PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE BILL

(Except clauses 5, 15 and 25 and certain new clauses and new schedules)

First Sitting

Tuesday 17 October 2017

(Morning)

CONTENTS

PBC (Bill 102) 2017 - 2019

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

not later than

Saturday 21 October 2017

The Committee consisted of the following Members:

Chairs: † Mr George Howarth, Mr Charles Walker

† Afolami, Bim *(Hitchin and Harpenden)* (Con)
† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Burghart, Alex *(Brentwood and Ongar)* (Con)
† Cleverly, James *(Braintree)* (Con)
† Creasy, Stella *(Walthamstow)* (Lab/Co-op)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Dowd, Peter *(Bootle)* (Lab)
† Fernandes, Suella *(Fareham)* (Con)
† George, Ruth *(High Peak)* (Lab)
† Ghani, Ms Nusrat *(Wealden)* (Con)
† Hopkins, Kelvin *(Luton North)* (Lab)
† Hughes, Eddie *(Walsall North)* (Con)
† Lee, Ms Karen *(Lincoln)* (Lab)
† Linden, David *(Glasgow East)* (SNP)
† Maclean, Rachel *(Redditch)* (Con)
† O'Brien, Neil *(Harborough)* (Con)
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Stride, Mel *(Financial Secretary to the Treasury)*
† Stuart, Graham *(Beverley and Holderness)* (Con)

Colin Lee, Jyoti Chandola, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 17 October 2017

(Morning)

[Mr George Howarth *in the Chair*]

Finance Bill

(Except clauses 5, 15 and 25 and certain new clauses and new schedules)

9.25 am

The Chair: Before we begin, perhaps I should make a few preliminary announcements, which may be helpful to the Committee. Members may, if they wish, remove their jackets during Committee sittings. I remind them that no refreshments other than the water provided should be consumed in the Room. Please would all Members ensure that mobile phones, pagers and so on are turned off or switched to silent mode during sittings. Document boxes are provided, for Members to keep their Bill papers in between sittings if they wish. It would be much appreciated if they could return the boxes to the cupboard at the end of the sitting.

As a general rule, my fellow Chair and I do not intend to call starred amendments that have not been tabled with adequate notice. The required notice period in a Public Bill Committee is three working days; therefore amendments should be tabled by the rise of the House on Monday for consideration on Thursday, and by the rise of the House on Thursday for consideration on Tuesday.

Not everyone is familiar with the procedure in Public Bill Committees, so it may be helpful if I briefly explain how we will proceed. The Committee will first be asked to consider the programme motion on the amendment paper, for which debate, if it is required, is limited to half an hour. We will then proceed to a motion to report any written evidence. Then we will begin line-by-line consideration of the Bill.

The selection list for today's sitting, which is available in the Room, shows how the amendments selected for debate have been grouped together for debate. Amendments grouped together are generally on the same or a similar and related issue. The Member who has put their name to the leading amendment in the group is called first. Other Members are then free to catch my eye in order to speak to the amendments in that group. A Member may speak more than once, depending on the subjects under discussion. At the end of the debate on the group of amendments, I will call the Member who moved the lead amendment again. Before they sit down, they will need to indicate whether they want to withdraw the amendment or seek a decision. If any Member wants to press any other amendment in the group to a Division, they will need to let me know in advance.

The assumption is that the Government wish the Committee to reach a decision on all Government amendments. Please note that decisions on amendments take place not in the order they are debated, but in the order in which they appear on the amendment paper. Decisions on new clauses will therefore be taken at the conclusion of line-by-line consideration of the Bill.

Where a group includes the words "clause stand part", that means that Members should make any remarks they want to about the content of the clause during the course of the debate. There will then be no separate debate on the question that the clause should stand part of the Bill. Where it is already indicated on the selection list, Mr Walker and I will use our discretion to decide whether to allow a separate stand part debate on individual clauses or individual schedules. Clause stand part debates begin with the Chair proposing the question that the clause shall stand part of the Bill. There is no need for the Minister or any other Member to move that the clause stand part of the Bill.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 17 October) meet—

(a) at 2.00 pm on Tuesday 17 October;

(b) at 11.30 am and 2.00 pm on Thursday 19 October;

(c) at 9.25 am and 2.00 pm on Tuesday 24 October;

(d) at 11.30 am and 2.00 pm on Thursday 26 October;

(2) the proceedings shall be taken in the following order: Clauses 1 to 4; Clauses 6 to 14; Schedule 1; Clause 16; Schedule 2; Clause 17; Schedule 3; Clause 18; Schedule 4; Clauses 19 and 20; Schedule 5; Clause 21; Schedule 6; Clauses 22 to 24; Schedule 7; Clauses 26 to 29; Schedule 8; Clauses 30 and 31; Schedule 9; Clauses 32 and 33; Schedule 10; Clause 34; Schedule 11; Clause 35; Schedule 12; Clauses 36 to 55; Schedule 13; Clauses 56 to 61; Schedule 14; Clauses 62 and 63; Schedule 15; Clauses 64 and 65; Schedule 16; Clause 66; Schedule 17; Clause 67; Schedule 18; Clauses 68 to 72; new Clauses; new Schedules; remaining proceedings on the Bill;

(3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 26 October.—*(Mel Stride.)*

Resolved,

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

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

Clause 1

Taxable benefits: time limit for making good

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

The Financial Secretary to the Treasury (Mel Stride): May I say at the outset what a pleasure it is to serve under your chairmanship, Mr Howarth? I look forward to serving under the chairmanship of Mr Walker in due course, and to having a constructive and positive engagement with all Committee members over the next couple of weeks.

Clause 1 makes changes to ensure that there is a clear and consistent date for making good on non-payrolled benefits in kind. Those changes will provide greater clarity and help employers and employees to understand their obligations.

