependencies—*

(1) For the purpose of preventing money laundering, the Secretary of State must consult with the authorities of governments in each Crown Dependency on establishing a publicly accessible register of the beneficial ownership of companies registered in their jurisdictions.

(2) Within 6 months of this Act being passed, and every 12 months thereafter, the Secretary of State must report to Parliament on progress within the Crown Dependencies on establishing registers as referred to in subsection (1).

(3) In this section a "publicly accessible register of beneficial ownership of companies" means a register which, in the opinion of the Secretary of State, provides information broadly equivalent to that available in accordance with the provisions of Part 21A of the Companies Act 2006 (information about people with significant control)."

This new clause would require the Secretary of State to consult with the governments in each Crown Dependency about introducing public registers of beneficial ownership of companies in the Crown Dependencies, and to report to Parliament on the progress of establishing such registers.

Helen Goodman: The issue of the secret jurisdictions of the Crown dependencies and the overseas territories is extremely vexed. The Opposition are disappointed by what has happened, because we felt that considerable progress was made under David Cameron's Administration on this matter. There are no Liberal Democrats on the Committee—they normally take credit for anything positive that happened when David Cameron was Prime Minister—but my impression from talking to Conservative Members is that many of them were strongly supportive of what the then Prime Minister promised.

I will remind hon. Members what was promised, go through what has happened and the current state of play, say something about why it matters, and then say something about both the counter-arguments and what we are proposing. The Government of the day committed to implementing a central registry of company beneficial ownership information at the G8 conference in Lough Erne in June 2013. It was truly a British initiative; I was criticised on Second Reading for not giving David Cameron credit, but I am not going to fall into that trap today.

The Companies House register contains information on people with significant control, meaning individuals who hold more than 25% of a company's shares or voting rights. The Department for Business, Innovation and Skills published details of its intention to create such a register in a discussion paper called "Transparency and Trust" and then made a call for evidence. The Government passed the relevant primary legislation—the Small Business, Enterprise and Employment Act 2015—at the end of March 2015 and the new register went live in 2016.

The new register is very interesting. Searching for information at Companies House used to involve trolling through lots of papers without finding anything of interest, but now that we can see who is controlling companies, we can spend a very interesting hour finding out who owns what—we are all interested in companies in our constituencies. The register is not perfect, as will become evident when we debate other Opposition new clauses—there is no process for checking information,

and 10% of the 4 million companies have not submitted the information—but it is a big, helpful step forward none the less.

In parallel with the new register, the then Prime Minister wrote to the overseas territories to encourage them to consult on a public registry and look closely at what we were doing in this country. Whereas progress in this country has been good, albeit not perfect, progress in Crown dependencies and overseas territories has been extremely limited. Let me explain the very different situations in each place.

In the British Virgin Islands, legislation is in place and a registry exists, but it is not public—a big weakness. There is information sharing with five or six regulatory or prosecuting authorities in this country, including the National Crime Agency, the Serious Fraud Office and Her Majesty's Revenue and Customs. Those organisations can phone up and say, "We are suspicious about Bloggs, the Member for Salisbury South."

John Glen: There is plenty going on in Salisbury at the moment.

Helen Goodman: Yes, indeed. Our authorities can ask the BVI registry to check what is going on, which I understand has been quite helpful. However, unlike our register, the BVI registry is not public, which means that our authorities are not allowed to go on fishing expeditions; they need a reason to ask for information. The problem is that they cannot see the full pattern of ownership. That can make it very difficult to work out what is going on, because people involved in money laundering set up extremely complex structures and relationships. In other areas of organised crime, the NCA maps nodal interconnections, which helps it to find criminals, but a secret register makes that impossible.

Another relevant point is which EU list people are on—whether they are on the greylist, or whether they are not on the list, for lacking transparency. The BVI were given more time in order not to be on the greylist.

The situation in the Cayman Islands is similar. We have an exchange of beneficial ownership information—a central register—but it is done in secret. They are on the European Union's greylist. The Turks and Caicos have a private register. Like the British Virgin Islands, they were given more time by the European Union because they were affected by the hurricanes. Bermuda has a private register and is on the European Union greylist. The legislation is in place for Montserrat, but no register has been set up. Mind you, Montserrat does not have any particular financial expertise, so it does not matter very much.

Sir Alan Duncan: The hon. Lady is trying to paint a picture of the OTs and we all understand what she is trying to do. She said a moment ago that progress in the Crown dependencies and Overseas Territories was "extremely limited". However, I think it is undeniable—and I would ask her to confirm that she admits this—that progress in these areas is steps ahead of all the other G20 countries, except the UK. Can she put it on the record that she admits that that is the case?

Helen Goodman: I was going to come to that point at the end, because I anticipated that that was an argument. If the Minister will be a little patient, I will stick to the structure of my speech. In the case of Gibraltar, we have exchange of beneficial ownership information. Gibraltar is in a different situation because it is subject to European legislation. In Anguilla, we have exchange of beneficial ownership information. Like the BVI, it was given more time due to the hurricanes.

In the case of Jersey, Guernsey and the Isle of Man, there is exchange of beneficial ownership information legislation in place, but all three are, unfortunately, on the greylist. This is obviously a matter of regret and it is also extremely damaging to our reputation.

Sir Alan Duncan: It is very important that some of the basic facts are established as either true or false, and I hope the hon. Lady will not object to my pointing out another thing that she has got wrong. She spoke about the greylist. There is no greylist. The EU Council conclusions, which I could explain at length, set out the jurisdictions that have been cleared. She is wrong on the greylist in the way she explained it earlier.

Helen Goodman: I am interested that that is the Minister's perception, but I think there might be a competing perception.

Anneliese Dodds: I regret to contradict the Minister, but perhaps there is a slight information gap around the procedure operated by the EU in regard to these matters. There is a blacklist of jurisdictions that have definitely been viewed as beyond the pale by the EU. That has followed a very intensive process of consultation through ECOFIN, which is obviously an intergovernmental mechanism. Countries that are not yet on the blacklist, but about which there are concerns, are on the greylist. I suggest that it would be helpful to look at that list.

I am grateful to my hon. Friend for enabling me to intervene. I made a freedom of information request to the UK Government to find out what they had done to try to remove jurisdictions from the blacklist, and the lobbying they had done in that case, which appeared to reveal that our Government had been active on this matter. So I hope Ministers will update us on what the Government have been doing in relation to this issue.

11 am

Helen Goodman: Now I turn to why this issue matters. I am extremely grateful to Christian Aid for its very thorough briefing. The problems fall into three categories: tax losses, corruption and crime, and the impact on the least developed countries.

On tax losses, the problem is that people are basically using secret jurisdictions to hide both capital and income, and, in doing so, avoiding tax. A particularly powerful example is the case of Bywater Investments. In November 2016, an Australian federal court found that two anonymous Cayman Islands companies controlled by an Australian accountant had facilitated multimillion-dollar tax evasion schemes, leading to 300 million Australian dollars of repayments and fines. The scam relied on the accountant being able to pretend that the companies were owned and controlled by someone else, thanks to beneficial ownership secrecy in the Cayman Islands. Despite the existence of a legally binding tax information sharing agreement between Australia and the Cayman Islands, Cayman courts and laws had blocked both Australian and UK tax authorities from access to information about the real owner of the companies—and these laws still exist. In that particular case, the tax

[Helen Goodman]

losses were to the Australian Revenue, but I think that everybody is conscious that we, too, are losing tax in this country.

On corruption, crime and money laundering, I will talk about the problem of the Azeri Government. The first time that I came across Azeri money laundering was about seven years ago, when the hon. Members for Bridgwater and West Somerset (Mr Liddell-Grainger) and for Na h-Eileanan an Iar (Angus Brendan MacNeil) and I all became very concerned that some students had been locked up for putting a video on the internet about some donkeys. Those donkeys had been bought from the Germans and each donkey was worth $250,000. The students made a video and they found that the reason the donkeys were so valuable was that they could play the violin like Menuhin, and there were photographs of them doing so. That kind of creative sarcasm would get somebody a television award in this country, but in Azerbaijan those students were locked up. The hon. Members for Bridgwater and West Somerset and for Na h-Eileanan an Iar and I tabled an early-day motion and we got the students released.

That is not the sort of money laundering that usually goes on in Azerbaijan. My hon. Friend the Member for Oxford East spoke about the laundromat case. When discussing money laundering cases, we may use one example to illustrate a multitude of problems, because there is not just one problem. My hon. Friend, for example, has mentioned Scottish limited partnerships. Secret jurisdictions were also part of the problem, because the beneficial ownership secrecy gave the Azeri politicians the opportunity to circumvent money laundering laws. Two of the four UK-registered partnerships whose control and ownership was concealed were registered in the BVI.

Crime and corruption cases often involve a great deal of violence in the initial corruption and the initial crime. It is easy to take the view that these are white-collar crimes and that nobody really gets hurt, and that it is just about moving money from one bank account to another and clicking on a computer. What is really going on, however, is that people are stealing from weak and fragile states and running big organised crime gangs. For example—this relates to an earlier point made by the Economic Secretary—kidnappers in Mexico requested that the ransom be paid in bitcoin. The Mexican authorities said that they had never come across that before, although they had certainly come across kidnappings before: 70 people a day are kidnapped in Mexico, which is linked to drug running.

Large international organised crime syndicates are involved in extremes of violence and the destruction of societies. Stealing taxpayers' money from former Soviet Union states or getting involved in big drug deals in Latin America is worth their while only if they can one day get that money and spend it; otherwise, why would they bother? Although these crimes might not seem very serious, they have horrendous consequences for other people. I am not saying that everybody who puts their money in a secret jurisdiction in the British overseas territories is doing so for criminal purposes—that is obviously not the case—but some people are doing that and we need to end the secrecy in order to identify them and track them down.

Last week we discussed sanctions busting and the selling of weapons of mass destruction and their components and materials to North Korea, which also involves shell companies. United Nations investigators and the American courts showed that the North Koreans had used networks of shell companies to evade UN sanctions and to help conceal the origins and destinations of the money that they needed to do so. A significant proportion of those shell company networks have been registered in the BVI and Anguilla. It is unfortunate that the BVI is mentioned a lot, but that is because their specialism lies in this type of registration. It does happen in the other places, but it happens a lot there because it is a world leader in the provision of offshore companies, whereas the Caymans specialise in hedge funds, and Bermuda in captive insurance.

Christian Aid is concerned about the issue because of its impact on developing countries. The former president of Zambia stole $25 million, which he put through an anonymous BVI company and bought property in Brussels. Zambia's per capita income is $4,000 a year. The Nigerian dictator, Sani Abacha, used a BVI company to hold at least $450 million of the $2 billion he is believed to have stolen from the Government during his time in power. Nigeria has a per capita income of below $6,000 a year. The case of Equatorial Guinea is tragic. It has a much higher average income because of its oil reserves, but those reserves have not been used for the benefit of the people, because the President's son, Teodorin Obiang, and others have stolen $38 million of their country's money and spent it on private jets and other luxuries.

The United Nations Conference on Trade and Development estimates that the overall loss to developing countries is some £100 billion a year, which is more than the aid flows going into those countries. If we could sort this out, we would be doing something as useful as all of DFID's efforts. *[Interruption.]* I can hear the Minister saying from a sedentary position, "Yeah, but the real fundamental problem is corruption." He has a point, but we facilitate it. We make it easy, but why? It makes no sense.

We want the Government to set up public registers of beneficial ownership of companies in the British overseas territories. For the purposes of preventing money laundering, the Secretary of State should provide all reasonable assistance to the Governments of the countries we have listed, to enable them to establish a publicly accessible register. The Minister is concerned about the constitutional niceties of making a distinction between the constitutional arrangements in the overseas territories and those in the Crown dependencies. To respect that distinction, we tabled new clause 8, which requires the Secretary of State to consult the authorities of Governments in the Crown dependencies.

The Minister said again this morning that we do not intervene directly. I have two points to make about that: first, we run the foreign policy bit, and secondly, we also run domestic legislation from time to time. We have intervened on gay rights and capital punishment. There was a suspicion that Royal Assent was given to the change to gay marriage laws in Bermuda because it was felt that that was a price worth paying for not having the counter-example of us debating, within a month, these tax privileges—

Sir Alan Duncan: No, no, the hon. Lady cannot allow that to lie on the record. The decision on Bermuda was taken—

The Chair: Order. Lie?

Sir Alan Duncan: I meant lie in the sense of nestling into its duvet on the record.

The Chair: Thank you, Sir Alan. You have woken me from my slumbers!

Sir Alan Duncan: Bermuda introduced a gay marriage Act that gave no particular rights. When it introduced civil partnerships for everybody, it gave proper pension and equality rights, which was in itself a good step, even though it is not called gay marriage.

11.15 am

Helen Goodman: I am grateful to the Minister for that interpretation. I will come now to the counter-arguments. The first is the one the Minister put to me a few minutes ago, that the overseas territories are ahead of others and we should not focus on them.

The problem with that argument is twofold. First, everybody else will catch up soon: there is the EU anti-money-laundering directive, and other countries across the world are introducing public registers. Secondly, we are responsible for what happens, to some extent, and we can influence it. We can make a change if we want to. I will end by asking why Ministers are not making a change. Furthermore, these secret jurisdictions are the most used: the BVI was by far the most popular tax haven in the Panama papers and Bermuda ranked as number one on Oxfam's list of worst corporate tax havens. So we are talking not about obscure little operations, but about the centre of this financial secrecy problem.

The next counter-argument is that we should wait until public registers of beneficial ownership become a global standard, and then expect swift change. I will not be able to speak as eloquently as the right hon. Member for Arundel and South Downs (Nick Herbert) did on Second Reading, but he put the kibosh on that argument very effectively. We do not say about other crime or problems that we are not going to deal with that thief over there until we have caught this one somewhere else. That is not a sensible way to run policy. The fact is that the UK is at the centre of this problem. Post-Brexit we could do so much to regain leadership on anti-corruption.

The third counter-argument is that the overseas territories' economies are heavily reliant on financial services. There are a number of things to say about that, but first being that, were we to have more tax revenues, we would be able to support the overseas territories better in trying to shift their economies from where they are now to where we would like them to be. Examples of alternatives include tourism and the geothermal resources in Montserrat. There are a number of ways in which we could support a better and more balanced development of their economies.

Another reason is that, in the long run, people want to use financial services in jurisdictions that are trustworthy, have a high reputation and where the rule of law is enforced. The rule of law is one reason why London is such a successful financial services centre. Some of the overseas territories' activities—for example, the insurance market—are perfectly legitimate and reasonable, and they can get an income from that. Leaders of large businesses are now calling for that, including at HSBC—notorious for its involvement in the Mexico problem.

We then have the argument that trying to intervene in the overseas territories is neo-colonialist. I think that is a problem of missing the wood for the trees, given that it cannot be neo-colonialist to want to ensure that African countries are not ripped off and lose their tax revenues and the value of their assets. That is not neo-colonialist; it is supportive of their development. That is why, for examples, the South Africans were very pleased with the information they got from the Panama papers, and they used it.

The next argument is that public beneficial ownership registers degrade the quality of information available to law enforcement. I am puzzled by that argument, as that does not seem to be the case, given that the more people are scrutinising something, the more likely it is that the quality of information will be improved.

Another argument is that such a policy threatens the privacy and security of people using the secrecy jurisdictions. There are two things to say about that: first, we seem to be extremely worried about the privacy and security of a very small number of rich people, but not at all worried about the massive and violent crimes inflicted on people who are suffering from human trafficking, drugs gangs or other kinds of violence. Even if we say that we need to address that, though, it is adequately addressed in the British regime; and we are suggesting that they run a similar publication regime. An analysis commissioned by the Government found that the UK register would actually save our law enforcement authorities £30 million a year; so I think that that argument is also extremely weak.

When David Cameron was in power we were making progress on this. I do not know what has changed or why this Government seem to be in a different place. Perhaps it is because there are too many people influencing the Government who keep their money in these offshore havens. For example, the hon. Member for North East Somerset (Mr Rees-Mogg) was referred to in the Paradise papers because of a $680,000 payment he received when the BVI-based investment firm he worked for was bought by a Canadian bank. Everybody knows that the hon. Gentleman is extremely rich and his finances are complex, but his stake in Somerset Capital is managed by subsidiaries in the tax havens of the Cayman Islands and Singapore. Or are we seeking to protect the interests of Philip May, who works for an investment management firm—

Sir Alan Duncan: On a point of order, Mr McCabe, I think these ad hominem attacks are highly inappropriate for this stage of the Committee, or indeed any stage in our Parliamentary proceedings.

The Chair: That is not strictly speaking a point of order. Perhaps we can stick with the detail of the new clause, though.

Helen Goodman: I know what the rules of the House are and I wrote to the hon. Member for North East Somerset yesterday, telling him I would be mentioning him in the Committee today. However, the rules and courtesies of the House do not apply to people who are

[Helen Goodman]

not Members of the House. It is perfectly reasonable to tell the Committee that Philip May works for an investment management firm, Capital Group, which reportedly used offshore-registered funds to make investments in a Bermuda registered company.