As the Committee will be aware, a benefit in kind is a form of non-cash employee remuneration. The cash equivalent of a benefit in kind is subject to tax and employer national insurance contributions. Making good is where an employee makes a payment in return for a benefit in kind that they receive. A making good payment has the effect of reducing the taxable value of a benefit. For example, a television manufacturer might provide an employee with a television with a taxable value of £1,000; if the employee makes good by repaying the employer £1,000, the taxable value is reduced to nil.

There is currently a range of dates by which employees need to make good on benefits in kind, and for some no fixed date is prescribed in legislation. Employers, large accountancy firms and representative bodies have told us that that often causes confusion and have asked for greater clarity about the deadline for making good. Clause 1 will set the date for making good for non-payrolled benefits in kind as 6 July following the end of the tax year in which the benefit in kind is provided. That is the date by which employers have to notify Her Majesty's Revenue and Customs of any taxable benefits in kind on their P11D form. For that reason, it is also the date by which many employees already make good in practice. This approach has been greatly welcomed by employers.

The change will take effect for benefits in kind that give rise to a tax liability for the 2017-18 tax year and all subsequent tax years. This small but sensible change will bring greater clarity for businesses.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clause 2

Taxable benefits: ultra-low emission vehicles

Anneliese Dodds (Oxford East) (Lab/Co-op): I beg to move amendment 13, in clause 2, page 5, line 7, at end insert—

'(5A) After section 170 (Orders etc relating to this Chapter), insert—

"170A Review of changes to appropriate percentages etc for cars

(1) Prior to 31 March 2018, the Commissioners for Her Majesty's Revenue and Customs shall complete a review of the forecast effects of the amendments made by subsections (1) to (4) of section 2 of the Finance (No. 2) Act 2017.

(2) The review shall consider in particular the effects on—

(a) the use of zero and ultra-low emission cars as company cars, and

(b) air quality in towns and cities

in each year from 2020-21 to 2030-31.

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

This amendment would require HMRC to undertake a review of the changes to be made by Clause 2 in advance of their implementation.

The Chair: With this it will be convenient to discuss clause 2 stand part.

Anneliese Dodds: First, I apologise to colleagues —I am full of the cold, and I had a nose bleed this morning given the excitement of the topics that we would be discussing, but I hope that I will be able to struggle through.

We tabled amendment 13 because we believe that it would be sensible for HMRC to undertake a review of the changes to be made by clause 2 in advance of their implementation.

Mel Stride: I welcome the hon. Lady to her position. I am sorry about her cold, and about the excitement that caused her nose bleed. I assure her that there will be no further nose bleeds, because there will probably not be much excitement as the Committee continues, but that is where we are.

Before I respond to what the hon. Lady said about amendment 13, let me remind the Committee about what the clause seeks to achieve. Clause 2 changes the taxation of company cars to support the uptake of the cleanest zero and ultra-low emission cars. As the Committee will be aware, the taxation of company cars is linked to carbon dioxide emissions to promote the purchase of environmentally friendly vehicles. The appropriate percentages for company car tax increase each year in order to ensure that there is always an incentive for company car drivers to choose the most environmentally friendly vehicles.

By 2020-21 the current ultra-low emission vehicle bands in the company car tax regime will no longer support the uptake of the cleanest cars using the latest technology. The changes being made by clause 2 will address that by updating the current two ultra-low emission vehicle bands. From April 2020, the graduated table of company car tax bands will include a differential for cars with emissions of 1 to 50 grams per kilometre based on the zero-emission range of the car. A separate zero-emission band will also be introduced. In addition, the clause will increase the appropriate percentage for conventionally fuelled cars by 1 percentage point in 2020-21, to sharpen the incentive for people to choose ultra-low emission vehicles instead of more heavily polluting ones.

The changes in the clause mean that in 2020-21 a basic rate taxpayer driving a popular battery-powered company car, such as a Nissan Leaf, will be £720 better off compared with 2019-20. That is a saving of £750 per year compared with a basic rate taxpayer choosing an average petrol-powered car such as a Vauxhall Corsa. Legislating in advance will provide certainty and stability for industry and give companies and employees the chance to make informed choices about the future tax implications of their company car.

Amendment 13 proposes that the Chancellor should publish a report reviewing the impact of these changes, focusing on the effects on the use of zero and ultra-low emission vehicles as company cars, as well as air quality in towns and cities in each year from 2020 to 2030-31. I appreciate that the hon Members are trying to ensure that policies are being assessed to ensure they are supporting the uptake of greener vehicles, but a report on our forecasts is not the way to achieve that.

Company car tax rates are set three years in advance, so that companies and employees are able to make informed choices about the future tax implications of their company car. Of course, we have had to take a view of how the market will develop, including for ultra-low emission vehicles, when we set the rates. However, the amendment is asking us to provide a review of the effect of the measure before it has been implemented. It is also not appropriate for the Government to provide

[Mel Stride]

commentary on their forecasts, as that could lead to uncertainty that we could make last-minute changes to our proposals. That would go against our policy to announce CCT rates three years in advance for taxpayer certainty.

Hon. Members should also bear in mind that the 2020-21 rates have come out of an extensive consultation with our stakeholders that we carried out in the summer of 2016 into how CCT should be structured. That consultation looked specifically at how to encourage company car drivers to choose the cleanest vehicles. That is what clause 2 seeks to achieve by updating the current two ultra-low emission vehicle bands. Increasing the incentive for people to purchase cleaner cars will help to ensure we meet our legally binding carbon emissions and air quality targets, helping to improve the air quality of our towns and cities and protect the environment for the next generation. Of course, we continue to review the uptake of ultra-low emission vehicles as part of our wider strategy on improving air quality. On that basis I believe that the amendment is unnecessary, and I ask the hon. Lady to withdraw it.