Sir Alan Duncan: So what?

Helen Goodman: The Minister asks, "So what?" but—

The Chair: Order.

11.25 am

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

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

SANCTIONS AND ANTI-MONEY LAUNDERING BILL [LORDS]

Sixth Sitting

Tuesday 6 March 2018

(Afternoon)

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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 10 March 2018

The Committee consisted of the following Members:

Chairs: † Dame Cheryl Gillan, † Steve McCabe

† Badenoch, Mrs Kemi *(Saffron Walden)* (Con)
† Bardell, Hannah *(Livingston)* (SNP)
† Benyon, Richard *(Newbury)* (Con)
† Chalk, Alex *(Cheltenham)* (Con)
† Courts, Robert *(Witney)* (Con)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Duffield, Rosie *(Canterbury)* (Lab)
† Duncan, Sir Alan *(Minister for Europe and the Americas)*
† Freer, Mike *(Finchley and Golders Green)* (Con)
† Glen, John *(Economic Secretary to the Treasury)*
† Goodman, Helen *(Bishop Auckland)* (Lab)
† Graham, Luke *(Ochil and South Perthshire)* (Con)
† Maclean, Rachel *(Redditch)* (Con)
† Norris, Alex *(Nottingham North)* (Lab/Co-op)
† Prentis, Victoria *(Banbury)* (Con)
† Rowley, Danielle *(Midlothian)* (Lab)
† Smith, Nick *(Blaenau Gwent)* (Lab)
† Stevens, Jo *(Cardiff Central)* (Lab)
† Thewliss, Alison *(Glasgow Central)* (SNP)

Mike Everett, *Committee Clerk*

† attended the Committee

Public Bill Committee

Tuesday 6 March 2018

(Afternoon)

[Steve McCabe *in the Chair*]

Sanctions and Anti-Money Laundering Bill [*Lords*]

2pm

The Chair: Before we resume line-by-line consideration of the Bill, will everyone check that they have their electronic devices turned off or to silent mode? I remind Members of Mr Speaker's rule that teas and coffees are not allowed during sittings.

New Clause 1

Public registers of beneficial ownership of companies in the British overseas territories

"(1) For the purpose of preventing money laundering, the Secretary of State must provide all reasonable assistance to the governments of—

(a) Anguilla;

(b) Bermuda;

(c) the British Virgin Islands;

(d) the Cayman Islands;

(e) Montserrat; and

(f) the Turks and Caicos Islands,

to enable each of those governments to establish a publicly accessible register of the beneficial ownership of companies registered in that government's jurisdiction.

(2) No later than 1 January 2019 the Secretary of State must prepare an Order in Council in respect of any British overseas territories listed in subsection (1) that have not by that date introduced a publicly accessible register of the beneficial ownership of companies within their jurisdiction, requiring them to adopt such a register by 1 January 2020.

(3) In this section a 'publicly accessible register of beneficial ownership of companies' means a register which, in the opinion of the Secretary of State, provides information broadly equivalent to that available in accordance with the provisions of Part 21A of the Companies Act 2006 (information about people with significant control)."—*(Helen Goodman.)*

This new clause would require the Secretary of State to take steps to ensure the governments of specified British overseas territories introduce public registers of beneficial ownership of companies.

Brought up, read the First time, and motion made (this day), That the clause be read a Second time.

The Chair: I remind the Committee that with this we are considering new clause 8—*Public registers of beneficial ownership of companies in the British Crown Dependencies*—

"(1) For the purpose of preventing money laundering, the Secretary of State must consult with the authorities of governments in each Crown Dependency on establishing a publicly accessible register of the beneficial ownership of companies registered in their jurisdictions.

(2) Within 6 months of this Act being passed, and every 12 months thereafter, the Secretary of State must report to Parliament on progress within the Crown Dependencies on establishing registers as referred to in subsection (1).

(3) In this section a 'publicly accessible register of beneficial ownership of companies' means a register which, in the opinion of the Secretary of State, provides information broadly equivalent to that available in accordance with the provisions of Part 21A of the Companies Act 2006 (information about people with significant control)."

This new clause would require the Secretary of State to consult with the governments in each Crown Dependency about introducing public registers of beneficial ownership of companies in the Crown Dependencies, and to report to Parliament on the progress of establishing such registers.

Helen Goodman (Bishop Auckland) (Lab): Before we broke for Justice questions, I was speculating about why David Cameron's Administration were quite enthusiastic to make progress on this issue but the current Administration seem less enthusiastic. I had basically made my arguments and I was about to bring my speech to an end.

Luke Graham (Ochil and South Perthshire) (Con): I say to the hon. Member for Bishop Auckland that there are Government Members who are in favour of public registers of beneficial ownership in British overseas territories. I studied international financial reporting standards extensively in my former life as an accountant—I draw Members' attention to my entry in the Register of Members' Financial Interests—and I am a member of the Public Accounts Committee. Having more transparency through country-by-country reporting and ensuring public oversight and increased transparency of a lot of our transactions will mean that we actually raise standards, not only in the UK mainland, where we have done so by introducing a public register, but in our overseas territories. Given the opportunity that Brexit provides us, in terms of having to reinvigorate our economy and our brand, it is important that we lead. Certainly, what is good enough for the mainland should be good enough for overseas territories.

I know from conversations with my right hon. Friend the Minister for Europe and the Americas that the Foreign and Commonwealth Office has concerns about whether it is right to impose measures on overseas territories. There is precedent for that, as the hon. Member for Bishop Auckland said, but there are concerns about whether it would be right to do so in this case. I do not believe in "devolve and forget", although overseas territories have different constitutional arrangements. As MPs, we are responsible for taking a leading role. Westminster is here to lead, not to follow, and the United Kingdom should be a leading light when it comes to financial transactions and financial transparency, as it has been on so many global reporting standards.

Helen Goodman: The distinction that the hon. Gentleman makes suggests to me that, although he may hesitate to vote for new clause 1, he will agree to new clause 8, which merely calls for a consultation.

Luke Graham: I will come to exactly what I am looking for in just a minute.

Mike Freer (Finchley and Golders Green) (Con): Don't let her tempt you.

Luke Graham: Yes, exactly. I am conscious that we have discussed new clause 1 at length and that my right hon. Friend the Minister has listened to private petitions from me and other Members. I reiterate that I am sensitive to the different constitutional arrangements for each overseas territory, the way that local legislatures pass their laws and the reasons why they have interests in different areas of financial services, as the hon. Lady highlighted. However, the United Kingdom Parliament should be clear that, if we find a wrong, we should try

to right it. I have received correspondence from overseas territories about the cost of implementing a public register and how that might negatively impact their economies. The United Kingdom Government should try to help them with any transition or implementation costs. In the longer term, if it means a shift in their economies and if implementing a public register creates a large gap, we should commit to helping their economies to transition. We must not just take away one aspect of their economies and leave them to fend for themselves.

I ask my right hon. Friend the Minister to commit to engaging with the overseas territories. We have already made a lot of progress. The United Kingdom mainland is the leading light on financial transparency, and we have led the way with the public register. We must engage with the overseas territories, take them on the journey with us and help them to overcome some of the challenges they will inevitably face in a positive and constructive way.

Alex Norris (Nottingham North) (Lab/Co-op): It is a pleasure to follow the hon. Member for Ochil and South Perthshire. My hon. Friend the Member for Bishop Auckland probably shares quite a few of these views. She made a comprehensive and weighty case; I just want to build on a couple of elements of it. We have recognised on Second Reading and during this discussion that Britain and the British Parliament have a really good record in this area. We should be proud that we are world-leading, and we should continue to be so. As we debate this transition Bill, which is a Brexit Bill at its heart, we should ensure that we remain at the forefront.

We can have the best fence in the world, but there are limits to what we can do if this goes on to our neighbours' properties. If we have a special relationship with our neighbour, perhaps there are better ways of doing it—I will not torture that metaphor further. At its root, this is clearly a problem that needs solving. The hon. Member for Ochil and South Perthshire characterised it as a wrong that needs righting. The Panama papers listed the British Virgin Islands as the No. 1 location for those issues. Similarly, as my hon. Friend the Member for Bishop Auckland said, Oxfam listed Bermuda as No. 1, and we have seen the briefing materials from Christian Aid. Just so this cannot be portrayed as an activist campaign—as though that could be a bad thing—HSBC and even BHP Billiton say that this is the sort of thing we need. BHP Billiton is the world's biggest mining company, so it is not often that it and I are bedfellows, but it understands that unclear audit trails for money are bad for its business. They are bad for the communities from which the money comes, but also bad for BHP Billiton's global finance enterprises, so it is urging us to take action.

This proposal is proportionate. We heard on Second Reading that, given that the overseas territories have had a difficult few months, time has been built into the proposal. There is recognition of how the Crown dependencies ought to be supported. Ministers have said throughout this Bill Committee that, when it comes to the overseas territories, we are responsible for foreign affairs and security. Absolutely—I could not agree more—and anti-money laundering and dirty money passing over borders in massive quantities are at the root of security and foreign affairs. Money laundering underpins global terror, and we ought to be squeezing it wherever we can, because that is one way of cutting off those networks. The combatants we engage with may seem like they are hidden in hills and hard to find, and are perhaps not like us, but from all we have been through over the past 20 years, we know that they have some very sophisticated cells, behind which is big money. This is a chance to clamp down on that.

This will say a lot about us as we go into the brave new post-Brexit world. We have heard the phrase "brand Britain"—the hon. Member for Ochil and South Perthshire talked about our brand—and who we are and where we place ourselves in the world will be very important to it. On the one hand, our Ministers are going round the world saying that we have a great approach to money laundering, but on the other, these are British overseas territories—the Minister referred to them as overseas territories, but they are British overseas territories, and our name is attached to them.

Jo Stevens (Cardiff Central) (Lab): Does my hon. Friend agree that, although there are some very good things in the Bill, not dealing with secrecy in relation to the overseas territories will damage the credibility of the rest of the Bill and will put it in danger?

Alex Norris: I thank my hon. Friend for that useful intervention. I absolutely agree. We should not see the Paradise papers and the Panama papers as the past, and assume that we will not see anything about this issue again. We are likely to see such things periodically on different programmes and in different newspapers. Every time that happens, people will ask, "What did you do about it? When you heard about it last time, how did you act?" If we say, "Well, we have this brilliant law, which we consider world-leading, but we stopped short of doing this," people will wonder why we did that, and that will damage our brand.

This is not just about the British overseas territories—people will say, "Hang on a minute. They are British. What are you doing in your engagement with them?"—but about the Crown dependencies. The Crown will, dare I say, be a very important part of brand Britain, and people will draw a very straight line. Even if we feel that we should not be able to act in this area, people will expect that we can, so we ought to have a pretty clear picture on it. What is being asked for in the two new clauses is proportionate and sensible, and hopefully something that we can all support.

Anneliese Dodds (Oxford East) (Lab/Co-op): I do not want to speak for very long, or repeat what colleagues have said. I very much agree with the comments made by my hon. Friends the Members for Nottingham North and for Bishop Auckland. However, there are a couple of aspects that I would like to emphasise, and provide the Committee with a bit more information on.

First, it is the friends of the overseas territories and Crown dependencies who are deeply concerned about the lack of action in this area. I have had many meetings with representatives from both groups of jurisdictions over the years, both as an MP and as a Member of the European Parliament before that, when I sat on tax committees and the Panama papers committees in the European Parliament. I have had many discussions on these topics. I acknowledge that there is currently some resistance, but there is also an awareness of the reputational damage that is being done to their jurisdictions, as my hon. Friend the Member for Nottingham North mentioned.

[Anneliese Dodds]

There is also concern about having the resource necessary to implement more transparency. I strongly agree with what the hon. Member for Ochil and South Perthshire said in that regard. That is why our new clause calls for support for the overseas territories to implement the changes. We do not want to end up in a situation similar to what happened in the Turks and Caicos Islands, where there were repeated warnings that there were problems but nothing was done until it got to such a height that there had to be what some would say was a very draconian response. We do not want to get to that situation; we want to see change. I will go on to explain what happened in the Turks and Caicos Islands in a moment, because colleagues need to know about that. We have not yet talked about the instances where Britain has exercised its relationships and the levers it possesses.

It is also important that we acknowledge that for many of the overseas territories and Crown dependencies there has been positive legislative change, particularly around 2013 and 2014. However, that has died off a bit recently. One thing that worried me was the fact that the British Virgin Islands have passed new laws against whistleblowers. That has caused a lot of concern, and appears to suggest a shift in the wrong direction. The US State Department, for example, has commented on the fact that low numbers of prosecutions are coming from some of the jurisdictions. Frankly, it is a bit of an embarrassment that the US State Department has commented on that, and we have not seen the necessary action.

It is also a major concern for our country. Others have commented on this, but we have not yet quoted from the National Crime Agency's "National Strategic Assessment of Serious and Organised Crime 2016". That report spelled out the problem with having our open register of beneficial ownership without having commensurate obligations in our associated jurisdictions—not to mention the register's own problems, which we will come on to. The report said:

> "When legislation to report beneficial ownership begins to be fully enforced…the UK will be less vulnerable to shell companies formed by professional enablers and others within the UK for the purposes of enabling bribery, corruption and money laundering. The UK will remain at risk from company formation in overseas jurisdictions where similar legislation is not in place."

It is a direct concern for Britain that we have this leaky fence, to stretch again the metaphor of my hon. Friend the Member for Nottingham North.

It is particularly worrying that the British Government's position seems to have shifted backwards. Other colleagues have mentioned that, and I wanted to draw attention to the precise language that is now being used by the Government. David Cameron gave us a commitment to beneficial ownership registers—not to public ones. We wanted him to go further, but he committed to getting registers that could at least be used by law enforcement agencies.

As of the debate on the Bill in the other place, we have a new formulation of words, talking instead about either registers, or similarly effective mechanisms to beneficial ownership registers. It would be helpful to hear from the Minister exactly how they are similarly effective. I asked a parliamentary question about this issue and I was told that, for example, electronic search platforms are a technical solution designed to achieve precisely the same result. Well, they do not achieve the same result if it takes longer for law enforcement agencies to get the information they need to root out crooks and prosecute them.

2.15 pm

Let me turn to where the UK has used its available levers to achieve change in a consensual, and sometimes respectful, manner. Colleagues have mentioned that there are different governance arrangements, which is correct. In some areas, Governors are directly responsible for the oversight of the financial sector, so surely in Anguilla, Montserrat and the Turks and Caicos Islands there should be a quick move in that direction. As I understand, Montserrat has committed to implementing this public register, but in other territories that is the role of financial services commissions, which in turn are in contact with the UK Government. It would be helpful for the Committee to understand exactly how the Government are using their influence over those commissions to try to seek this necessary change.

The British Government have already worked towards a different approach to budgeting in some jurisdictions, and there is now much more oversight over budgeting processes in the overseas territories. I want to inform the Committee of three specific cases that I think are relevant and indicate how pressure from the British side—appropriate, not disrespectful, pressure—can been applied, where necessary, for a positive outcome in those jurisdictions.

The first case is directly relevant and concerns the EU savings directive. Back in the early 2000s, that directive was introduced to cover all EU countries. As we have discussed, EU legislation is not directly applicable in the overseas territories, and although a number of them said that they were willing to implement the directive, the Cayman Islands were not initially willing to do so. The then Chancellor, Gordon Brown, said that if necessary he would use an Order in Council to ensure that the directive was implemented in the Cayman Islands. I do not claim that there was then a consensual process to which everyone immediately agreed—they did not. However, after the UK offered the Cayman Islands compensatory measures to offset any possible negative effects, they implemented the requirements in that directive. It is possible to achieve change, including on taxation.

Secondly, as my hon. Friend the Member for Bishop Auckland said, although Montserrat does not currently have a large financial sector, it did attempt to develop one in the early to mid-1980s, before the horrendous natural disaster took place. When such development was occurring with those financial firms, a number of concerns were expressed about the potential for corruption and money laundering. The then Governor was so disturbed that he ordered police officers to raid one of the banks that had been accused of breaching banking regulations, and eventually it was necessary for a completely new regulatory system to be put in place, following widespread evidence that those institutions had been used inappropriately.

My final case relates to the broad concerns that were raised about governance on the Turks and Caicos Islands. There had been rumours about those concerns for a long time, and the problems meant that the individuals

living on those islands were having their due stolen from them because public resources were being dealt with corruptly. Unfortunately, it took a very long process, until eventually the Foreign Affairs Committee investigated the territories—including the TCI—and the FCO Minister at the time was forced to bring about change.

The Minister for Europe and the Americas (Sir Alan Duncan): Unfortunately for the hon. Lady, she seems unaware that I was the Minister responsible for Turks and Caicos, as a Minister in the Department for International Development at the time. The reasons she cited for our intervention are completely inaccurate. There was a growing financial deficit of £30 million, forecast to be £60 million and then £90 million—it would have been half a billion pounds within a very short time. On that basis, we stepped in and parachuted in a chief financial officer to get the public finances back into shape. It was a great success and is a good example of us intervening in a perfectly proper way in co-operation with the Governor and the Government there.

Anneliese Dodds: I am grateful to the Minister for those comments; I might agree with the second half of them. I wonder whether his remembering of the time is the same as that of the relevant FCO Minister. I am terribly sorry; I do not know who the individuals were, but I was not in the House at the time. He or she commented:

"These are some of the worst allegations that I have ever seen about sitting politicians"

and

"when things go badly wrong…we need to act".

I suspect that they were not talking simply about a budget deficit at that stage; they may have been talking about other matters.

Sir Alan Duncan: The hon. Lady is conflating two separate issues. There was a parallel legal issue over the plight and fleeing of Mr Misick, but that was not the basis on which we intervened.

Anneliese Dodds: Whether the intervention was due to alleged corruption in the activities of the former leader or budgetary matters, the arguments point in the same direction. When the British Government saw there was a problem, they decided it was appropriate to take action. We are lucky to have the Minister here. We are grateful to hear of his experience, and I hope he will inform us of how, in that regard, we can use that experience, in a consensual, respectful manner, to deal with our associated territories in relation to ownership registers.

Sir Alan Duncan: This has been a lively and interesting debate on an issue that we all agree is of importance. It boils down to how we think it appropriate for the Government to act. I am grateful to hon. Members for tabling new clauses, and I appreciate the desire for the overseas territories and Crown dependencies to adopt public registers. However, we should acknowledge the significant steps already taken by those jurisdictions in this area and continue to build on that progress.

While we continue to push for public registers to become the global standard, we should recognise that the arrangements that the territories and dependencies have concluded with the UK exceed the international standards set by the Financial Action Task Force, which do not require private registers, let alone public registers. Nevertheless, should public registers become the global standard, we would expect the overseas territories and Crown dependencies to meet that standard.

As the Committee knows, the overseas territories and Crown dependencies are separate jurisdictions with their own democratically elected Governments. We have therefore legislated for them without their consent only in exceptional circumstances—for example, to decriminalise homosexuality in certain territories, to ensure they were compliant with international human rights obligations. By contrast, financial services are an area of domestic responsibility for territory and dependency Governments.

Legislating for those jurisdictions without their consent effectively disenfranchises their elected representatives and risks harming our overall relationship with them. It also risks leading to a flight of business to other, less regulated jurisdictions, with the undesirable consequence that our law enforcement authorities would not have the same level of access to beneficial ownership information as under the existing bilateral arrangements. Imposing public registers of company beneficial ownership on the overseas territories would carry with it the risk that the territories would be less willing to work with us on this important issue.

[Dame Cheryl Gillan *in the Chair*]

I would like to draw parallels with the devolved Administrations and the Sewel convention. The hon. Member for Glasgow Central addressed the point on Second Reading:

"Much as I do not wish the House to legislate on Scottish matters, I do not want us to legislate for overseas territories or Crown dependencies without consent."—[*Official Report*, 20 February 2018; Vol. 636, c. 92.]

I agree with her that that is the right approach.

The overseas territories and Crown dependencies have already made significant progress on beneficial ownership. Since we concluded our exchanges of notes with them in 2016, they have passed new primary legislation and delivered technological improvements to comply with the terms of the arrangements. They have committed to provide UK law enforcement authorities with automatic access to beneficial ownership information within 24 hours of a request being made, or within one hour in urgent cases. Those arrangements strengthen our law enforcement authorities' ability to investigate serious organised crime, including money laundering and tax evasion.

The hon. Member for Oxford East asked about what are termed similarly effective systems. Some jurisdictions have opted under the bilateral arrangements concluded with the UK to establish an electronic search platform, allowing them to gain access to beneficial ownership information held by their authorities or by corporate service providers.

The exchanges of notes permit such similarly effective arrangements, provided that the following criteria are met. Law enforcement authorities can obtain beneficial ownership information without restrictions, and that information is available for use in both civil and criminal proceedings. Law enforcement authorities can also quickly identify all corporate and legal entities connected to a beneficial owner, without needing to submit multiple and repeated requests. Corporate and legal entities, or

[Sir Alan Duncan]

those to whom the beneficial ownership information relates, are not to be alerted to the fact that a request has been made or that an investigation is under way. We will monitor that arrangement to ensure that it does indeed provide the same results.

I hope that hon. Members agree that the overseas territories, in some cases in the most challenging circumstances, and the Crown dependencies have made significant efforts to move forward on this agenda. The effective implementation of the exchanges of notes will put them ahead of many G20 countries and many individual states of the USA, and demonstrates what can be achieved through working co-operatively.

Alex Chalk (Cheltenham) (Con): Does my right hon. Friend agree that, as a result of the steps that have been taken in the Crown dependencies, there is a far greater degree of transparency in Jersey and Guernsey than in Delaware in the United States, for example?

Sir Alan Duncan: My hon. Friend is absolutely right. It is exactly that comparison that we need to see in the round, in order to understand that there could be unforeseen detrimental consequences of any kind of imposition proposed for the overseas territories.

Luke Graham: I understand the Minister's point about overseas territories and the challenges faced by other jurisdictions such as the United States. Britain leads in a number of global reporting initiatives. Without compelling overseas territories to change their ways, we could still lead the conversation with the United States and the overseas territories in the round, to ensure that we progress this reporting and show the benefits that we have already recognised on the mainland. I urge my right hon. Friend not to draw parallels between the devolved settlement in the UK because we have Scottish MPs in this House, and they are there making laws in Scotland, whereas the overseas territories do not have MPs in this House.

The Chair: May I remind the hon. Gentleman that interventions should be shorter than that?

Sir Alan Duncan: You have been transformed, Dame Cheryl. The second point is within the constitutional settlement with the devolved Assemblies that has been reached in the United Kingdom. On the first point, I would have no objection to any hon. or right hon. Member urging the Government to take a lead in such areas. I hope that, at least by example and in international forums such as the UN, we do just that. I hope the UK's leadership role will continue.

2.30 pm

Hannah Bardell (Livingston) (SNP): I am a little perplexed by what the Minister said. It seems that he conflated the comments of my hon. Friend the Member for Glasgow Central with the intent of the amendment, which is to encourage—not to compel—Governments in overseas territories to do that. Perhaps I am mistaken and he can clarify that, but it seems that there is a misrepresentation.

Sir Alan Duncan: The hon. Lady is not being unreasonable; there are some arguments where some people say compel, and others say urge and consult. My argument would be that we are consulting—we do it all the time. We have a regular dialogue, and in that, we are urging them in the right direction. Anything that smacks of us in any way telling them what to do is counterproductive, because rather than imposing new requirements on these jurisdictions, it is better that to continue to focus our efforts on the consolidation of the existing arrangements.

The exchange of notes provide for the operation of these arrangements to be reviewed six months after they come into force. We are working very closely with the territories and dependencies on this review, and plan to conclude it by the end of March. That is a very good example of the sort of consultation we are engaging in on a regular basis.

Anneliese Dodds: When the Minister those letters are exchanged, will it include the logistics of this operation? I am trying to get my head round how we can genuinely say that contacting potentially myriad trust and company service providers and getting information from them is equivalent to having access to a register. How are the Government truly going to assess that in this exchange of letters? Will it be a question of time? We could be talking about hundreds of TCSPs.

Sir Alan Duncan: I am not directly involved in this, but as I have said frequently, I am very happy to offer the expertise of officials to the hon. Lady so that she can fully get to grips with the intricate detail of the question she has asked.

Hon. Members will recall that the Criminal Finances Act 2017 provides for a review of the effectiveness of the bilateral arrangements. That report must be prepared before 1 July 2019, and it will then be published and laid before Parliament. The reviews will provide a clear understanding of how the jurisdictions are meeting their commitments. At that point, we will be in a better position to consider what more might need to be done. I stress once again that we will engage with the overseas territories and dependencies; we do so already and we will continue to do so on a regular basis, with the clear objectives in mind of wanting consistent and constant improvements in the way in which their finances are organised.

A key feature of the Government's approach has been to maintain a level playing field between all the overseas territories with financial centres and the Crown dependencies. As I have described, we have robust review processes regarding the implementation of these arrangements. If these reviews demonstrate that the full implementation of the exchanges of notes is not taking place in any individual jurisdiction, it would be right for hon. Members to consider this issue further. For the time being, however, we should continue to focus on the full implementation of the existing bilateral arrangements. We are on a good and solid track; therefore, I urge hon. Members to withdraw the new clause.

Helen Goodman: It is nice to see you in the Chair, Dame Cheryl. I wish to remind members of the Committee of two things: first, the Government's own statement in 2012 that, as a matter of constitutional law, the British

Parliament can legislate for Crown dependencies and overseas territories. Secondly, the current approach, where the authorities in London have to ask individual questions, is not as effective in tracking down and deterring illegality as having a transparent approach. That was demonstrated by the fact that, when the Panama and Paradise papers were leaked, they were able to initiate more inquiries and take more action against people because, as I was trying to explain this morning, they were able to see the overall pattern.

I am disappointed in the Minister's response—not surprised, but disappointed—because he has not shown any flexibility at all. However, I do not wish to put the hon. Member for Ochil and South Perthshire on the spot. I think we will come back to this on Report, so I do not wish to put the motion to a vote. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 2

PUBLIC REGISTER OF BENEFICIAL OWNERSHIP OF UK PROPERTY BY COMPANIES AND OTHER LEGAL ENTITIES REGISTERED OUTSIDE THE UK

"(1) In addition to the provisions made under paragraph 6 of Schedule 2, for the purpose of preventing money laundering in the UK property market and public procurement, the Secretary of State must create a public register of beneficial ownership information for companies and other legal entities registered outside of the UK that own or buy UK property, or bid for UK government contracts.

(2) The register must be implemented within 12 months of the day on which this Act is passed.".—*(Helen Goodman.)*

This new clause would require the Secretary of State to create a public register of beneficial ownership information for companies and other legal entities registered outside of the UK that own or buy UK property, or bid for UK government contracts, within 12 months.

Brought up, and read the First time.

Helen Goodman: I beg to move, That the clause be read a Second time.

In 2015, David Cameron said:

"London is not a place to stash your dodgy cash."

That is why he wanted to set up a register of the real owners of UK property owned by companies registered overseas. Unfortunately, the timetable for that has slipped. Following his announcement in 2015, the Government made an announcement shortly before Christmas saying that they now expected to set up the register in 2021. That is six years. In the other place, it was Tory peers who pressed for this to be speeded up. Our new clause does precisely the same thing.

Last week, the right hon. Member for Newbury mentioned unexplained wealth orders. Indeed, the Security Minister got an excellent splash on the implantation of this part of David Cameron's package on 3 February. It was headed:

"Russians in Britain told to reveal their riches. McMafia-style crackdown on 'corrupt' oligarchs."

It said:

"The government estimates that about £90 billion of illegal cash is laundered in Britain every year."

The Minister said:

"McMafia is one of those things where you realise that fact is ahead of fiction…It's a really good portrayal of sharp-suited wealthy individuals, but follow the money and it ends up with a young girl getting trafficked for sex.

What we know from the Laundromat exposé is that certainly there have been links to the [Russian] state. The government's view is that we know what they are up to and we are not going to let it happen any more."

He then explained that unexplained wealth orders were coming into effect.

I cannot understand why, given that those orders are coming into effect, a start has not been made on one with the purchase from the Ministry of Defence of Brompton Road tube station by a Ukrainian gas magnate. For colleagues who have not been following this long-running issue, Dmytro Firtash is a friend of ex-President Yanukovych and an associate of both President Putin and Paul Manafort. He was arrested in Vienna on corruption charges at the request of the FBI. Latterly, attempts have been made to extradite him to the United States, first on Magnitsky charges and later in relation to his alleged role in masterminding an international racket that aimed to sell titanium to Boeing.

Like all rich people, he operates indirectly. For example, his foundation, New Century Media, paid for the £800 ticket to a summer ball for the Minister here today—the right hon. Member for Rutland and Melton—according to the Minister's entry in the Register of Members' Financial Interests from 2010. He also gave £85,000 to the Conservative party centrally. I would have thought that he was a prime candidate to receive an unexplained wealth order, and I hope that Ministers will see if that can be pursued.

Sir Alan Duncan: Is the hon. Lady saying that New Century Media is owned by Mr Firtash?

Helen Goodman: Yes.

Sir Alan Duncan: It is owned by David Burnside—a former Member.

Helen Goodman: I think Mr Burnside is employed by Mr Firtash. That is the issue. These things are not exactly transparent.

Let us return to the question of whether the current state of the law is adequate. *The Times* also had a leading article which said:

"Three difficulties may blunt the effectiveness of the wealth orders. First, all the agencies involved in investigating and prosecuting those suspected of laundering dirty money in Britain are already over-stretched. They need experienced staff used to digging through multiple layers of shell companies and intricate business transactions, and they do not have enough of them.

Second, the orders frieze assets for an interim period and are only one early step in the process of bringing oligarchs to heel. The government has to be braced for legal marathons contested by the rich and corrupt. That requires political will.

Above all, the red carpet for crooks has to be rolled up. Too many people in the City of London, in the divorce and libel courts, in the art world and in high-end estate agencies have failed to look closely at the cash coming their way. An overdue step would be a public register revealing the true owners of overseas companies that own property in Britain."

Until we have the public register, it is not going to be possible to identify who owns the properties and whether or not the wealth invested in them has been gained legitimately or illegitimately. In other words, are the wealth orders explained or unexplained? I am not quoting the *Morning Star* or the *Daily Mirror*—I am quoting *The Times*.

[Helen Goodman]

We think that this is all taking too long; it is a problem that it is taking too long. It is a problem because of its size, which I will describe. It is also a problem because Ministers are giving time to people to rearrange their affairs and to reorganise them in order to avoid the measures which are in train. A concrete example of that would be the use of trusts. That is why further we have tabled a new clause on trusts.

Global Witness and Transparency International believe that 86,397 properties in England and Wales are owned by companies registered in offshore secrecy jurisdictions; 87% of companies owned by foreign company owners in secret jurisdictions. Half of them are in London and half are in other parts of the country. The 10 most expensive properties owned by companies in tax havens are worth £1.5 billion. Furthermore, Transparency International believes that there are suspicions about £4.4 billion-worth of UK properties, over half of which—£2.36 billion—belongs to companies registered in the British Virgin Islands. They also say that these properties in secret jurisdictions account for 75% of all UK properties under investigation for corruption. If hon. Members or members of the public are interested in seeing what is going on, I recommend going to the Global Witness website where they can type in their postcode and see how many of those secretly owned properties with overseas owners are located on a map.

2.45 pm

The Home Affairs Committee held an inquiry on the proceeds of crime in the 2016-17 Session. It thought that £100 billion was being laundered through London every year and that property was the easiest way of cleaning money because you can buy the property, then have a stream of clean income in perpetuity. The other thing that is alarming, and which tells us that there is something seriously wrong, concerns the enforcement and confiscation rates for the proceeds of crime. If we are talking about a crime that is worth less than £5,000, 95% of the orders are enforced. If we are talking about a crime where the proceeds are worth over £1 million, only 20% is being enforced. It is absolutely typical that the bigger the fish, the easier it is for them to swim away. One thing that was rather strange about the Minister's response when this was debated in the other place was that he said he wanted to look at the impact of introducing this register on foreign direct investment. That does not make sense. I asked the Library for the proper definition of "foreign direct investment". Obviously, we all want foreign direct investment when it means Nissan building a car factory in Sunderland. However, when it means some shifty, corrupt, former public official buying an expensive house in Mayfair, there is no great benefit to the British economy. The Library told me:

> "Inward FDI is concerned with foreign company investments in UK companies",

and that the standard measure for giving an FDI

> "an 'effective voice' is measured as 10% of the share capital of a company".

I therefore hope we are not going to have a rather foolhardy exploration of foreign direct investments as an excuse for putting back and delaying the introduction of this very important register.

Another problem with this £90 billion or £100 billion washing into the London property market is what it is doing to London property prices. Again, we discussed this on Second Reading. The fact is that people are now buying property not to live in but to stash their cash—and we have a lot of empty properties. That makes property unaffordable: we are at an all-time low for people in their 20s and 30s owning property. Rents are shooting up, and the number of children in temporary accommodation has gone up to 120,000. One cannot help noticing that these 86,000 properties would comfortably house the families of these 120,000 children. I really think that Ministers need to get their skates on. We need to see this on the timetable promised by David Cameron.

The Economic Secretary to the Treasury (John Glen): May I say what a pleasure it is to serve under your chairmanship once again, Dame Cheryl? I acknowledge that the amendment seeks to set in legislation an obligation on the Government to implement, within 12 months of Royal Assent, our commitment to establish a public register of company beneficial ownership information for foreign companies that already own or buy property in the UK or who bid on UK central Government contracts. It puts an accelerated timetable on something that the Government are doing anyway. In the next few minutes, I will remind the Committee of the timetable to which the Government are committed for delivery of this policy. I will set out the challenges and complexities of the policy and demonstrate why setting an early and artificial deadline for implementation would inadvertently undermine its aims. I know that these are supported across the House, so it is important to ensure that we get the detail of the policy right.