To conclude, the clause strikes the right balance between supporting the purchase and manufacture of ultra-low emission cars, and ensuring that all company car drivers and their employers pay a fair level of tax. I therefore commend the clause to the Committee.

Anneliese Dodds: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 2 ordered to stand part of the Bill.

Clause 3

Pensions advice

Peter Dowd (Bootle) (Lab): I beg to move amendment 14, in clause 3, page 5, line 22, leave out "£500" and insert "£1,000".

This amendment would increase the income tax exemption in relation to pensions advice from £500 to £1,000.

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

Amendment 11, in clause 3, page 6, line 16, at end insert—

"308D Review of use of provisions of section 308C

(1) Within one year of the passing of the Finance (No. 2) Act 2017, the Commissioners for Her Majesty's Revenue and Customs shall complete a review of the use of the provisions of section 308C in tax years 2017-18 and 2018-19.

(2) The review shall consider in particular—

(a) the use of the relief by persons over 55, and

(b) the use of the relief by women born on or after 6 April 1950.

(3) The Commissioners shall consult the Financial Conduct Authority in carrying out the review under this section.

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

This amendment would require HMRC to undertake a review of the use of the new income tax exemption for pensions advice in the first two years of its operation.

Amendment 15, in clause 3, page 6, line 16, at end insert—

"308D Review of effectiveness of provisions of section 308C

(1) Prior to 30 June 2019, the Commissioners for Her Majesty's Revenue and Customs shall complete a review of the effectiveness of the operation of the provisions of section 308C in tax years 2017-18 and 2018-19.

(2) The review shall consider in particular—

(a) the estimated value of the exemption in each tax year,

(b) the effects of the Conditions in subsections (6) and (7) , and

(c) the effects of the provisions on the availability and accessibility of relevant pensions advice.

(3) The Commissioners shall consult the Financial Conduct Authority in carrying out the review under this section.

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

This amendment would require HMRC to undertake a review of the effectiveness of the new income tax exemption for pensions advice in the first two years of its operation.

Clause 3 stand part.

Peter Dowd: It is a pleasure to serve under your chairmanship, Mr Howarth. The extent, nature and quality of advice received by a person wanting a pension is of great importance and significance. That is particularly the case considering that, in 2017, 30% of the working age population is at state pension age or older. The Department for Work and Pensions recently summarised perfectly the importance of pensions advice on its website:

"For most people in the UK, their pension savings will be their largest financial asset, which they will save towards over the course of their working lives".

That gets to the nub of the matter. Hopefully, most of us will be saving towards a pension for the majority of our lives and we are ultimately relying on that to secure a good-quality standard of living when we retire. Therefore, the advice received matters a great deal.

For many, the securing of pension advice is, given the nature of their employment, for example, not as problematic. People who work in certain sectors, such as the finance sector, on the whole will find that their companies automatically cover pension advice. For others, the cost of such advice is minimal in the grand scheme of things. However, it has to be said that, for those who do not have much disposable cash and whose retirement is dependent on making wise investments with their pensions and ensuring that they save the right amount, good-quality advice is the key to a more secure retirement. I am sure that that will be greeted with unanimous nodding from Government members, if nothing else.

As Committee members know, the financial advice market review was launched in August 2015

"to explore ways in which government, industry and regulators could take individual and collective steps to stimulate the development of a market that delivers affordable and accessible financial advice and guidance to everyone."

That is a laudable endeavour if ever there was one. It set out a strong and compelling case that there is a retirement "advice gap" for those without significant wealth. Research by Unbiased, an organisation of Financial Conduct Authority-regulated advisers who are independent of product providers, found that those who sought retirement advice increased their retirement savings by an average of £98 a month. However, less than one third of people have accessed financial advice on their pension. The financial advice market review found that many people perceived financial advice to be unaffordable or "not for people" like them.

The advice gap is not getting any smaller. Although the introduction of the exemption for the first £500-worth of pensions advice to employees is welcome, particularly as it replaces the provisions that limited the advice that people could receive—the cap was set at £150—we think that that does not go far enough. Most people in the pension advice sector would reasonably point out that £500-worth of tax-free advice is a relatively small figure given the importance of the decisions that people face. There are genuine questions to be asked about the impact that such a figure will have on the current pensions advice gap and, importantly, on the quality of that advice.

Kelvin Hopkins (Luton North) (Lab): My hon. Friend is absolutely right about the affordability of pensions advice, but the trustworthiness of pensions advice is also an issue. Even I—I am fairly numerate—do not trust the advice I am given, although fortunately the Independent Parliamentary Standards Authority gives better advice than most. Many ordinary people not only think that it is not for the likes of them and are rather nervous, but fear that they are not given correct and disinterested advice.

9.45 am

Peter Dowd: That is a very valid point that people should listen to. As I said before, that goes to the nub of the situation.

In the light of that, I have a number of very reasonable amendments that the Committee members certainly will agree are pertinent, which need to be asked for and which need answers. Perhaps the Minister, who I know is the epitome of helpfulness, could explain to the Committee how the figure of £500 was reached, who was consulted on the figure, and the basis of the figure, in terms of the pensions advice market—or is the figure arbitrary? Dare I say, is there a smokescreen?

I am sure that the Government do not want to be seen to be acting without providing adequate funds to address the root problem. The cost of financial advice will inevitably inform the value of the advice. That is why we have put forward the amendment, which would raise the threshold for tax-free pension advice from £500 to £1,000. Pensions advice is, after all, the greatest protection against the threat of fraudsters keen to prey on some of those in vulnerable positions. Because we are talking about large sums of money that people rarely engage with until the ends of their lives, pension savings are often an active target for scams.