In listening to the remarks made by the hon. Member for Bishop Auckland, I acknowledge the frustration around this; but this Government are committed to continue to lead by example and improve corporate transparency. Over the past five years, the reforms delivered by the Department for Business, Energy and Industrial Strategy have made the UK a global leader on corporate transparency issues. We were the first country in the G20 to establish a fully and publicly accessible company beneficial ownership register and, across the world, non-governmental organisations lobby their Governments to follow the UK example. There is a reason we have that world-leading reputation: it is because of the quality of the measures we have passed and it is a reputation we would lose if this measure were accepted. A 12-month timetable to draft and pass primary and secondary legislation, empower the responsible agencies and commence the obligations is not realistic. The rush to meet such an unrealistic deadline would inevitably lead to loopholes that would be readily exploited by those seeking to evade the new requirements.

Alex Norris: We are not just talking about a 12-month timetable; this was first announced by a Conservative Prime Minister in 2015. What have Ministers been doing since then?

John Glen: I will come on to explain the history of this and why we are where we are. I am happy for the hon. Gentleman to intervene if he does not feel satisfied at the end of that.

Mindful that the eyes of the world are on us, hon. Members should recognise that this legislation would be a world first. Successful delivery raises significant

challenges and it is right that the Government achieve the right balance in an effective regime with robust enforcement that does not have a negative impact on land registration processes across the UK. I acknowledge that some have accused the Government—and we have also been accused this afternoon—of not acting swiftly enough to implement this policy. Let me address those concerns.

We have committed to publishing a draft Bill before the summer to introduce the Bill early in the second Session and for the register to be operational in 2021. Publishing a Bill in draft is the right approach. As I said before, this register will be the first of its kind in the world, it will affect people's property rights, including not just new purchasers but existing owners. This is a sensitive and delicate area. Getting it wrong would have significant adverse consequences.

Anneliese Dodds: The Minister is being generous. He has kindly set out for us a three-year timetable, adding on a couple of years before that when Government committed to this. Is he aware of the *Private Eye* map, which has been in existence for some time? Through civil society and journalistic activity, Land Registry and Companies House data were put together and a map produced. That appears to have been done quite quickly.

John Glen: I am not familiar with that particular map but I would be very happy to examine it. For clarity, and addressing the hon. Lady's previous point, the register will capture the details of beneficial owners of all non-UK companies—including those in the overseas territories—that own UK property. This will be a world first, so we are moving as fast as possible, ensuring that the register is as comprehensive as possible.

As the Government set out in last year's call for evidence, for the register to be effective the sanctions to be applied for non-compliance must be a meaningful deterrent. Enforcement must be energetic. Simple criminal sanctions may not be sufficient in isolation. The draft Bill will include enforcement through land registration law. Where an overseas entity buys property, it will never be able to obtain legal title to that property without having complied with the register's requirements. Similarly, a restriction on the title register for property owned by an overseas entity will signal to third parties that the overseas entity must comply with the regime before selling the property, creating a long lease or legal charge. Those are significant steps on which it is right to consult.

Hon. Members will recognise that there are separate Land Registries in Scotland and Northern Ireland, as well as the Land Registry for England and Wales. The approaches taken to land registration and overseas entities by each of those Land Registries have been different until now. That too will need be streamlined. Delivery of an holistic outcome that complements all three land registration regimes is an exercise touching multiple teams across Government and the Land Registries. Put simply, it is an exercise that will take time to get right and a further demonstration of why publishing the legislation in draft is the appropriate next step if we are to get it right. Although I appreciate that the motive underlying the new clause supports the policy as a whole and demonstrates a desire for early delivery and implementation, it does not take account of the complexities that I have set out or the challenges of delivery and implementation.

The register will further demonstrate the Government's commitment to combating money laundering through the property market. Hon. Members will have seen recent press reports—the hon. Member for Bishop Auckland drew our attention to the splash on 3 February—that two unexplained wealth orders have been obtained by the National Crime Agency in connection with two properties worth £22 million.

Those are the first orders obtained under the relevant powers conferred by the Criminal Finances Act 2017, which commenced at the end of January. They were obtained only a few days after it came into effect. As the Minister for Security and Economic Crime has said, the orders are an important addition to the UK's ability to tackle illicit finance, and it is great to see them already in use.

The Government will continue to take action. BEIS's response to last year's call for evidence will be published shortly, and it will set out the Government's approach to areas of particular complexity. BEIS has already made significant progress in preparing draft legislation; the work with the office of the parliamentary counsel to draft the Bill is under way.

Separately, BEIS is working to quantify the impact of the legislation on the UK. The impact assessment will quantify the register's potential impact on the property market and investment flows, around which foreign direct investment is very specific, to pick up on the point made by the hon. Member for Bishop Auckland. The register will rightly make the UK more hostile to illicit flows of money, but we must understand the potential impact of legitimate inward investment.

All those issues were considered in last year's call for evidence. Scrutiny of the draft Bill will further stress-test whether it will be effective. I hope that that process demonstrates the Government's continued commitment to enact the policy, and our commitment to get it right. For those reasons, I hope that the hon. Lady will withdraw the new clause.

Alex Norris *rose—*

Sir Alan Duncan: On a point of order, the hon. Member for Bishop Auckland earlier asserted that New Century Media is owned by a disreputable Ukrainian oligarch called Dmytro Firtash. That is completely untrue. New Century Media is owned by a former Member of this House, Mr David Burnside, whose reputation she has inadvertently maligned. I ask her to withdraw her comment immediately, or to say the same thing outside the House and take the full legal consequences of doing so.

The Chair: That is not really a point of order for the Chair, but the Minister has made his point of order and put it on record.

Sir Alan Duncan: I am offering her the opportunity.

The Chair: Unless any other Member wants to rise on a point of order, we will move on. If the hon. Lady wishes to respond, she may.

Helen Goodman: My understanding is—and this has been in the public domain and stated outside this House—that Mr Burnside was the executive chair, but that New Century Media represented the personal foundation of Dmytro Firtash.

The Chair: The hon. Lady has made a response, but it is really not a point of order for the Chair. Members have managed to put it on record, and we will move on. I apologise to Mr Norris, who did not catch my eye before I called the Minister. I call him now.

Alex Norris: You are very kind, Dame Cheryl. I am not a very good bobber—I find myself inadvertently bobbing in the wrong place or staying in my seat. My wife is currently doing the 100 squat challenge, and I wonder whether an afternoon of questions on a particularly good statement is a good way to make a down-payment on that. That is not the point I rise to make, however—proud of her though I am.

The new clause comes back to our place in the world after Brexit. There are very legitimate anxieties across the House, which are often played out in the Chamber, that post-Brexit, Britain will become the low standards capital of Europe: people will have all the benefits of being in Europe, but will not have to put up with those pesky regulations. We have what we consider to be very legitimate concerns about workers' rights, product regulations and environmental standards that we raise frequently, and we hear back from Ministers—to their credit, we always hear back—"No, that is not our plan post-Brexit. That is not the Britain we want to live in." We say that we will hold them to that, as we will.

The Ministers are exceptionally lucky that this is a good opportunity to raise that flag and demonstrate that. The Bill will send a strong signal about what Britain will be like and about our role in the world. The Ministers have said that it will be the first of its kind, which is a good thing. We should seek to lead on such important issues. We have a chance to lead and show that Britain is a high-standards, high-quality economy to occupy and if people come to Britain, they should expect to have the relevant level of scrutiny if there are questions over the assets that they bring or purchase. So it is time: that is what campaigners tell us and what we feel too. We are not asking for this to be done overnight. This is something that Ministers have had since 2015 and that will still have another year after this legislation passes, which is some way away. It is time.

3 pm

Richard Benyon (Newbury) (Con): I think it is worth saying for the record that there is a chill wind blowing through the financial lives of some of the people who have used our economy, particularly our property sector, for nefarious purposes and money laundering. From my conversations with a current Security Minister, and from what I know the Government are doing to implement the asset freeze legislation, I have no doubt that that is being taken forward aggressively and in a determined way. That is being recognised abroad; it is certainly being recognised by some of those people who have used the ability of our economy, through good title deeds, to make property a means by which to bury nefarious funds.

We are talking about legislation to hold future Governments to account. I entirely accept my hon. Friend the Economic Secretary's assertion that this a complex situation to get right. I would like a little more clarification, and I am prepared to cut him some slack on this because if this is not done properly, it will be exploited and people will be able to move wealth in a globalised economy in a much freer way. It should be tied down in a way that encourages people still to invest in this country. I welcome the fact that people want to invest in our property, whether commercial or residential, but not, as the hon. Member Bishop Auckland says, just to leave homes empty. I recognise that that is a real issue, but there is the sheer importance of making sure that all of the provisions are correct. I know it has been complicated: in the asset freeze legislation, there was institutional resistance to what are called Magnitsky-lite measures that were introduced. In a classic piece of good ministerial play, the Government faced down those institutional problems that existed in parts of the civil service and elsewhere and took that forward. To their credit, they are now implementing the measures. I would just like some more assurance from my hon. Friend that this complexity will be tackled with urgency.

John Glen: I am grateful to my right hon. Friend the Member for Newbury and to the Member for Nottingham North for their further observations. I understand the sentiments of frustration and impatience with the Government on this matter. I hope I have spelled out in some detail—in the areas of land registration; alignment around the different parts of the United Kingdom; and making sure that the penalties are appropriate and that the enforcement measures are set to meet the challenge—that the Government have bold ambitions to get this right and to be a world leader in this area. I acknowledge that this has taken rather longer than it would have done in ideal circumstances, but I can confirm and reiterate to my right hon. Friend that the Government are fully committed to delivering this as soon as possible, and that there is a commitment across multiple Departments and the ministerial team to ensure that this reflects the bold aspirations that we have as a nation. I hope that that would be sufficient for us to move on.

Helen Goodman: Ministers have heard that this is an issue of significant concern, and interest in making speedy progress has been expressed on both sides. We will return to this on Report and, that being the case, I do not intend to press it to a vote. I beg to move that the clause be withdrawn.

Clause, by leave, withdrawn.

New Clause 6

ALIGNMENT OF SANCTIONS

(1) It shall be a negotiating objective of Her Majesty's Government in negotiations on the matters specified in subsection (2) to continue the United Kingdom's participation in the Political and Security Committee of the European Union in order to align sanctions policy with the European Union.

(2) Those matters are—

(a) the United Kingdom's withdrawal from the European Union, and

(b) a permanent agreement with the European Union for a period subsequent to the transitional period after the United Kingdom's withdrawal from the European Union.

(3) It shall be the duty of the Secretary of State to lay a report before both Houses of Parliament in accordance with either subsection (4) or subsection (5).

(4) A report under this subsection shall be to the effect that the negotiating objective specified in subsection (1) has been achieved.

(5) A report under this subsection shall be to the effect that the negotiating objective specified in subsection (1) has not been achieved.

(6) This Act shall not come into force until a report under either subsection (4) or (5) has been approved via resolution of the House of Commons and considered by the House of Lords.—*(Helen Goodman.)*

This new clause would require the UK Government to seek continued participation in the Political and Security Committee so as to allow alignment on international sanctions.

Helen Goodman: I beg to move, That the clause be read a Second time.

We now move to a slightly different aspect of the Bill—how decisions will be taken once we leave the European Union. The new clause would require that in negotiations with our European partners, we seek to maintain participation in the Political and Security Committee of the European Union, to align sanctions policy with the European Union, and would require the Government to report on those negotiations and on how they are going. As with the commencement plan, which I felt the Minister was vague and unclear about, so with this. How are we going to co-ordinate in the new world? How is this going to operate?

Sanctions will work if we co-operate and collaborate with other countries. We are all agreed that that is when they are most effective. They are effective in terms of putting pressure on those that are sanctioned, upholding the rule of international law and protecting national security. It is necessary for us to work with our European partners to make our international sanctions regime as effective as possible. One of the issues previously discussed —which Ministers bump up against all the time—is the difficulty of getting agreements in the UN Security Council. Obviously the sanctions that we had on Russia over the annexation of Crimea could not be agreed in the UN Security Council, and that stands to reason. We have been able to get effective sanctions at European level, however, and our security interests are obviously aligned with those of the European Union, objectively speaking, and therefore we are going to take a similar view. We propose that we need to carry on working through the Political and Security Committee. The withdrawal agreement produced by the Commission said some interesting things about decision making. On the subject of administrative co-operation in article 30, it says that,

"as of the date of entry into force of this Agreement, the United Kingdom shall have the status of observer in the Administrative Commission. It may, where the items on the agenda concern the United Kingdom, send a representative, to be present in an advisory capacity, to the meetings of the Administrative Commission and to the meetings of the Technical Commission".

The section on institutions includes proposals on representatives of member states and the United Kingdom taking part in the work of the Union's institutions. Chapter 4, article 104 states:

"Article 10…shall apply in the United Kingdom in respect of representatives of Member States and of the United Kingdom taking part in the work of the institutions, agencies, offices and bodies of the Union"

in so far as their participation in that work took place before the end of the transition period.

There is then a section on how the transition period should work, and that is in part 4 of the document produced by the European Commission.

Paragraph 2 of article 122 states:

"Should an agreement between the Union and the United Kingdom governing their future relationship in the area of the Common Foreign and Security Policy and the Common Security and Defence Policy become applicable during the transition period, Chapter 2 of Title V of the" treaty on European Union

"and the acts adopted on the basis of those provisions shall cease to apply".

We then have the UK's obligations with respect to financing defence and security operations, and finally, in article 157 under "Institutional provisions," it is proposed that, on the date that the withdrawal agreement comes into force:

"A joint committee is hereby established".

I am not saying that what the Commission proposes is the right way to go, but we are concerned that we have no sense of what the Government think we should do. That is why we tabled the new clause, which suggests that, with respect to sanctions policy, we should retain our membership of the Political and Security Committee of the European Union.

Sir Alan Duncan: The new clause would require the Government to commit to negotiating the UK's continued participation in the EU's Political and Security Committee after Brexit and delay the commencement of the Bill until a report had been laid before Parliament setting out whether that had been achieved.

The first point I make is that the Bill is about powers, not policy. The UK's legal powers to implement sanctions flow largely from the European Communities Act 1972. The Bill will replace those powers and, as is recognised on both sides of the House, is necessary to enable the UK to impose sanctions. We are, of course, looking at our sanctions policy and have described our desired future relationship with the EU in a range of places, but it is not appropriate to place that in the Bill.

Secondly, as we have set out, the Government have an unconditional commitment to European security, and we continue to share common threats, interests and values with our European partners. That makes close co-operation, including on sanctions, in both our interests. The exact nature of the UK's future relationship with the EU on sanctions still needs to be determined, but the UK will remain a critical player in both the European context and the global context.

The UK's influence on sanctions derives in part from our membership of the EU, but it is not dependent on continued participation in EU bodies. A lot of it derives from the pre-eminence of the City of London in controlling so many flows of money. Our influence also comes from our status as a permanent member of the UN Security Council and our membership of bodies such as the G7. That influence is underpinned by our strong economy and financial sector, and both public and private sanctions expertise. That makes the UK a key sanctions partner.

As the Prime Minister made clear at the Munich security conference a couple of weeks ago, our partnership with the EU should offer us the means and the choice to combine our efforts to the greatest effect where that is in our shared interest. That includes working closely with the EU on sanctions. My right hon. Friend the Foreign Secretary was clear on Second Reading that he hopes

"we can act in tandem"

with the EU on sanctions because we

"will always confront the same threats and defend the same values."—[*Official Report*, 20 February 2018; Vol. 636, c. 78.]

That demonstrates our commitment to close co-operation with the EU and other international partners regardless of the institutional framework.

[Sir Alan Duncan]

Finally, we do not seek to attend EU meetings on the same basis as EU members. It is worth noting that the PSC is not the primary body that deals with sanctions. Sanctions pass through a range of EU institutions before adoption, from working groups to Council meetings. Committing the Government to seek to join the PSC for sanctions would not make sense from a sanctions policy perspective, and does not make sense in relation to our broader approach to negotiations with the EU. Although the details are a matter for negotiation, in the area of foreign policy as a whole we envisage both formal and informal mechanisms to allow regular dialogue, co-operation and close co-ordination.

To tie our objectives to one model would be counterproductive and would remove the freedom to explore new and better ways of working together with the EU on sanctions once we have left the European Union. However, we do not need text in the Bill to underline our commitment to working closely with international partners on sanctions, because that is what we will do. Given that, I respectfully ask the hon. Lady to withdraw the motion.

3.15 pm

Helen Goodman: The question of how we will co-operate with our European partners on sanctions was debated last July in a general debate on sanctions. I am glad that the Minister now acknowledges that we need to do this, and I am glad that he said that we need formal and informal contacts. Given that he says that this is not the only piece of institutional architecture used at the moment, I will not press the motion to a vote. However, a slightly clearer view from Ministers on how they propose to handle this would be extremely helpful to the House at some point in the future. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

The Chair: Does the hon. Member for Bishop Auckland wish to put new clause 7 to a vote?