We must recognise that as technology makes it easier for us to access our pension pots, it also increases the risk of fraud. This is also true of the reforms brought in by the Government under the previous Chancellor, giving pensioners greater freedom to withdraw a portion of their pensions earlier. That has been a benefit to some pensioners, although it has brought with it substantial risks and the problems that we continue to see today. The Money Advice Service website outlines the common signs of pension fraud. They include unsolicited approaches by way of a phone call, text messaging or emails. Other practices include a firm not allowing a person to call it back, and people being pressurised and forced into making a quick decision, or being encouraged to transfer pensions quickly and to send documents by courier. Contact details provided are mobile phone numbers only, or a post office box address.

Other tactics include claiming to be a person who can help to unlock a pension before the age of 55, which is sometimes known as pension liberation or referred to as a personal loan. This is possible only in very rare cases, such as very poor health. People say they know of tax loopholes, or they promise extra savings. They offer a suggested high rate of return on investments, but claim that the risk is low.

The Money Advice Service recommends that people looking for pensions advice check against the FCA register of approved pension advisers. The Opposition welcome the loosening of the advice that an individual can claim under the tax-free allowance, as I indicated earlier. Over the past few years, it has become apparent that people are not only concerned about the level of savings in their pensions, but have also taken a greater interest in where their pension savings are being invested. Of course this is a good thing, and ultimately pension funds should be accountable to the person whose savings they invest.

All these issues that I have raised so far summarise the Opposition's concerns about this clause and why we have put forward an amendment that would require a review of the effectiveness of the tax-free relief in the years 2017, 2018 and 2019. It is important that the Government accept the review, rather than rushing ahead with further reforms that may be considered tinkering around the edges. We are suggesting an increase from £500 to £1,000, and a review of the allowance system in due course.

Kirsty Blackman (Aberdeen North) (SNP): It is a pleasure to take part in another Finance Bill Committee, and I am looking forward to another one coming later this year. It feels like we have been discussing this one for quite some time, so I am glad to finally be at the Committee stage in a Committee room. Thank you for your chairmanship, Mr Howarth.

I wanted to highlight our amendment on this. There have been a huge number of changes in the pensions landscape in relatively recent years. In my working lifetime, we have seen a move away from a final salary pension scheme to career average for the majority of people, even in the public sector. We have seen changes to things such as the lifetime individual savings account and the ability to withdraw pensions. Those are pretty significant changes in the landscape; pensions for people my age look very different from how they looked not that many years ago.

We have also seen changes to the Women Against State Pension Inequality issue, and the equalisation problem. A number of people have come through the door of my surgery and talked to me about how they have been caught by the WASPI issue. If they had had different pensions advice, they would not have retired in the way they did. More than one person who took early retirement now finds that they are caught by the WASPI issue when they should have retired under ill health,

[Kirsty Blackman]

which would have given them a completely different outlook on their pensions. If they had had more appropriate advice when they were deciding when to retire, they would have been much better off.

I welcome the Minister's proposal to make the first £500 of pension advice tax-free; that is an important change and one that we all generally agree with. I agree with the shadow Minister, however, who asked whether £500 is the most appropriate amount. Should it be £1,000? Should it be less? The amendment we have put forward specifically asks about the issues for women born on or after 6 April 1950, because they are the ones who have been caught by this WASPI issue. I am keen to see an increased uptake of pensions advice by those women, because for some of them changing the way in which they retire would make a difference.

Those women have been failed by the system. They have been failed by the Government, who have moved the goalposts and changed the date on which they expected to retire. Some of them retired not long ago and were completely unaware of the change. Those are people who would have read every bit of paper that came through their door. A medical secretary came to my surgery the other day. A medical secretary is someone very diligent about reading bits of information that come through the door, particularly about financial matters that are important for her future, and I believe that she would have chosen a different route to retirement if she had had appropriate advice, and if she had known what would happen on state pension equalisation and what would happen to her.

David Linden (Glasgow East) (SNP): Does my hon. Friend agree that this Government have a pretty dire record on protecting pensioners, not least on the WASPI issue, but even on the winter fuel payment?

Kirsty Blackman: That is absolutely correct; I have seen people come through my surgery door to complain about that as well. I did not quite realise the difference in temperature between London and where I live until I became an MP. In London, I could quite easilsy not have the heating on at all through the entire year, whereas in Aberdeen my heating is on in September, or even earlier. Heating costs significantly more, so the winter fuel payment is hugely important for a number of my constituents and makes a significant difference to their lives. Those people are in fuel poverty; they have been failed by the system, and it is important to note that.

I will not stretch this out too much, but I must be clear that a number of people have been failed by changes to the goalposts. Those changes might be in how their pension is structured and what kind of pension they will get in the end because of movements away from final salary pensions, or because their state pension age has been moved, or because of things like the Government's wonderful lifetime ISA, which means that if someone becomes sick, their lifetime ISA is considered a savings pot for benefits and held against them when they try to claim benefits. Therefore, a lifetime ISA cannot be seen as something that can be used instead of a pension, because it does not provide the level of safeguards that a real, proper pension pot does.

Ruth George (High Peak) (Lab): The hon. Lady makes some valid points, as did my hon. Friend the Member for Bootle. My question is: given that Which? uncovered back in 2015, the fact that the average cost of independent retirement advice on a £100,000 pension pot was £1,863, does she feel that £500 is an appropriate limit for tax relief?

Kirsty Blackman: I thank the hon. Lady for her intervention, which highlights the issue. It would be useful to hear from the Minister about why £500 has been chosen, given that a £100,000 pension pot is not the biggest of pension pots and some people will have more in their pension pot than that. We need to hear from the Minister the reasons behind choosing that figure. It would also be useful to hear about how this might affect those women caught up in and disadvantaged by the Government's changes to the state pension age, particularly those who have not been told about these changes.

Mel Stride: I welcome the hon. Member for Bootle and the hon. Member for Aberdeen North to the Committee and the part that they will play in the debates that lie ahead.

Before I respond to some of the detailed points raised, including the amendments, I will set out the purpose of clause 3. As we have heard, the clause introduces a new income tax exemption to the cover the first £500-worth of pensions advice provided to an employee in a tax year. That will increase the affordability and accessibility of financial advice for those saving for retirement through a workplace pension.

The success of the Government's auto-enrolment policy means that more people than ever are saving into a workplace pension scheme, as the hon. Lady recognised. There has been quite a change to the general territory of pensions. On top of this, the Government's historic pension flexibility reforms have given people better access to their retirement savings and control over their money, but with more money and more options, individuals may have a greater need for professional financial advice.

The recent financial advice market review conducted by HM Treasury and the Financial Conduct Authority concluded that there is a particular advice gap in relation to pensions. The Government are keen to ensure that financial advice is accessible and affordable to consumers, especially those nearing retirement. We want to encourage employers to provide advice to their employees to help them to make informed choices about what to do with their pension savings.

As I said, the changes made by the clause will introduce a new tax exemption to cover the first £500-worth of advice in a tax year. It will apply to advice provided to an employee on pensions savings, and on the general financial and tax issues relating to pensions. The exemption applies whether the employer pays or reimburses the employee for the cost of that advice.

Amendment 14 would double the tax exemption to cover the first £1,000-worth of pensions advice provided to an employee in a tax year. We believe that £500 is an appropriate amount. As the hon. Member for Bootle pointed out, that more than triples the current exemption. It also balances the cost to the Exchequer with the objective of encouraging more employers to provide access for their employees to affordable advice. Increasing the tax exemption to cover the first £1,000 also risks inflating the market and making advice too expensive for employers and employees. I can report that we are already seeing the emergence of new forms of tailored advice at a more accessible price of about£500.

The hon. Gentleman spoke about consultation. We have not formally consulted on the changes. As he pointed out, the matter was covered by the financial advice market review consultation, which received 268 responses. Respondents supported the introduction of tax measures to help consumers to afford financial advice. A wide range of stakeholders responded, including employers, individuals and financial services firms. The FAMR also conducted regional roundtables and sought the views of an advisory panel of industry and consumer experts. Consultation on the measure has been deep and meaningful.

On the question whether £500 is the correct amount, as I have explained, this is a tripling of the amount hitherto available. In addition, each employer can utilise the £500 exemption, so an employee who works for two companies may be provided advice by each and benefit from two allocations of the exemption. Although advice can be more expensive, the Government expect more affordable advice propositions to be launched as a direct result of the FAMR. For example, in May 2016the Financial Conduct Authority launched its advice unit, which will provide regulatory support to firms developing cheaper, automated advice propositions.

The hon. Gentleman also raised the important issue of protections against pension fraud. The important point to bear in mind is that this measure covers all formats of pensions advice, as long as the advice is regulated financial advice delivered by an FCA-authorised adviser. I urge the hon. Gentleman to withdraw the amendment.

10 am

Amendments 11 and 15 both call for reviews of the effectiveness of new section 308C, so I will deal with them together. Amendment 11 asks for a review to consider issues including

"the use of the relief by persons over 55"

and

"women born on or after 6 April 1950."

Amendment 15 asks for a review to consider issues, including

"the estimated value of the exemption"

in each year and

"the effects of the provisions on the availability"

of relevant pensions advice.

As the Committee would expect, we will keep the effectiveness of the provisions under review. The conditions have been carefully designed to ensure that employees are treated fairly. An employer offering the payments must do so to all employees generally. However, the rules also ensure payments can be targeted at employees at a particular location, who are within five years of their pension age, or who are suffering from ill health such that they are incapable of carrying on with their occupation. That ensures employers can target payments to those approaching retirement. Like other members of the Committee, I want to ensure these rules are effective. The financial advice market review is intends to undertake a review of the recommendations in 2019, so a formal review of the rules does not need to be included in primary legislation.

Kirsty Blackman: The Minister said the effectiveness of the provisions will be kept under review. Will he commit to ensuring that the review is published at some point?

Mel Stride: As I said, the FAMR will be conducting a review, which is expected to be published in 2019, and the Government will keep those matters under review on an ongoing basis, as we do all measures of taxation, whether impositions or reliefs.

Peter Dowd: It is crucial that we send the message that the Government are serious about helping people with their pension advice. Although the figure has gone up from £150—a fairly small amount in itself—to £500, we believe that still does not send the proper message about seeking sound advice. Given that, and notwithstanding the Minister's assurances, we will press the amendment increasing the figure to £1,000 to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 1]

AYES

Blackman, Kirsty
Creasy, Stella
Dodds, Anneliese
Dowd, Peter
George, Ruth
Hopkins, Kelvin
Lee, Ms Karen
Linden, David
Smith, Jeff

NOES

Afolami, Bim
Burghart, Alex
Cleverly, James
Fernandes, Suella
Ghani, Ms Nusrat
Hughes, Eddie
Maclean, Rachel
O'Brien, Neil
Stride, rh Mel
Stuart, Graham

Question accordingly negatived.

The Chair: Does the hon. Gentleman wish to press amendment 15?

Peter Dowd: Given the assurances from the Minister, no, Mr Howarth.

Clause 3 ordered to stand part of the Bill.

Clause 4

LEGAL EXPENSES ETC

Peter Dowd: I beg to move amendment 16, in clause 4, page 9, line 23, at end insert—

'(7A) After section 716B (Employment intermediaries, etc), insert—

"716C Review of effectiveness of changes to reliefs for legal expenses

(1) Prior to 30 June 2019, the Commissioners for Her Majesty's Revenue and Customs shall complete a review of the effectiveness of the changes made to this Act by section 3 of the Finance (No. 2) Act 2017.

[Peter Dowd]

(2) The review shall consider in particular the estimated value of the additional relief provided as a result of the changes in each tax year.