Helen Goodman: I would like to put new clause 5 and new clause 7 to a vote. Have I missed the opportunity to vote on new clause 5?

The Chair: Yes. You may press new clause 7 to a vote. Do you wish to?

Helen Goodman: Yes, I do.

New Clause 7

PARLIAMENTARY COMMITTEE TO SCRUTINISE REGULATIONS

(1) A Minister may not lay before Parliament a statutory instrument under section 48(5) unless a committee of the House of Commons charged with scrutinising statutory instruments made under this Act has recommended that the instrument be laid.

(2) The committee of the House of Commons so charged under subsection (1) may scrutinise any reviews carried out under section 27 of this Act.—*(Helen Goodman.)*

This new clause would require a specialised House of Commons Committee to approve all statutory instruments laid under the affirmative procedure under this Act. The Committee would also scrutinise the Government's reviews of sanctions regulations.

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

Bardell, Hannah	Rowley, Danielle
Dodds, Anneliese	Smith, Nick
Duffield, Rosie	Stevens, Jo
Goodman, Helen	Thewliss, Alison
Norris, Alex	

NOES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Graham, Luke
Courts, Robert	Maclean, Rachel
Duncan, rh Sir Alan	Prentis, Victoria

Question accordingly negatived.

New Clause 9

FAILURE TO PREVENT MONEY LAUNDERING

(1) A relevant body (B) is guilty of an offence if a person commits a money laundering facilitation offence when acting in the capacity of a person associated with B.

(2) For the purposes of this section "money laundering facilitation offence" means—

(a) concealing, disguising, converting, transferring or removing criminal property under section 327 of the Proceeds of Crime Act 2002 (concealing etc);

(b) entering into an arrangement which the person knows, or suspects, facilitates (by whatever means) the acquisition, retention, use, or control of criminal property under section 328 of the Proceeds of Crime Act 2002 (arrangements); or

(c) the acquisition, use or possession of criminal property, under section 329 of the Proceeds of Crime Act 2002 (acquisition, use and possession).

(3) It is a defence for B to prove that, when the money laundering facilitation offence was committed, B had in place adequate procedures designed to prevent persons acting in the capacity of a person associated with B from committing such an offence.

(4) A relevant body guilty of an offence under this section is liable—

(a) on conviction on indictment, to a fine;

(b) on summary conviction in England and Wales, to a fine; or

(c) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.

(5) It is immaterial for the purposes of this section whether—

(a) any relevant conduct of a relevant body, or

(b) any conduct which constitutes part of a relevant criminal offence,

takes place in the United Kingdom or elsewhere.

(6) In this section, "relevant body" and "acting in the capacity of a person associated with B" have the same meaning as in section 44 of the Criminal Finances Act 2017 (meaning of relevant body and acting in the capacity of an associated person).—*(Anneliese Dodds.)*

This new clause would make it an offence if a relevant body failed to put in place adequate procedures to prevent a person associated with it from carrying out a money laundering facilitation offence. A money laundering facilitation offence would include concealing, disguising, converting, transferring or removing criminal property under section 327 of the Proceeds of Crime Act 2002.

Brought up, and read the First time.

The Chair: With this it will be convenient to discuss new clause 15—*Disqualification*—

In the event that adequate procedures under subsection (3) of section [Failure to prevent money laundering] are found not to be in place, the Secretary of State must refer to the court a disqualification order under section 8 of the Company Directors Disqualification Act 1986 (disqualification of director on finding of unfitness).".

This new clause would require the Minister to ask the courts to investigate whether directors of a company are fit and proper, if it was found that proper procedures against money laundering were not in place.

Anneliese Dodds: I beg to move, That the clause be read a Second time.

It is a pleasure to serve under your chairmanship, Dame Cheryl, and in rather warmer circumstances than the last time. New clause 9 seeks to create an offence if a relevant body failed to put in place adequate procedures to prevent a person associated with it from carrying out a money laundering facilitation offence. New clause 15 creates a process for disqualification for those at the top level who have failed to prevent money laundering.

I will deal with each new clause in turn and then speak briefly about the overall regulatory context, which creates a necessity for these new approaches. First, on new clause 9 and the failure to prevent the facilitation of money laundering, there are many problems with the existing system. The FCA has found weaknesses in governance and long-standing and significant under-investment in resourcing for control systems, even in the sector that is actually regulated for money laundering. I will talk about some of the problems there later on.

Many of those who investigate in this area find that rules are intermittently enforced, penalties are low and senior executives face few personal, financial or reputational consequences. It is constructive to compare some of the penalties that have been levied in the UK with those levied in the US. As I understand, the largest fine levied in the UK for anti-money laundering or sanctions offences—the Minister may contradict me if I am wrong—was levied against Coutts & Co for £8.75 million. That is six hundred times less than the penalty that was levied by the United States on BNP Paribas for sanctions-related offences.

John Glen: I am very happy to confirm that in fact Deutsche Bank was fined £163 million in January 2017, and Barclays had a fine of £72 million in November 2015. I do not think that comparison is correct.

Anneliese Dodds: It would be helpful to know under which pieces of legislation those fines were levied, because I am uncertain whether they were directly under money laundering legislation. I will come back to that, particularly in relation to some of the outcomes of some parliamentary questions that I have asked to try to dig into this and find out what prosecutions have been enabled by existing legislation.

I am grateful for the information that the Economic Secretary has provided; however, there is still a lot of concern about banks' and others' ability to root out money laundering and the facilitating of money laundering. The FCA found—admittedly, in 2014—that there was

"significant and widespread weaknesses in most banks' anti-money laundering systems and controls".

That is revealed in the case of HSBC. Many members of the Committee will know that it was involved in a money laundering scandal that led to the US fining it £1.2 billion. There was a large investigation into that matter in the United States Senate, where it was said that our UK-based bank had been a conduit for

"drug kingpins and rogue nations",

including Mexican drug cartels and North Korea. In fact, that case has been referred to already in this Committee.

Particularly worryingly, a congressional report found that George Osborne and the Financial Services Authority—now the FCA—corresponded on numerous occasions with their US counterparts about the case; in fact, they urged a less aggressive judicial approach on the US side. Apparently, the congressional report said that the UK interventions played a significant role in ultimately persuading the US Department of Justice not to prosecute HSBC. I find it quite concerning that the UK actually argued against measures being taken by other countries to try to deal with this problem.

We were hoping to have some change; the Serious Fraud Office has called for the broadening of existing economic offences to cover a kind of umbrella approach, also to cover failure to prevent. It thinks that that would be helpful to hold large companies to account criminally across the board. At the moment, we have the ability to prosecute the failure to prevent bribery and corruption, but those activities are rarely committed in isolation from instances of money laundering by corporate entities. Therefore, it seems to make sense to try to extend corporate liability to money laundering. That would push in the same direction as existing pieces of legislation. Of course, the Bribery Act 2010 created a new offence of corporate failure to prevent. I believe that Act was put in place because of the same kind of repeated criticism of the UK regime that we have seen in relation to money laundering. We also now have the offence of failure to prevent criminal tax evasion in the Criminal Finances Act 2017. Surely there is now a strong case for an explicit reference to failure to prevent money laundering.

Many of us thought that we were not going to have to push for a separate offence of money laundering because we were to have an umbrella approach. In May 2016, the Government committed to consult on a broad offence of failure to prevent economic crime, which would cover fraud, false accounting and money laundering. In January 2017, the Government downgraded that commitment and instead published a call for evidence on whether there was a case for economic crime corporate liability law reform.

As I understand it, the call for evidence closed in March 2017. I have not yet seen the results of that call for evidence. It would be helpful for the Minister to let us know the outcome of that call for evidence, the main findings and how the Government have decided to act on them. Will they introduce the umbrella offence or create a discrete offence, as we are asking for? Because we think we need action now. That is new clause 19.

The Chair: New clause 9.

Anneliese Dodds: I beg your pardon. I am getting over-excited and trying to hurtle towards the end of the programme. I am sorry, Dame Cheryl.

Sir Alan Duncan: Go ahead.

Anneliese Dodds: No; we are very keen to have a thorough discussion on every one of our new clauses.

New clause 15 focuses on disqualification. The purpose is to ensure that directors specifically take responsibility for their organisation's mistakes, and to ensure that the Secretary of State may hold them to account for a failure to prevent money laundering, in the instance where procedures have not been put correctly in place.

Many colleagues might have served as directors and will know the rules on being a director—that directors can already be disqualified if they display unfit conduct. Unfit conduct is defined as including allowing a company to continue trading when it cannot pay its debts, not keeping proper company accounts and so on.

With the new clause, we wish to extend that to include a commitment for every director to ensure that they are not ignoring money laundering concerns. We want to mirror what happens under competition law in Britain, where a director's role is looked at in the event of a breach of the law. That is necessary because of the situation we find ourselves in today.

I am sure many colleagues will have talked to professionals on the frontline of anti-money laundering. I have talked to quite a lot of people who work in banks and other organisations who have anti-money laundering responsibilities. I am sure there are people who work in accounting and other walks of life for whom this is a concern. Very often the clear message I get, as I am sure colleagues do, is that those individuals are working very hard to prevent money laundering but they are not supported by the leadership team within their firm. Global Witness has stated that,

"responsibility for compliance with anti-money laundering and other regulations is usually allocated to compliance teams, rather than to senior executives, who actually wield power within banks over what customers they take. This is a serious problem because it gives compliance staff none of the authority but all of the responsibility, breaking the important link between decision making and accountability."

That is certainly what I find when I talk to individuals who are in that responsible position. They find they are often not supported by senior managements. That has also been discovered in some of the big corporate scandals—I referred to the HSBC case a moment ago. In his written evidence to the UK Parliament, David Bagley, who led on compliance at HSBC during the period of the failings we were just talking about, stated:

> "as the Head of Group Compliance, my mandate was … limited to advising, recommending and reporting. My job was not—and I did not have the authority, resources, support or infrastructure—to ensure that all of these global affiliates followed the Group's compliance standards".

3.30 pm

This is an enormous concern, and it is not being dealt with in the new regulatory developments we have seen recently. I may anticipate some of the comments the Minister is about to make, but we have a very complex regulatory system. If we try to get at this matter through professional regulation, rather than by having the criminal sanction obligation we are talking about, we face a very complex landscape. There are 25 anti-money laundering supervisors in the UK. They include the FCA, Her Majesty's Revenue and Customs and the Gambling Commission. However, we then have 22 accountancy and legal professional bodies involved in AML supervision.

I am well aware, and I am sure the Minister will tell us, that the Government are attempting a more co-ordinated approach with the new Office for Professional Body Anti-Money Laundering Supervision. It would be helpful if he could elucidate whether this is an office, an organisation or a team, because we have it described in different ways in responses to different parliamentary questions. This body—OPBAS—also does not include HMRC as a member. I have heard a number of professionals saying that they are still confused about where the responsibility lies. If this is an attempt to deal with this problem by a professional route, we need to have the criminal sanction, ultimately, at the level of firms' leadership. Proper procedures have to be in place, and responsibility and authority must come from the top.

We have been shown time and time again a whole range of areas of corporate failure, whether that is health and safety, sexual harassment or other areas where there have been problems in a minority of corporations. We have found out frequently that when the incentives and the authority lines point in a direction that contradicts those other values, we can have all the compliance and safeguarding officers in the world, but we will not get the change we need in culture and action unless responsibility and authority are at the top. That is why we are pushing new clauses 15 and 9.

Alison Thewliss (Glasgow Central) (SNP): I do not want to add a huge amount, but I very much welcome the new clause. As the hon. Member for Oxford East said, there is a big issue of incentive and authority for organisations, particularly for those that facilitate the formation and operation of Scottish limited partnerships in the private fund sector.

There has to be an effort to ensure that compliance with the rules is extended as far as possible. For example, a legal firm may be asked to register an SLP to get it up and going, and operating, but if no buck stops with it, there is no punishment for not ensuring that the SLPs are operating as we would want them to. For example, if a firm asks its client to register a person of significant control, and the client does not do so, where is the incentive for that firm to remove that client altogether? The firm has to decide for itself whether the cost of reputational damage from being named in the press is enough. That is the balance that it has at the moment. It is not obliged not to have that SLP within its client base. There is no comeback and no consequence.

There needs to be some means by which the firm is forced to do something to put that right. If the SLPs under its umbrella do not register a person of significant control, and continue not to register them, there is no fine to that legal firm, as I understand it. The SLP may face a fine—I am trying to get to the bottom of how many fines have been issued to those who have not registered a person of significant control—but there is no comeback to the legal firm, other than potential reputational damage.

The Government need to think about where the buck really stops in these arrangements , and this type of new clause would put some emphasis on the firm to do

something about failing to prevent money laundering, rather than allowing things to continue as they are. As I understand it, there is no comeback at the moment to the legal firm that is protecting the SLPs underneath its umbrella.

John Glen: I undertake to address the points raised by the hon. Member for Oxford East. I will come to the point about the directors' responsibility in my scripted remarks and also to the issue of what provision the fines were imposed under.

On the specific question the hon. Lady asked, the Ministry of Justice's call for evidence considered a wide range of reforms to the law relating to corporate liability for economic crime. That is against a backdrop of already significant reform in this area in recent years, including the Bribery Act 2010, the Criminal Finances Act 2017 and the introduction of deferred prosecution agreements, which the Government would contend have strengthened the UK's defences against corporate criminality. The Ministry of Justice is carefully considering the responses received to the call for evidence and is analysing the impacts of the Government's range of recent reforms in this area. It will respond to its call for evidence in due course. I do not have a specific timetable, but that is the best information I can give the hon. Lady.

New clauses 9 and 15 seek to create a corporate criminal offence of failure to prevent money laundering, with an obligation on the Secretary of State to submit a disqualification order to the court against directors of a company found guilty of such an offence without having adequate anti-money laundering procedures in place. New clause 9 provides that a company or partnership is guilty of a criminal offence where the company's employee, agent or other service provider commits one of the substantive money laundering offences in part 7 of the Proceeds of Crime Act 2002. The relevant company would have a defence if it could prove that it had adequate procedures in place to prevent its employees or agents from committing such an offence.

The offence is not necessary in view of the extensive reforms to the UK's anti-money laundering regime that the Government have put in place. The proposed offence is substantively applied to firms that are regulated for anti-money laundering purposes by part 2 of the Money Laundering Regulations 2017. Those require that regulated firms have policies, controls and procedures to mitigate and manage risks of money laundering and terrorist financing. The Government have legislated to require that these policies, controls and procedures are proportionate with regard to the size and nature of the firm's business and proved by the firm's senior management. Failure to comply with these requirements is a criminal offence in itself.

The Financial Conduct Authority and other supervisors are additionally able to take action against firms if their measures to counter money laundering are deficient. As was touched on in our exchange earlier, recent regulatory penalties related to firms' anti-money laundering weaknesses include fines of £163 million for Deutsche Bank in January 2017 and £72 million for Barclays Bank in November 2015. They were a consequence of failures in anti-money laundering measures under the Financial Services and Markets Act 2000.

The new clause also seeks to address challenges that have arisen in apportioning responsibility for corporate failings. Within the financial services sector, that has been addressed through the senior managers regime, which was introduced after the financial crisis. Banks are now required to ensure that a named senior manager has unequivocal responsibility for overseeing the firm's efforts to counter financial crime. That ensures that firms and individuals can be held to account for failing to put proper systems in place to prevent financial crime. If a relevant firm breaches its anti-money laundering obligations, the FCA can take action against a senior manager if it can prove that they did not take such steps as a person in their position can reasonably have been expected to take to avoid the breach occurring. The enforcement action includes fines and disbarment from undertaking regulated activities. The Government have legislated to extend the senior managers regime to apply across all financial services firms. That will be implemented in due course, and will further the Government's reform programme. All those requirements are additional to the substantive money laundering offences in the Proceeds of Crime Act, such as entering into arrangements that facilitate the use of criminal property, which apply to any individual or company.

As hon. Members know, the Government have previously introduced two similar offences: the failure to prevent bribery, in 2010, and the failure to prevent the facilitation of UK and foreign tax evasion, in 2017. They are structured in a similar way to the proposed new clause, but they were introduced following clear evidence of gaps in the relevant legal frameworks that were limiting the bringing of effective and dissuasive enforcement proceedings. It is right that the offences that we have already established apply to legal entities, regardless of whether they operate in the regulated sector.

The situation in relation to money laundering is very different. The international standard is set by the Financial Action Task Force, which has been referred to numerous times in the Committee's discussions. The UK's money laundering regulations apply to banks, financial institutions, certain professional services firms and other types of entity, and act as gatekeepers to the financial system. As I have said, such firms are already required to have policies and procedures in place to prevent their services from being misused for money laundering.

Subsection (6) of new clause 9 would require all companies, regardless of whether they are incorporated, to have procedures in place to prevent persons connected to them from laundering money. The Government do not believe that that would be appropriate. It would risk making non-regulated firms liable for the actions of their regulated professional advisers. Instead, responsibility for anti-money laundering compliance should rest in the regulated sector, as is currently the case. The new clause would not go beyond the existing regulatory framework in that area, and it would blur where responsibility should lie for anti-money laundering compliance. Therefore, I respectfully ask the hon. Member for Oxford East to withdraw the new clause.