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

This amendment would require HMRC to undertake a review of the effectiveness of the changes relating to relief in connection with legal expenses in Clause 4.

The Chair: With this, it will be convenient to discuss clause 4 stand part.

Peter Dowd: We all agree that the current model of legal expenses or indemnity insurance for employees is wholly inadequate to the modern workplace. It is worth getting a plug in here in relation to the household insurance that people have for when they wish to defend their position in court, whether criminal or civil. I have experience of some of these policies not being fit for purpose. That goes to the heart of some of these issues, although it is not directly related. I am sure that other Members have had people come to them with insurance policies that they bought thinking they would cover them for this, that or the other, only to find that they are not fit for purpose. It is worth this Committee sending the message out that some of those policies are not up to scratch.

Getting back to the point, under the current system, only an employee who has had an allegation made against them can claim for legal expenses, which will be deducted from their earnings. Potentially, if a person is called as a witness at a public hearing, he or she will immediately be put out of pocket for any legal expenses. Similarly, if an employee is to give evidence at a public hearing, perhaps in one of our Committee Rooms in this building, under the current system they will be out of pocket if they need legal counsel. That is a deterrent to both employee and employer. The measure would tidy up and expand the current, rather vague, provision to cover employees giving evidence at public hearings, which we welcome; however, I have a number of questions.

How many employers will the new measure cover? Will it cover all employers? How extensive is it? Are any particular sectors affected by the measure? What is the estimated cost of such a measure to the Exchequer? Does the measure include cover for employment tribunals? That has been a bone of contention in the past few months, in the light of the Government’s introduction of quite significant fees for people making employment tribunal claims.

Kelvin Hopkins: There is evidence that thousands of people have been deterred from bringing a case to employment tribunals simply because of the fees.

Peter Dowd: My hon. Friend makes an important point. That is why it is important to tease out the issues. People get confused and deeply worried about these matters, so we need clarity.

Our concern is that the measure will, in essence, be used as a tax break for employers, to the detriment of employees. I am not saying that that is the intention, but it is important to get clarity. Given the lack of detail, we believe that a review of the impact of the changes on the coverage of legal expenses is in order. It would focus specifically on the effectiveness of the measure, the value of the relief and, of course, how many employers and employees it brings within its purview. I reaffirm the point: it is important that this area is clarified and that people know the direction of travel, which is why we moved the amendment, to keep tabs on the proposal.

Mel Stride: Before I address Labour’s amendment 16, I will set out the purpose of clause 4.

The clause makes changes to ensure fair and consistent tax treatment for employees who receive legal support from their employer. Currently, employers may provide legal support or a legal indemnity insurance to their employees tax and NICs-free but, as the hon. Member for Bootle rightly points out, that only applies when employees have had allegations made against them in connection with their employment. Construction workers, nurses or surveyors, for example, may have legal indemnity insurance to provide legal advice in case they are accused of negligence. No equivalent tax treatment for relief is available in relation to proceedings in which no allegation has been made against the employee, such as when an employee is asked to give evidence before a public inquiry.

The changes made by the clause will extend the existing provisions to correct that unfairness. The relief will be made available for expenses incurred in employment-related proceedings where no allegation has been made against the employee. In addition, the clause extends a relief for individuals on termination of their employment or for individuals now deceased, so that a deduction is allowable if the relevant costs are met by the employer on behalf of the individual.

The hon. Gentleman asked some specific questions, in particular about the cost to the Exchequer of the measures, which will in fact be negligible. We expect fewer than 1,500 employees in total to require the benefits of the measure.

As we have heard, amendment 16 would require HMRC commissioners to complete a review before 30 June 2019 of the effectiveness of the changes. Such a review would be disproportionate. As I have explained, this is an important but small change to correct an unfairness. As there is no tax to pay, employers do not need to report information about the legal support or legal indemnity insurance provided to their employees. Indeed, it would be burdensome for employers to have to provide such information simply for the purposes of the review sought by the hon. Gentleman. I urge the Committee to resist the amendment.

The Government acknowledge that legal inquiries can be a challenging and unfamiliar time for employees. The clause will make the system fairer by extending the existing relief for all employees who may require legal advice, helping to ensure that they get the support they need. I therefore commend the clause to the Committee.

Peter Dowd: Again, I appreciate the Minister’s explanations and assurances to some extent, but this is one of those areas that is of importance to people. It is very technical, but teasing the issues out is important. A review might be of specific areas, but reviews often bring up other issues and signpost for us where regulations or the law may need to be changed or tightened. For that reason, it is important for us to send the message that this is something that we will review. Notwithstanding the assurances given, I will press the amendment to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 2]

AYES

Blackman, Kirsty	Hopkins, Kelvin
Creasy, Stella	Lee, Ms Karen
Dodds, Anneliese	Linden, David
Dowd, Peter	Smith, Jeff
George, Ruth	

NOES

Afolami, Bim	Hughes, Eddie
Burghart, Alex	Maclean, Rachel
Cleverly, James	O'Brien, Neil
Fernandes, Suella	Stride, rh Mel
Ghani, Ms Nusrat	Stuart, Graham

Question accordingly negatived.

Clause 4 ordered to stand part of the Bill.

Clause 6

PAYE SETTLEMENT AGREEMENTS

10.15 am

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

Mel Stride: Clause 6 makes changes to simplify the PAYE settlement agreements process, by allowing employers to propose PAYE settlement agreements without the need to agree that with an officer of Revenue and Customs beforehand. PAYE settlement agreements, or PSAs, were introduced in the 1990s as an administrative easement for employers and HMRC. They allow employers to settle, in a single payment, the income tax liability on behalf of their employees for certain benefits-in-kind and expenses.

In their 2014 review of employee benefits and expenses, the Office of Tax Simplification highlighted a number of issues with the PSA process. In response, the Government launched a consultation in the summer of 2016 on proposals to simplify the process for arranging, and clarifying the use of, PAYE settlement agreements. In line with the Office of Tax Simplification's recommendations, the changes being made by clause 6 will simplify the PSA process. Employers will no longer be required to submit a request in advance of their year-end reporting obligations. Instead, they will be able to submit their PSA request at the year end and make ad hoc requests throughout the year. It also removes the need for PAYE settlement agreements to be agreed with an officer of HMRC. In addition, HMRC will develop a digital tool to replace the submission of paper returns. HMRC's guidance will be strengthened and updated, in order to reduce errors and provide certainty for employers.

The Government are committed to reducing the administrative burden for employers. In line with recommendations made by the OTS, clause 6 will help to simplify the PSA process and provide certainty and stability for employers. I therefore move that this clause stands part of the Bill.

Peter Dowd: Although the Opposition have not tabled an amendment on this clause, Members will be aware that we have wider concerns about the overall intention of the measure and, for example, its relationship to the Government's wider digital tax strategy. We have been clear that, although we support the gradual digitisation of taxation and the capacity it has to remove the administrative burden from HMRC, the self-employed, small and medium-sized businesses and larger companies who have to submit tax returns, we are concerned about the Government's rush to introduce this timetable, which in our view is ill thought-out—as we have said many times.

In principle, we agree with the aims of the measure, which appears to allow employers the ability to settle income tax liabilities for certain benefits and expenses in a more efficient and timely manner. I do not think any of us would want to argue with that. However, we are concerned about the removal, without assurances, of the agreement of the officers of HMRC in this process. I am sure that that is mere coincidence, given that the measure is being introduced at a time when the Government have reduced HMRC staffing levels by 17% since 2010. I would like to take it on good faith from the Minister that the removal of the need for agreement with an officer of HMRC has little to do with the falling numbers of staff.

The clause explicitly states that this measure aligns with the principles of HMRC's wider digital transformation strategy and therefore it seems impossible to discuss the clause without also referring to clauses 60 to 62, which introduce the digital reporting of VAT and income tax. Given that link, I would like to take the opportunity to ask the Minister about the overall digital transformation strategy at HMRC.

First, how far along is HMRC with this new digital solution that the Government plan to develop? How many pilots have been run of the new software needed at HMRC? How many of those pilots were successful? What is the cost to HMRC of the new software? What is the cost to an employer of using that software? How will HMRC be able to intervene manually to mitigate compliance risk?

The Government have made much of the huge administrative burden that employers face, and of how this measure, along with others, will ensure that employers can submit their PAYE settlement agreement requests at the end of the year and make ad hoc requests during the year, but that is surely completely inconsistent with the Government's plans to mandate quarterly digital reporting for income tax and VAT. It will remove some administrative burdens for employers with regard to income tax on the one hand, but add further burdens on the other. I would be grateful if the Minister helped us out with that.

Mel Stride: As we have set out, clause 6 makes changes to simplify the PSA process. I am grateful that the hon. Member for Bootle appears to welcome those changes. The Government believe that it is extremely

[Mel Stride]

important to lower the burdens on our businesses, which create the wealth and pay the taxes that pay for the public services that, as a civilised society, we all want.

The hon. Gentleman raised making tax digital and the digital changes to the way that tax will be reported. He will know that I laid a written ministerial statement a little while ago that set out a changed timescale for the roll-out of that element. Consequently, no businesses will be involved in making tax digital until 2019 at the earliest, and even then only those at or above the VAT threshold will be involved, and only in respect of VAT reporting. No further roll-out will occur in any other areas until 2020 at the earliest. The Government are in listening mode, and we have listened extremely carefully and reacted extremely positively to feedback from businesses.

The hon. Gentleman raised several pertinent and legitimate questions about the piloting of the making tax digital process. They were very specific, and I do not think for a moment that he expects me to have all the answers in my head, talented though I am.

Jeff Smith (Manchester, Withington) (Lab): And modest.

Mel Stride: And modest—quite. I will ensure that we write to the hon. Member for Bootle to answer the specific questions that he asked in that context.

Peter Dowd: I take the Minister's assurances. I am sure that he has all the answers in his head, but he does not want to share them at this point. I will be able to read the letter that he sends over a nice cup of tea.

Question put and agreed to.

Clause 6 accordingly ordered to stand part of the Bill.

Clause 7

Money purchase annual allowance

Peter Dowd: I beg to move amendment 17, in clause 7, page 15, line 11, at end insert—

'(4A) After section 227G (when pension rights are first flexibly accessed), insert—

"**227H Review of effects of changes to money purchase annual allowance**

(1) Prior to 30 June 2019, the Commissioners for Her Majesty's Revenue and Customs shall complete a review of the effects of the changes made to this Act by section 7 of the Finance (No. 2) Act 2017.

(2) The review shall consider in particular—

(a) the change to the tax charge applied in each tax year, and

(b) the behavioural effects of the changes.

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

This amendment would require HMRC to undertake a review of the effects of the change to the money purchase annual allowance in Clause 7.

The Chair: With this it will be convenient to discuss clause 7 stand part.

Peter Dowd: The money purchase allowance has its roots in the latter days of the previous Chancellor's tenure at the Treasury. The pension flexibility measures that were introduced in 2015 gave pensioners those flexibilities if they wished to pay anything further into a defined-contribution pension, but restricted the contributions on which they could receive tax relief. The Government set the money purchase allowance at £10,000, limiting the tax relief that pensioners could receive. The clause will cut that drastically, to £4,000.

The Minister says that the clause is, in effect, an attempt to stop individuals who have already accessed pension savings recycling that cash back into pensions, thereby benefiting from tax relief a second time. I completely acknowledge the concern about that, but a number of pensioners will no doubt be caught by the change. In fact, the submissions that we all received by email and were circulated today allude to that, and I will come to that in a bit more detail.