Anneliese Dodds: I am grateful to the Economic Secretary for those helpful explanations and clarifications. Despite his useful response, however, there are a number of areas where I am unclear. First, I appreciate that he has probably anticipated this question, but the Committee may ask why it has taken Government a whole year to assess the responses from their consultation on economic crime. Government frequently work at a far faster pace than that. He said that we will have the analysis of those

[Anneliese Dodds]

consultation responses in due course. It would be helpful to know more about why it is taking so long for Government to analyse them.

Secondly, the Economic Secretary spoke about the requirement for all regulated firms to ensure that their policies, controls and procedures are appropriate to prevent money laundering, but there is a question about who assesses that and whose responsibility that is. That takes us back to the issue about there being myriad professional bodies, which all operate subtly different approaches towards regulation in this area. As I said, I appreciate that OPBAS has been created to try to draw them together, but I do not think we heard exactly what the status of that office is—I was trying to concentrate on what the Economic Secretary was saying. I have seen different descriptions of it as a team, an office and an organisation. It would be helpful to have a clearer indication, particularly because those professional bodies are, as I understand it, required to contribute financially to OPBAS, so a number of them are keen to understand what is happening with it. Furthermore, HMRC is not a member of it, as I said before, so the concern about a lack of regulatory co-ordination persists.

Finally, the Economic Secretary referred approvingly to the senior managers regime that has been brought in since the financial crisis, which looks like a positive step initially—of course, the HSBC problems occurred following that. In any case, as I understand it, the actual operation of this new regime and its extension are quite different from, for example, what was recommended by the Parliamentary Commission on Banking Standards. Under this approach, the burden to show that senior managers failed to take appropriate steps will be on the regulator, rather than the senior managers themselves.

That is different from the approach taken in many other areas, including road traffic, health and safety at work, the Bribery Act 2010—which the Minister referred to—terrorist legislation, the Misuse of Drugs Act 1971 and so on. It would be helpful to understand why, with the extension of this regime, the burden of proof has essentially now been placed on the shoulders of the regulator, rather than the shoulders of the managers.

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

The Committee divided: Ayes 9, Noes 10.

Division No. 14]

AYES

Bardell, Hannah	Rowley, Danielle
Dodds, Anneliese	Smith, Nick
Duffield, Rosie	Stevens, Jo
Goodman, Helen	Thewliss, Alison
Norris, Alex	

NOES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Graham, Luke
Courts, Robert	Maclean, Rachel
Duncan, rh Sir Alan	Prentis, Victoria

Question accordingly negatived.

New Clause 10

REGISTRATION OF COMPANIES: ANTI-MONEY LAUNDERING CHECKS

"(1) The Registrar of Companies must not register a company unless he or she is satisfied that appropriate anti-money laundering checks have taken place.

(2) The Companies Act 2006 is amended as follows—

(a) in section 9, after subsection (5), insert—

'(5ZA) The application must provide satisfactory evidence that anti-money laundering checks have taken place.'

(b) after section 13 insert—

'13A Satisfactory evidence of anti-money laundering checks

(1) The Registrar is entitled to accept the anti-money laundering registration number of the United Kingdom body that has submitted the application as satisfactory evidence under section 9(5ZA), provided he or she believes that number to be valid.

(2) The Secretary of State may by regulations made by statutory instrument specify any other evidence that the Registrar may accept under section 9(5ZA).

(3) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.'"—*(Anneliese Dodds.)*

This new clause would amend the Companies Act 2006 to ensure that the Registrar of Companies does not register a company under that Act unless the required anti-money laundering checks have taken place.

Brought up, and read the First time.

3.45 pm

Anneliese Dodds: I beg to move, That the clause be read a Second time.

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

New clause 11—*Due diligence*—

"(1) For the purposes of preventing money laundering, when a company is formed, any company formation agent providing formation services must ensure that the identity and business risk profile of all beneficial owners of the company are established in accordance with—

(a) the customer due diligence measures under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692),

(b) regulations made under section 41 of this Act, or

(c) the Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on anti-money laundering measures.

(2) For the purposes of subsection (1), Companies House is to be treated as a 'company formation agent'."

This new clause would ensure that when a company is formed in the UK, the relevant formation services must identify the beneficial owners of the company. It will also treat Companies House as a "company formation agent", ensuring that the data on the public register of beneficial ownership for companies is accurate.

New clause 12—*Companies House: due diligence and resources*—

"(1) For the purposes of preventing money laundering, the Companies Act 2006 is amended as follows.

(2) In section 1061 (the registrar's functions) after subsection (1) insert—

'(1A) Functions directed by the Secretary of State under subsection (1)(b) must include due diligence on a person wishing to register a company.

(1B) In this section "due diligence" has the same meaning as "customer due diligence measures" in regulation 3 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 692/2017).'

(3) In section 1063 (Fees payable to the registrar), in subsection (2)(a) after 'Secretary of State' insert 'including the duty of due diligence under section 1061(1A).'"

This new clause would amend the duties of Companies House to ensure that any person wishing to register a company must be checked for due diligence by Companies House, in line with the measures included in the Money Laundering Regulations 2017. It also ensures that the Secretary of State can charge fees for due diligence checks to cover costs incurred by Companies House.

New clause 13—*UK bank accounts*—

"(1) For the purposes of tackling money laundering, the Companies Act 2006 is amended as follows.

(2) In section 853A (duty to deliver confirmation statements), after subsection (1) insert—

'(1A) In subsection (1) "information" includes such information as is able to demonstrate that the company has a UK bank account.

(1B) Any company that is unable to provide the information required in subsection (1A) is liable to a fee which may be prescribed by regulations.'"

This new clause would ensure that all companies wishing to be created in the UK must provide evidence of a UK bank account to ensure it has gone through proper money laundering checks by a UK supervising body. If a company is unable to provide proof then they are liable to a fee which will cover the cost of such checks.

Anneliese Dodds: It is a pleasure to present the new clauses to the Committee. As colleagues will know, they all essentially call for an increase in the due diligence and anti-money laundering checks for those who register a company through Companies House.

There is a clear rationale for the new clauses. Around 40% of incorporations in the UK every year are done directly through Companies House, which in many ways offers an easy and helpful service. It is very quick; it is one of the fastest and easiest ways to form a company—it costs only £12 and takes a matter of minutes to complete the necessary paperwork online. That is all very positive, but the negative side comes from the risks that result from an approach where there is insufficient due diligence on the data submitted through that route.

The problem, as I am sure Ministers are well aware—I have asked a number of parliamentary question to probe this—is that Companies House is exempt from the Money Laundering Regulations 2017 because of its not-for-profit status and the fact that it is not a company service provider. That means that a huge number of companies are created without any checks being made on the person setting up the company or the source of their wealth. We are talking about 251,628 companies last year.

As I said, there are very positive aspects to being able to create companies quickly, but the quality of data that results from that is potentially very poor; my hon. Friend the Member for Bishop Auckland talked of , potentially, 10% of company reports not including the appropriate information. There are some cases that might almost be humorous, but given the the circumstances they are deeply disturbing and indicate how little due diligence is taking place. An investigative journalist, Oliver Bullough, created a company called "Crooked Crook Crook Ltd." With that name, many of us might think that this would be a company we would want to look into, but no, the confirmation documents were delivered within 36 hours. He details in an article, which colleagues can look up, should they wish, how easy it was to create that company. If he had not reported his activities in an article for a media outlet, his company could have gone on to partake in a myriad of activities, showing just how cheap, easy and disposable company formation through Companies House can be.

There are many concerns about that. We have a new regime in place now through the money laundering regulations, which covers trust and company service providers—TCSPs—as we have already mentioned. We have some amendments further down the agenda looking at some of those, because there is a particular issue around the operations of non-UK TCSPs. It is surely the case that when a company can be created through a TCSP, that TCSP has to follow all money laundering legislation, but when it does not go through a TCSP, and there is no money laundering legislation applying to it, we should be very concerned. Potentially, that money laundering regulation is undermined by having this massive loophole in place.

There are many disturbing findings from the data from Companies House that has been crunched by different investigative journalists and NGOs. We find that 4,000 beneficial owners named in the Companies House register are under the age of two. My daughter is two. She is really good at lots of things, such as climbing on to chairs. I am not sure that she or any of her playmates would be very good at being a person exercising significant control within a company. There are five beneficial owners registered who control more than 6,000 companies. Perhaps each one of those five are exercising all of their responsibilities perfectly in line with legislation and probity, but it must be very difficult for them to do that. We also have the fact that companies from secrecy jurisdictions can then be registered by Companies House through a UK company, or another formation agent, without there being any background or due diligence check.

I realise that some of these cases might sound a little bit silly, but potentially we are talking about some very worrying examples where there has not been that due diligence and there should have been. There was recently a BBC investigation—we have already referred to it within this Committee—into the case where a UK company registered at a Potters Bar address appeared to facilitate very complex financial arrangements involving the former President of Ukraine. At least £1.2 billion has been funnelled through companies registered at the same Potters Bar address, some of them potentially linked to the very complex situation where huge funds from the Eurovision song contest and lots of other activities seem to have somehow ended up in this company through very unclear routes.

It is concerning that we are in this kind of situation. Because of that, we find a number of professionals highlighting this as an area where we need to have reform. Frances Coulson, the head of insolvency and litigation at Moon Beever Solicitors, has been quoted as saying that this money is passing through Britain, through companies created with insufficient due diligence. She said:

"This is going on now and all the time…All the indicators are that it's getting worse."

And she said that,

"better due diligence—such as checking identification documents—by company formation agents and the UK corporate register, Companies House, would help combat fraud."

Even if we do not manage to pass these new clauses at this stage, I hope that we will at least get some clarification on some of the rather unclear aspects of

[Anneliese Dodds]

the regulatory regime. First, there is the role of Companies House. We are getting only a bit of an inkling of the role of Companies House through parliamentary questions. One response, given on 12 October 2017, said that the Government's view is that Companies House

"does not have a front-line role in combatting money laundering".

In the same month we were told:

"Companies House does not have powers to verify the authenticity of company directors, secretaries and registered office addresses. However, it does carry out a number of checks on all information received; ensuring it is valid, complete, correctly formatted and in compliance with company filing requirements."

However, when we try to find out what this verification process involves, the picture gets rather complicated. Is any automated verification of beneficial ownership information occurring? I tried to find out in February, and no, there are "no current plans" to undertake that; however, Companies House is, it seems, undertaking activities, including,

"contacting companies where they believe the company has misunderstood the requirements…pursuing companies that have not provided PSC information"—

it seems that there is a huge number they will have to pursue, given the statistics discussed by my hon. Friend the Member for Bishop Auckland,

"following up with companies and PSCs where they have issued notices to their PSC (asking the PSCs to provide them with information)"—

PSCs being "people with significant control"—and

"seeking compliance from companies where there has been a complaint about missing or incorrect PSC information."

This was where the picture got more confused. *[Interruption.]*

I may have heard the Minister suggesting that I was rabbiting on. I am terribly sorry, but some of us are concerned about these matters and a number of professionals have contacted us about their concerns, so it is absolutely right that we deal with them in this Committee.

I tried to find out how many reports have been made about money laundering through the "report it" facility that Companies House has set up. The Minister of State, Department for Digital, Culture, Media and Sport, the hon. Member for Stourbridge (Margot James), responded to me on 19 December, stating:

"Eight reports about money laundering have been made through the Companies House report it facility."

However, I was then told on 20 December that the new "Report It Now" feature had led to Companies House

"receiving between 180-200 contacts a day through this service."

That seems like quite a big gap. Will the Economic Secretary please indicate how many of those reports are about money laundering? Is it eight, or is it 180 to 200 a day?

I have been very concerned by the Government's claim, in the same written answer:

"Higher risk company formation activities in the UK will generally be done via Trust or Company Service Providers, who are subject to the Money Laundering Regulations."

I want to illustrate that with one last example, which I was told about yesterday and is quite concerning. It is the case of an individual who has previously described himself as "The Chicken Thief". That is his name as a person of significant control within the Companies House database. His real name is thought to be Antonio Righi—a mafia kingpin in Italy. If someone searches for his name on the Companies House website, as an academic did yesterday before informing me about this, they get a link to Business Bank Italy Ltd.

All banks should be regulated through the FCA nowadays. We are supposed to have that proper approach in place. The use of the word "bank" in a company name is restricted. Any would-be bank has needed to obtain a letter or email of non-objection from the FCA before being allowed to operate as a bank. Yet we see this company still apparently registered with Companies House.

That is deeply worrying because the individual concerned has been named as an active member of the Camorra—a very problematic criminal network that operates in Italy, with links in many other countries. The revelations about "The Chicken Thief" are not new, so one would have thought that Business Bank Italy would have been looked into carefully by the Government, but apparently not, and it still appears to be registered on the Companies House website. I hope the Minister can indicate why that is and whether he will look into this matter, if he has not done so already.

4 pm

Alison Thewliss: I support the new clauses proposed by the hon. Member for Oxford East. They flag up a huge loophole in the anti-money laundering regime, which is the inability of Companies House to do anything about what comes through its door. By not acting on information, and expecting company formation agents to behave in a different way from the way the Government's own agency behaves, the Government become complicit in the money laundering that is clearly going on through companies that are registered for only £12.

The situation is curious. Last week I sat on a delegated legislation Committee that discussed passport fees and the need for full cost recovery of those fees by the Government because the Passport Agency wants to ensure that it is not making a loss. There is an argument about whether passports are too expensive, which I think they are, but it costs £12 for the registration of a company. If Companies House is not getting full-cost recovery for that, and that is the reason for not carrying out the due diligence that ought to be done on anti-money laundering, that is an argument to find a reasonable cost of registration that would allow Companies House to operate, make money and have sufficient funds to carry out the due diligence it ought to. If there is an incentive not to play by the rules, and the Government are incentivising that through the operation of its own agency, that is nonsense. That is highlighted in Global Witness's "The Idiot's Guide to Money Laundering":

"Step 4: open your company direct with the corporate registry—they don't do any checks on you!"

It seems ludicrous that the Government are going to encourage agents who want to set up companies for people to do that and go through the anti-money laundering things that they have to do, but the Government are not enforcing that. That seems absolutely ludicrous. I cannot for the life of me think how the Government will defend that unjustifiable loophole.

Transparency International reported that in the UK last year, 251,628 companies were created with no checks being made on the person setting up the company or their source of wealth. It is a scandal that these companies can be set up, facilitated by the Government, because Companies House has to accept their documents in good faith without doing due diligence checks that we would expect of other agents. If they are not going to support the new clauses, I urge the Government to propose a measure themselves, because this simply cannot continue.

John Glen: The new clauses are broadly similar in purpose and intention. Each would expand the role that Companies House plays in relation to anti-money laundering checks, whether by conducting due diligence directly, confirming that due diligence has been carried out, or confirming that a company seeking to be incorporated has a UK bank account.

I will turn to the practical difficulties of these proposals in a moment, but the first point to make in connection with each is that the UK's anti-money laundering regime is undergoing an assessment by the Financial Action Task Force. The FATF is the international standard setter in this area and will report publicly later this year on its findings. The report will consider matters, including the effectiveness of how the UK prevents the misuse of legal persons, such as companies, for money laundering purposes. Hon. Members will appreciate that this report will greatly inform the future of the UK's anti-money laundering regime, including in relation to how we can best prevent the misuse of legal entities, some of which have been described in the course of this debate.

Once the FATF has reported, the Government will actively consider its conclusions, including those in relation to any areas in which the UK's anti-money laundering framework can be improved. These new clauses pre-empt the review process already under way. It would be more sensible to allow the review to identify specific areas where action is necessary before making further changes to our AML regime.

New clause 10 would require anti-money laundering checks to be undertaken before any UK company can be incorporated by preventing the registrar of companies from registering a company unless she is satisfied that such checks have been carried out. It then says that the registrar is entitled to accept the anti-money laundering registration number of the UK body that has submitted the application as evidence that such checks have taken place. The effect would be to require all incorporations to be made through a UK body regulated for anti-money laundering purposes. This would prevent people from applying directly to Companies House to register and set up their own business; any person seeking to set up a business would be required to use the services of a professional agent that is also regulated for anti-money laundering purposes, and pay for those services, which will in turn increase the cost of setting up businesses.

The proposed new clause assumes that all bad companies are set up directly with Companies House, and that only companies set up through the agency of a regulated professional can be trusted. That is simply not true. Only the simplest companies—those using standard-form constitutions—can be set up directly with Companies House online in the way described by the hon. Member for Glasgow Central. Typically they are self-standing, family-run and family-operated businesses. More complex corporate structures will, in contrast, frequently be established through trust or company service providers. The UK's national risk assessment of money laundering and terrorist financing noted last year that

> "While companies can be registered directly with Companies House, criminals continue to make use of third party TCSPs, to establish the structures within which illegitimate activity subsequently takes place."

The fact that TCSPs are legally required to conduct customer due diligence does not in and of itself solve the problem. The new clause would therefore impose an across-the-board administrative burden on individuals seeking to establish companies, without adding any significant new obstacles to money laundering. Companies incorporated directly through Companies House are overwhelmingly likely to interact with the UK regulated sector, and so face anti-money laundering checks either by having a UK bank account or through having a UK accountant.

We discussed in the previous debate the 22 different regimes, and this speaks to the necessity for some degree of complexity to minimise the risks as far as possible. New clauses 11 and 12 are similar in outcome to new clause 10: they would require company formation agents—defined for these purposes as including the UK registrar of companies at Companies House—to conduct customer due diligence to establish the identity and risk profile of all beneficial owners of such companies registered at Companies House. The key difference is the reclassification of Companies House, which would now be required to deliver its statutory duties as if it were a private sector business. The accompanying explanatory statement suggests that these clauses will identify the beneficial owners of a company and make information held at Companies House more accurate. Although similar to the proposed new clause 10, these new clauses would go further in imposing expansive new obligations upon Companies House, requiring significant changes to the UK company law system.

Given the overlap with the lead new clause group, I will focus on the most novel element: the proposal that Companies House be treated as a company formation agent. Since the registrar of companies was first created, it has been required to accept any application that is validly and correctly submitted, and to duly incorporate the company as requested. Companies House does not help customers through this process, and is responsible solely for conducting the process of company incorporation. Company formation agents, known as TCSPs, are entirely distinct from Companies House. They are already subject to due diligence obligations through the Money Laundering Regulations 2017, and these extend to being required to terminate any existing business relationship when they are unable to meet their due diligence obligations. In contrast, Companies House has no legal right to refuse or decline a request to incorporate a company if the application is valid, and therefore it does not have the ability to decline a business relationship in the way that TCSPs must when they cannot discharge their due diligence obligations. If accepted, these amendments would essentially require fundamental reform of the Companies Act 2006.

To emphasise the scale of that proposed reform, 3.9 million companies are currently registered at Companies House and approximately 600,000 new companies register each year. The impact on resource to carry out due

[John Glen]

diligence on that number of companies would be considerable. The burdens and cost would fall on those 3.9 million companies, and specifically on the vast majority of legitimate companies, many of which are very small businesses. They would be forced to pay to duplicate the cost of due diligence checks that are already conducted by banks and other regulated professionals. The overall cost to the UK economy could run into hundreds of millions of pounds each year.

New clause 13 would amend part 24 of the Companies Act so as to require UK companies to establish a UK bank account and evidence that to Companies House on an annual basis or pay a fee or financial penalty. As with other new clauses in this group, new clause 13 will not achieve its stated intention. The wider purpose behind that part of the Act is to provide a simple mechanism for companies to confirm that corporate information registered with Companies House, as required under other obligations, is accurate and up to date in relation to company share capital, business activities and the address of a company's registered office.

That is not to say that the new clause's underlying principle does not merit further consideration. Evidence of a UK bank account is intended to demonstrate that a company has been through proper money laundering checks by a UK supervising body related to the financial activities of that company. However, the practical implications need careful consideration. To make the proposal operational, Companies House would require new systems with access to UK and international banking information. The costs associated with the development and operation of such systems would inevitably be large and would need to be recovered from UK businesses. Once again, that would necessarily establish a new reporting burden that would essentially target the overwhelming majority of law-abiding UK businesses.

The new clause suggests that companies that cannot provide evidence that they have a UK bank account would be liable to a fee, although that could better be characterised as a penalty—its purpose is not specified. If it is intended to incentivise companies that are established to launder money to open a UK bank account, it would need to be set sufficiently high to achieve that objective, which would be disproportionate to the notional offence of not providing evidence of a UK bank account.

The Government are already active in that sphere. Under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, regulated bodies such as banks are obliged to carry out CDD checks on their customers on an ongoing basis. That is a rich field of data, and the regulated sector is already closely engaged with UK law enforcement to identify and report suspicious behaviour. In parallel, Companies House has an extensive outreach programme to the regulated sector to promote use of its data and encourage bodies to report possible errors back to it.

To sum up, a simple demonstration of a bank account is a blunt instrument. As drafted, the new clause simply adds a burden to UK companies to report more information. We should not proceed down that path without being much clearer that the information we require them to disclose is valuable, that it is necessary and that it cannot be achieved by other less burdensome means. On that basis, I ask the hon. Member for Oxford East to withdraw the amendment.

Anneliese Dodds: I am grateful to the Economic Secretary for those clarifications. He made several helpful points, but some concerns remain. He mentioned the FATF process, which the Committee has discussed previously, and seemed to suggest that we should not make alterations in this area of anti-money laundering activity because of the ongoing FATF assessment. Of course, that argument could stop action in any other area, because the FATF is looking at anti-money laundering and anti-corruption provisions across the board, so it is not clear that it is completely convincing. Furthermore, I understand that representations have been made to the FATF as part of its review that change is needed in this area, which suggests that the argument is the other way round. The Economic Secretary also suggested that there would be a much higher cost for those that want to incorporate through a TCSP. In practice, as I understand it, the cost may not be substantial—only a couple of pounds more in many cases.

4.15 pm

I return to the point about who assesses and how they conclude that those companies formed only through Companies House are necessarily lower risk. The Minister threw it back at me and said and I was assuming that all those companies formed through routes other than Companies House were perfect. I do not say that, and that is why we have other amendments about TCSPs coming up soon. As I understand it, there have been many concerns about fraudulent companies set up through Companies House—for example, offering to do work on people's houses: there by day, off by night, do a bad job, run off with the money. It is easy to do if no one is checking that you are who you say you are.

Some of the checking that has been talked about is not necessarily as onerous as the Minister suggests. I am sure many of us will be familiar, if we try to buy tickets—something like that—with having to put in basic identification information. We have to put our name in; the system will check that our postcode matches our address. Currently, you do not have to go to those lengths with Companies House.

Hannah Bardell: Does the hon. Lady agree that we are letting our citizens down if we do not legislate properly and close these loopholes? I am sure we have all had constituency cases where people have lost money to unscrupulous companies and company owners. We have an opportunity to take action, and we must take it. The Government are letting citizens down if they do not accept the new clauses.

Anneliese Dodds: I am grateful to the hon. Lady for making the point clearly that our proposal has been portrayed as only a burden, when it could help to prevent our constituents from being ripped off by unscrupulous individuals who are able to set themselves up as a company with only minimum requirements for due diligence. As I said, they can be there by day, fly off by night, and leave the unfortunate person who dealt with that company in a very difficult position.

To end my remarks specifically on the Minister's comments on new clause 13, many of us are worried that, in practice, there are TCSPs that offer UK company formation with a range of optional services, including setting up bank accounts in other jurisdictions such as Latvia, Belize, Switzerland and Cyprus. That would not

necessarily be a problem, were it not for the fact that, time and again, we have seen in the cases we have discussed in this Committee that reliance on the third parties—the banks in those other countries—does not lead to a real assurance that money laundering provisions are being followed. The reality is quite the opposite.

In the Russian laundromat scandal, which we have already talked about, of the 440 UK shell companies used in the scheme—in itself, a staggering statistic—392 of them had Baltic bank accounts, with 270 UK firms using Latvian banks and 122 using banks in Estonia. It may be that we are fully confident in every case that anti-money laundering regulations were followed in those countries, but given some of what came out of the Russian laundromat scandal, it could be suggested that that is not the case.

We do need to get at this problem through another route. We need reform of the Companies House system, but we also need the use of another prong which is requiring a UK bank account.

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

The Committee divided: Ayes 8, Noes 9.

Division No. 15]

AYES

Bardell, Hannah	Norris, Alex
Dodds, Anneliese	Rowley, Danielle
Duffield, Rosie	Smith, Nick
Goodman, Helen	Thewliss, Alison

NOES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Graham, Luke
Courts, Robert	Maclean, Rachel
Duncan, rh Sir Alan	

Question accordingly negatived.

New Clause 11

DUE DILIGENCE

"(1) For the purposes of preventing money laundering, when a company is formed, any company formation agent providing formation services must ensure that the identity and business risk profile of all beneficial owners of the company are established in accordance with—

(a) the customer due diligence measures under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692),

(b) regulations made under section 41 of this Act, or

(c) the Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on anti-money laundering measures.

(2) For the purposes of subsection (1), Companies House is to be treated as a 'company formation agent'."—*(Anneliese Dodds.)*

This new clause would ensure that when a company is formed in the UK, the relevant formation services must identify the beneficial owners of the company. It will also treat Companies House as a "company formation agent", ensuring that the data on the public register of beneficial ownership for companies is accurate.

Brought up, and read the First time.

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

The Committee divided: Ayes 8, Noes 9.

Division No. 16]

AYES

Bardell, Hannah	Norris, Alex
Dodds, Anneliese	Rowley, Danielle
Duffield, Rosie	Smith, Nick
Goodman, Helen	Thewliss, Alison

NOES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Graham, Luke
Courts, Robert	Maclean, Rachel
Duncan, rh Sir Alan	

Question accordingly negatived.

New Clause 13

UK BANK ACCOUNTS

"(1) For the purposes of tackling money laundering, the Companies Act 2006 is amended as follows.

(2) In section 853A (duty to deliver confirmation statements), after subsection (1) insert—

'(1A) In subsection (1) "information" includes such information as is able to demonstrate that the company has a UK bank account.

(1B) Any company that is unable to provide the information required in subsection (1A) is liable to a fee which may be prescribed by regulations.'"—*(Anneliese Dodds.)*

This new clause would ensure that all companies wishing to be created in the UK must provide evidence of a UK bank account to ensure it has gone through proper money laundering checks by a UK supervising body. If a company is unable to provide proof then they are liable to a fee which will cover the cost of such checks.

Brought up, and read the First time.

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

The Committee divided: Ayes 8, Noes 9.

Division No. 17]

AYES

Bardell, Hannah	Norris, Alex
Dodds, Anneliese	Rowley, Danielle
Duffield, Rosie	Smith, Nick
Goodman, Helen	Thewliss, Alison

NOES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Graham, Luke
Courts, Robert	Maclean, Rachel
Duncan, rh Sir Alan	

Question accordingly negatived.

New Clause 14

TRUST OR COMPANY SERVICE PROVIDERS

"(1) For the purposes of preventing money laundering, a trust or company service provider that does not carry on business in the UK may not incorporate UK companies without oversight from an anti-money laundering supervisor.

(2) In this section—

'anti-money laundering supervisor' has the same meaning as 'supervisory authority' in Schedule 2;

'trust or company service provider' has the same meaning as in regulation 3 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 692/2017);

'carry on business in the UK' has the same meaning as in regulation 9 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 692/2017)." —*(Anneliese Dodds.)*

This new clause would ensure that Trust or company service providers that do not conduct business in the UK may not incorporate UK companies without oversight from a UK supervisor.

Brought up, and read the First time.

Anneliese Dodds: I beg to move, That the clause be read a Second time.

It feels a little like going out of the freezer and into the fire, because it is rather warm on this side of the Committee Room, but I am sure that we will be rewarded somewhere else for our endurance.

The Chair: May I ask the hon. Lady not to tempt fate?

Anneliese Dodds: We tabled the new clause because ineffective anti-money laundering supervision has a clear and obvious link with inadequate compliance and with low and poor-quality reporting of suspicious activity to the National Crime Agency. Research by a number of non-governmental organisations, particularly Transparency International, has indicated serious failings in the current framework for supervising money laundering compliance in the UK, especially with respect to trust and company service providers.

Under the Money Laundering Regulations 2017, only TCSPs carrying on business in the UK—that is their formulation in the legislation—have to register with an anti-money laundering supervisor and comply with MLR 2017. That means of course that TCSPs with no UK presence can incorporate UK companies without any oversight from an AML supervisor. They do not have to comply with UK standards for money laundering checks. We have seen a number of clear examples—I will talk about some in a moment—where that has allowed non-UK TCSPs to incorporate UK companies that have subsequently been used in large-scale money laundering schemes. I think many of the concerns raised a moment ago around undercutting existing legislation and the lack of a fair playing field for UK TCSPs come up again in this regard.

In 2012 the International Consortium of Investigative Journalists showed how a number of UK individuals offering company services had moved their base of operations outside our country but continued to form, and act as nominee directors for, UK companies. There are two examples that are particularly important. The first was Jesse Grant Hester, who was originally from the UK and who moved to Cyprus to form Atlas Corporate Services Ltd before moving to Dubai and, finally, Mauritius—he is somebody who has been lucky enough to travel much in life. Those jurisdictions have all been identified as presenting high money laundering risks. Mauritius in particular is very concerning: it scored 5.92 out of 10 on the Basel Institute on Governance money laundering risk index. Ten is the highest level of money laundering risk and zero is the least, so it is well up there. Jesse Grant Hester appeared on numerous occasions as a nominee director for companies embroiled in corruption scandals. In the Moldovan bank theft that we talked about earlier, he signed fake promissory notes using an alias on behalf of a UK firm, Goldbridge Trading Ltd, allowing £444 million to be stolen. Atlas Corporate Services is associated with eight people who, between them, have held directorships of 3,613 UK companies. Again, that is a staggering number of companies to be held by just eight people. As we discussed, that scandal caused enormous problems for the country of Moldova.

Another UK resident who became internationally renowned, although not in a positive way, for his company formation activities, is Ian Taylor. That is not the famous social policy academic, who I had the pleasure of working with, but another Ian Taylor. He also moved around a lot: he moved to Vanuatu.

John Glen: There was also a Tory MP of that name.

Anneliese Dodds: Oh, there was a Tory MP as well. Goodness—the name is frequently used. He moved to Vanuatu after he was banned from being a corporate director, first in New Zealand in 2011 and then in the UK in 2015, as a result of his companies' involvement in numerous scandals, including a land banking scam in Somerset. Vanuatu's self-assessment on money laundering risk found that its TCSP sector was among the most vulnerable to such activity. In 2015 the Asia/Pacific Group on Money Laundering found serious deficiencies in Vanuatu's AML system. Despite being banned in the UK, Taylor seems to have retained a UK presence. Various investigations have identified the circle of nominee directors that he works with. One of them is a Vanuatu resident who is a director of more than 61 companies. He took over from Taylor as a director of 20 of them on the same date.

Those examples show that physically moving out of the UK does not result in a lack of activity in the UK. Networks of associates make it difficult to stop the formation of UK companies by individuals who have already been disqualified here. Such individuals, who have been shown to have engaged in money laundering activities or have otherwise been disqualified or viewed as not competent in this arena, can function in other countries and create companies. The checking that should go on does not happen, and there is inadequate anti-money laundering supervision. We do not have a means of dealing with that, because we do not have a regulatory system for TCSPs that are not based in countries with appropriate anti-money laundering provisions. That is not currently illegal, which is why we want to change the legal situation.

4.30 pm

The deputy director of the National Crime Agency's economic crime command says that he is investigating several agents involved in such activity. He spells out the legal situation in the UK but, of course, that situation does not apply to these individuals. It would be helpful for us to have an indication from the Minister—even if he is not prepared to support our new clause—of his understanding of the current situation when it comes to TCSPs registered in different jurisdictions. Have the Treasury, the FCO and others assessed the likelihood of

having proper anti-money laundering provisions in place? If not, will they undertake to do so? As I have said, our new clause is designed to close what appears to be a huge loophole.

John Glen: I am grateful to the hon. Lady for setting out her new clause, which would prohibit TCSPs that do not conduct business in the UK from incorporating UK companies, unless they are overseen by a UK anti-money laundering supervisor. As hon. Members will know, the Money Laundering Regulations 2017 specifically provide for TCSPs conducting business in the UK to be subject to a fitness and propriety test and to register with either Her Majesty's Revenue and Customs or the Financial Conduct Authority. In borderline cases where it is unclear whether a TCSP is conducting business in the UK—in which case it would be supervised by a UK anti-money laundering supervisor—HMRC would consider on a case-by-case basis whether registration for supervision is necessary. This acts as an anti-evasion mechanism preventing TCSPs from artificially claiming that they are outside the scope of the UK's anti-money laundering regime.

The hon. Member for Oxford East asked earlier where this was based. The Government recently established the Office for Professional Body Anti-Money Laundering Supervision, known as OPBAS, within the Financial Conduct Authority. It works to secure consistently high standards of AML supervision of professional bodies, including TCSPs. These reforms follow the identification of risks associated with TCSPs in the Government's 2016 action plan for anti-money laundering and counter-terrorist financing. This found that service sectors such as TCSPs were a significant money-laundering threat.

Although it is for anti-money laundering supervisors to determine their areas of focus, they are required to have regard for the UK's national risk assessment of money laundering and terrorist financing when assessing risks in their own sector. The risk assessment that the Government published in October last year concludes:

"The highest risk TCSPs are assessed to be UK TCSPs which offer a wide range of services (including nominee directors, registered office services, and banking facilities)".

Additionally, individual anti-money laundering supervisors are under a duty to identify and assess the international and domestic risks of money laundering and terrorist financing to which their sectors are subject.

Helen Goodman: I am surprised by what the Minister is saying. He obviously did not listen to the BBC "Analysis" programme that was broadcast about three weeks ago on the role of overseas TCSPs. We think it is great when people build real-life factories as a jumping-off point into the single market, but it is evident that TCSPs and banks located in the Baltic states, which do not have such good anti-money laundering regulatory regimes, attract money and are used as a jumping-off point to move that money into the European system. Does the Minister really think that the anti-money laundering regimes throughout the European Union are as effective the one in the UK?

John Glen: I cannot comment on the specific cases that the hon. Lady mentions, because I have not seen or studied them. I imagine that there is a degree of variability in the effectiveness of regimes, but I am trying to set out the Government's rationale for what we have in place. I do not suggest that it is perfect, but some of the developments have occurred in response to shortcomings that have been identified.

The individual anti-money laundering supervisors are under a duty to identify and assess international and domestic risks, including the money laundering and terrorism risk, which ensures that the most intensive supervision is applied where the highest risks of money laundering exist. The establishment of OPBAS will assist with the consistent identification of such risks across the TCSP sector. Our national risk assessment makes it clear that the Government are aware of the money laundering risks connected with TCSPs, and further reform in the area should take account of the conclusions of the ongoing FATF review. I assure Opposition Members that the regime is a searching and exacting one. I know from ministerial meetings concerning preparations for it that the evaluation will be exacting. We expect the observations to be meaningful, and we will need to respond carefully to them. However, until we receive the outcome of that review of the UK's anti-money laundering regime and of the experience of OPBAS as its role develops, it would not be appropriate to adopt the amendment.

Hon. Members should be mindful of the fact that anti-money laundering supervision around the world follows a territorial model. Simply requiring non-UK TCSPs to have a UK supervisor when they set up UK companies will not address the challenges of extra-territorial supervision. Effective anti-money laundering supervision depends on measures that include supervisory on-site visits and close engagement with higher-risk firms. Requiring a UK supervisor to do that in relation to a non-UK firm will not, in and of itself, address the issue that hon. Members have identified.

As was noted in the other place, the most effective means of combating international money laundering is cross-border co-operation to drive up the standards of overseas supervision and enforcement. For those reasons, we have imposed a duty on each UK anti-money laundering supervisor to take such steps as they consider appropriate to co-operate with overseas authorities. That is the agenda we pursue through the global FATF process. I therefore respectfully ask the hon. Lady to withdraw the new clause.

Anneliese Dodds: I am grateful to the Minister for those remarks and clarifications. They have been genuinely helpful, but I regret that some areas are still rather unclear to me; perhaps they are not to other Committee members. He stated that the highest-risk TCSPs are assessed to be UK ones, but it has not been spelled out why. Perhaps he could write to me about that.

John Glen: I would be happy to write to the hon. Lady to spell that out. My understanding is that UK-based TCSPs typically offer a wider range of services and there are vulnerabilities in the additional services, but I will investigate and write to her as quickly as I can.

Anneliese Dodds: I am grateful to the Minister for offering to look into that. We must always be wary of talking about a general pattern of activity as necessarily reflecting the risk profile of that overall activity. Among those TCPS, there could be overseas ones that are not appropriately regulated and that also offer a wide range of services, in the same way as some UK TCSPs do.

[Anneliese Dodds]

I am also a bit confused about the professional regulators. As the Minister said, there are about 22 of them, and then on top of that we stick Her Majesty's Revenue and Customs, the Financial Conduct Authority and so on. As I understand it, the professional regulators do not have members based in other countries; they cover only UK residents. We are talking about, for example, the Law Society of Scotland and the Law Society of England and Wales—professional bodies dealing with UK individuals. We are not talking about professional associations covering professionals in other countries.

The Minister seemed to talk about a process of liaison between these organisations and their counterparts in other countries. I am sure we all want to encourage that, because it sounds like a very good idea. Information sharing is wonderful, but information sharing is not the same as having an appropriate process of regulation to ensure that there is compliance with anti-money laundering requirements.

The Minister said that the approach was an extraterritorial one, because it affects bodies in other countries. That is absolutely right, but those bodies then interact with our company formation procedure. That is the reason why we, as a country, have a stake in this process—a rather large one, given the reputational damage that seems to be being caused by the activities of some unregulated or inappropriately regulated TCSPs. I will be pressing the new clause to a vote.

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

The Committee divided: Ayes 8, Noes 9.

Division No. 18]

AYES

Bardell, Hannah	Norris, Alex
Dodds, Anneliese	Rowley, Danielle
Duffield, Rosie	Smith, Nick
Goodman, Helen	Thewliss, Alison

NOES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Graham, Luke
Courts, Robert	Maclean, Rachel
Duncan, rh Sir Alan	

Question accordingly negatived.

New Clause 15

DISQUALIFICATION

"In the event that adequate procedures under subsection (3) of section *[Failure to prevent money laundering]* are found not to be in place, the Secretary of State must refer to the court a disqualification order under section 8 of the Company Directors Disqualification Act 1986 (disqualification of director on finding of unfitness)."—*(Anneliese Dodds.)*

This new clause would require the Minister to ask the courts to investigate whether directors of a company are fit and proper, if it was found that proper procedures against money laundering were not in place.

Brought up, and read the First time.

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

The Committee divided: Ayes 8, Noes 9.

Division No. 19]

AYES

Bardell, Hannah	Norris, Alex
Dodds, Anneliese	Rowley, Danielle
Duffield, Rosie	Smith, Nick
Goodman, Helen	Thewliss, Alison

NOES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Graham, Luke
Courts, Robert	Maclean, Rachel
Duncan, rh Sir Alan	

Question accordingly negatived.

New Clause 16

MONEY LAUNDERING: STANDARDS AND DESIGNATIONS

"(1) An appropriate Minister may by regulations made by statutory instrument amend the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692) in order to—

(a) implement standards published by the Financial Action Task Force from time to time relating to combating money laundering, terrorist financing and threats to the integrity of the international financial system; and

(b) identify or revoke a designation of a high risk country taking account of best international practice including EU sanctions regimes.

(2) Regulations under this section may not create new types of criminal offences, or reduce defences or evidence.

(3) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."—*(Anneliese Dodds.)*

Brought up, and read the First time.

Anneliese Dodds: I beg to move, That the clause be read a Second time.

The new clause looks to ensure that standards published by the Financial Action Task Force in relation to combating money laundering, terrorist financing and other threats to the integrity of the financial system can be easily implemented in this country. We are also seeking to identify or revoke a designation of a high-risk country, taking account of best international practice, including EU sanctions regimes.

We have talked a bit about the FATF in the Committee. As colleagues will know, its objectives are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. It is a policy-making body that works to generate political will to bring about national legislative and regulatory reforms. We have talked about its reporting cycle already and the fact that the UK is currently being investigated in order for the FATF to report on us later in the year.

4.45 pm

The FATF continues to work on a series of recommendations. Those are recognised as the international standard for combating money laundering and the financing

of terrorism and the proliferation of weapons of mass destruction. This is part of an attempt to mount a co-ordinated response to threats to the integrity of the financial system and to ensure a level playing field.

As part of its peer review process, which we are heavily engaged in at the moment, the FATF identifies jurisdictions that have weak measures to combat money laundering or terrorist financing and puts them on yet another blacklist. We have already talked about the OECD and EU blacklists; this one is about the integrity of the financial system, not about tax avoidance and evasion. The FAFT puts jurisdictions on a blacklist where a call to action is imperative and on a greylist where deficiencies have been highlighted, but where each jurisdiction has provided a high-level political commitment in written form to address the identified deficiencies. The process is similar to the EU blacklist/greylist approach that we talked about today.

The Minister has already mentioned Pakistan's worries about being greylisted, which is obviously concerning for the country. The Minister knows a great deal about this matter, which could also have a potential impact on Pakistan's economy. That is worrying for those of us who support the country and have constituents from Pakistan, because it could lead to global banking institutions ultimately cutting their links with the country. They because they could start to view it as too risky, or the cost of doing business with Pakistan could rise. We have already talked about what happened to Moldova when money-laundering activities were uncovered there.

John Glen: I just want to clarify that, while I would not profess to be an expert on Pakistan's compliance with the FATF, the concerns raised about its recent greylisting were around the specific handling of various banned terrorist organisations. I would not wish to cast any wider doubt over its intentions to improve the provision of services.

Anneliese Dodds: I thank the Minister for that helpful clarification. It is helpful to know the exact locus of FATF activity or the concerns about Pakistan that were focused on terrorist financing. That is not the area we are focused on now, but such financing and money laundering often go hand in hand.

Given the potential effects of such a ruling—we have talked about that in relation to Pakistan—we think it necessary that Ministers should have the flexibility to ensure that FATF standards can be implemented as soon as possible in our country in order to be on top of new international standards. That is particularly important because the UK was a founding member of the FATF, so we need to show that we are at the cutting edge of implementing its requirements.

As I mentioned, we also need to be able to identify or revoke high-risk countries quickly, taking account of the FATF's standards and given the effect that it can have on the countries themselves and also on our reputation. If we are viewed as not following FATF recommendations, that prevents the co-ordinated approach that the FATF was set up to promote in the first place.

Finally on this amendment, we hope that Ministers will take account of aligning the designations with our EU partners. We have talked consistently in our deliberations about the need for co-ordination, which of course makes all the mechanisms much more effective. When they are not co-ordinated, there can be loopholes. In that regard, it is important to mention the case of Russia. In 2014, the Arms Export Controls Committees—we talked about their composition when we talked about scrutiny arrangements—reported that more than 200 licences to sell British weapons to Russia, including missile-launching equipment, were still in place, despite David Cameron's claim that the Government had imposed an absolute arms embargo against Russia in alignment with the rest of the EU. We really need to make sure that that alignment is genuine in practice, not just on the surface and rhetorical.

John Glen: New clause 16 would limit amendments to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 to those that would implement standards published by the Financial Action Task Force, or those whose purpose was identifying or revoking a designation of a high-risk third country. The 2017 regulations transpose the fourth EU anti-money laundering directive, which was in turn derived from the most recent major updates to the FATF standards, which were made in 2012. As the hon. Lady acknowledged, the UK is a founder member of the FATF and is committed to playing a leading role in its continuing work. It is right for the Government to have the power to update the UK regime when such standards change.

There are, however, several areas where the UK's anti-money laundering regime already goes beyond those standards. Our recently established register of trusts generating tax consequences, for example, goes beyond the standards set by the FATF. Similarly, the UK announced at the time of the 2015 Budget that we intended to regulate virtual currency exchanges for AML purposes—an objective that was accomplished through negotiation of the fifth EU anti-money laundering directive—but that was not required by the FATF. So although we will remain aligned with the FATF standards after the UK ceases to be a member of the EU, our anti-money laundering regime exceeds those standards in certain areas.

The Government are determined to ensure that our defences against misuse of a financial system remain ahead of global standards rather than solely reflecting them. That is reflected in our commitment to the establishment of a public register of the beneficial ownership of non-UK companies that own UK property, which the Committee debated earlier, even if we did not agree on the timeline for it. The new clause would reduce our ability to do so. Under the power in question, the UK's anti-money laundering regime could not go further in areas where we would otherwise want to.

As I said previously, in debating amendment 7, and as my right hon. Friend the Minister said about new clause 3, we do not believe that a bar on new offences is the right way to address the concerns raised by Lord Judge and others. We have instead tabled amendments to ensure that the power is used only where it is needed, and that Ministers are properly accountable to Parliament for it.

Ensuring that we can make regulations to prevent, or to enable or facilitate the detection or investigation of, money laundering or terrorist financing, as well as to implement the standards of the FATF, is the most certain method of placing future changes to our anti-money laundering system on a sound legal basis. The new

[John Glen]

clause would limit our ability to do so in the future, and I am sure that is not the intention behind it. I respectfully suggest that the hon. Lady might withdraw it.

Anneliese Dodds: I am grateful to the Minister for his explanation. It may be the fact that we have been in this room for a few hours, but I am struggling a little with, in particular, the suggestion that new clause 16 would somehow tie the UK's hands in implementing additional requirements beyond the FATF standards.

The Minister referred to the public register of property owned by non-UK entities. We had a discussion about that, but he is right: it would arguably be an innovation in the UK. Of course it is one that we need more than other countries, because of the use of our property market in many such cases, and the exponential rise in house prices. He could have talked—although he did not—about the register of beneficial ownership of companies being an innovation as well, but countries such as the Netherlands and Norway are putting those into practice anyway, so perhaps we are not quite as far-reaching in what we are doing as we might suggest. Particularly in relation to the charges and fines levied against those found guilty of money laundering offences, we seem to be in a different position from that of our North American counterparts, for example, as we have discussed. None the less, it is not clear how the new clause would stop us going further than those other jurisdictions where we wished to do so. It says that we would take account of the

"best international practice including EU sanctions regimes",

not that we would be led by it.

Helen Goodman: On a point of order, Dame Cheryl, in the light of what the Minister said earlier, I would like to read precisely what was published by *The Independent.* I misinterpreted it and, consequently, I misled the Committee. I wish to apologise to him and to the Committee for that. This is what *The Independent* published in 2014:

"According to Electoral Commission records, New Century Media gave the Conservatives £85,000 in the months leading up to the 2010 general election…New Century represents the personal foundation of the Ukrainian billionaire Dmitry Firtash, who has been indicted on bribery and corruption charges, which he denies, in the United States…David Burnside, New Century's executive chairman, has made…claims about his connections with senior Tories…The company has paid for a table at the last four Conservative summer balls and paid for…the International Development minister"—

who is now the Minister for Europe and the Americas—to be its guest

"at Conservative events at a cost of…£800".

I am sorry. I misread it and misunderstood it, and consequently I misled the Committee.

The Chair: The hon. Lady has had the opportunity to put that on the record. If the Minister wants to add something, he may.

Sir Alan Duncan: May I thank the hon. Lady for her most gracious withdrawal, which sets the record straight? I appreciate the manner in which she did it.

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

The Committee divided: Ayes 8, Noes 9.

Division No. 20]

AYES

Bardell, Hannah	Norris, Alex
Dodds, Anneliese	Rowley, Danielle
Duffield, Rosie	Smith, Nick
Goodman, Helen	Thewliss, Alison

NOES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Graham, Luke
Courts, Robert	Maclean, Rachel
Duncan, rh Sir Alan	

Question accordingly negatived.

New Clause 17

CONSULTATION ON REFORM OF THE LAW ON CORPORATE LIABILITY FOR MONEY LAUNDERING AND TERRORIST FINANCING ETC

"No later than six months from the date on which this Act is passed, the Secretary of State must arrange for the undertaking of a public consultation on the merits of reforming the law on corporate liability for money laundering, terrorist financing offences and those offences which pose a threat to the integrity of the international financial system."—*(Anneliese Dodds.)*

This new clause calls for a public consultation on corporate liability for money laundering within six months.

Brought up, and read the First time.

Anneliese Dodds: I beg to move, That the clause be read a Second time.

It is good that we can continue proceedings, because there are many matters that we still need to consider, not least this new clause and the others on the selection list. I am grateful for the opportunity to do so.

New clause 17 requires a public consultation on corporate liability for money laundering within six months. We have already discussed what occurred with the Government's evidence-gathering exercise—as I think they described it—in relation to a broader economic crime offence, and how the results of that exercise have been with the Government since last March. We still have no indication of how that will be dealt with, aside from the Economic Secretary's helpful remark that it will be dealt with in due course. I know he always tries to be helpful, but I am afraid that that is not good enough for those of us who want to see change in this area.

We are specifically requesting a public consultation to get the process moving and to promote it, not least because of what the Government have committed to—or at least, what past Conservative leaders have committed to. In 2016, at the time of the anti-corruption summit, David Cameron wrote an article for *The Guardian* in which he claimed:

"In the UK, in addition to prosecuting companies that fail to prevent bribery and tax evasion"—

5 pm

Debate interrupted (Programme Order, 27 February).

The Chair put forthwith the Question already proposed from the Chair (Standing Order No. 83D), That the clause be read a Second time.

The Committee divided: Ayes 8, Noes 9.

Division No. 21]

AYES

Bardell, Hannah
Dodds, Anneliese
Duffield, Rosie
Goodman, Helen
Norris, Alex
Rowley, Danielle
Smith, Nick
Thewliss, Alison

NOES

Badenoch, Mrs Kemi
Benyon, rh Richard
Chalk, Alex
Courts, Robert
Duncan, rh Sir Alan
Freer, Mike
Glen, John
Graham, Luke
Maclean, Rachel

Question accordingly negatived.

Bill, as amended, reported (Standing Order No. 83D(6)).

5.1 pm

Committee rose.

Written evidence reported to the House

SAMLB 05 The Law Society

SAMLB 06 Government of the British Virgin Islands

SAMLB 07 Professor Prem Sikka, Professor of Accounting and Finance, University of Sheffield

SAMLB 08 UK Finance

SAMLB 09 Solicitors Regulation Authority