How much notice have pensioners been given of this planned change? What marketing and targeted awareness campaigns have the Government conducted to ensure pensioners are aware of the change? How much has the Treasury or other Departments spent to ensure that pensioners are aware of the change? I come back to the point I made earlier that this is about the security of people's retirement. People have planned and are planning for retirement and, what with Brexit and lots of other things going on in the world, we want to keep the uncertainty in life to an absolute minimum. I am sure that everybody agrees with that.

How much does the Financial Secretary believe that the measure will raise? The Opposition feel that there is a clear need for the level of the money purchase annual allowance to be reviewed, and many of the stakeholders who have written to us agree. It is important that the Government take the necessary steps to ensure that pensioners who are caught out by the change are not at an unfair disadvantage.

One submission to Members in the bundle that has been circulated indicates:

> "The reduction of the Money Purchase Annual Allowance to £4,000:
>
> a. will create an anomalous position
>
> b. may encourage manipulation of pension arrangements to use the small pots rules to circumvent the MPAA rules
>
> c. will create a differential position between members of occupational arrangements and personal schemes".

The submission gives a perfectly reasonable example of that, which I will not go into now.

Another organisation, the Low Incomes Tax Reform Group, also has concerns. It was set up by the Chartered Institute of Taxation to give "a voice to the unrepresented". I will quote from its submission, because it is pertinent:

> "The money purchase annual allowance of £10,000 is very unlikely to catch out too many people who might do this. But reducing it to £4,000 from April 2017–equating to savings of £333 a month–is much more likely to cause problems for these people; especially if thinking about it in terms of someone choosing to save money they might have previously been paying on a mortgage. This is even easier to see as being a problem if we consider that the net of basic rate tax contribution–the amount the individual pays–would be £3,200, ie £266 per month. Such a monthly sum could well be half the person's previous mortgage repayments and therefore an easy sum to find for topping up their pensions".

The review laid out in our amendment seeks to review the effectiveness of the measure, how many people it affects and the impact of cutting the money purchase allowance on the overall level of pension contributions.

To conclude, I cannot reiterate this point too much. I do not think it is necessarily a question of our wanting to replace the £10,000 with £4,000, £6,000 or £8,000 or any other figure, for that matter. If the Government have made that decision—and it is reasonable to adjust the figure up or down, whatever it might be—given that this is about people's pensions and their future in retirement, it is important that we are clear what the impact is going to be. That is why we ask for the review. We all need to satisfy ourselves that when we are dealing with this area, for which people have planned, that they are not going to be detrimentally affected at a time in their lives when they may be vulnerable.

Mel Stride: Amendment 17 would require the Government to undertake a review of the effect of the change to the money purchase annual allowance under clause 7. Before I set out why that review would be unnecessary, I want first to remind Committee members of the background to clause 7, and what it seeks to achieve. The historic pension freedoms introduced in April 2015 have given people with savings in money purchase arrangements greater flexibility to get access to their pension savings. Once a person has accessed their pension savings flexibly, further tax-relieved contributions are restricted to the money purchase annual allowance.

10.30 am

In the autumn statement of 2016, the Government announced that they would consult on reducing the allowance from £10,000 to £4,000, to limit the extent to which people can recycle their pension savings to get extra tax relief—something that the hon. Member for Bootle recognised in his remarks. Following that consultation, the Government concluded that an allowance of £4,000 would be fair and reasonable, restricting the extent to which some individuals can gain from an unfair tax advantage, while still allowing those who have accessed their pension flexibly to rebuild some of their savings.

The changes under clause 7 reduce the money purchase annual allowance from £10,000 to £4,000 with effect from April 2017, to help to ensure that the cost of pension tax relief is fair, affordable and sustainable. That reduction will limit the extent to which pension savings can be recycled to take advantage of tax relief, which is not in the spirit of the pension tax system. The allowance applies to individuals who flexibly access their pension savings or who have already done so.

Amendment 17 would impose a requirement on the Government to undertake a review of the effects of the change, before 30 June 2019, and to lay it before the House. I am afraid that that would be unnecessary; as I have outlined, the decision to reduce the allowance follows extensive consultation with industry and individuals. During that consultation, we received no evidence that particular groups, as a whole, would be disproportionately affected by the change. Indeed, the Government estimate that about 3% of individuals aged 55 and over make annual contributions—from themselves and their employers—of more than £4,000. Of that 3%, significantly fewer people have already accessed their pension savings flexibly, which means that the number affected will be significantly lower.

Across the population more broadly, median defined contribution pension saving is between £2,000 and £3,000 per year—so it is below the £4,000 figure that we have been discussing. Moreover, in our response to the consultation, the Government have already committed to review the level of the allowance in order to ensure that there is no conflict with automatic enrolment policy in the future.

The hon. Member for Bootle asked some specific questions about the kinds of consultation and information that we have made available to those who might potentially be affected, and I can reassure him that the measure has been well publicised. It was, as I have said, announced in the autumn statement 2016, when Her Majesty's Treasury carried out a 12-week consultation; and the change was confirmed in the 2017 Budget.

Following the announcement of the general election and the shortened Finance Bill, the Government confirmed that the policy had not changed, and that it would be legislated for at the earliest opportunity in the new Parliament. In addition, registered pension schemes must provide a flexible access statement to individuals within 31 days of their first triggering the money purchase annual allowance. The content of the statement is explained on the gov.uk website. The hon. Gentleman also asked about the cost to the Exchequer. The answer is £70 million per annum.

Providing guidance through information has been a core element of the Government's pension freedom policies. Indeed, anyone aged over 50 can access Pension Wise for free, and get impartial Government guidance about defined pension contribution options. The Pension Wise website explains the MPAA in connection with flexibly accessing savings, in a number of sections.

The Government are committed to supporting hard-working individuals who want to save through the tax system. This year we have increased the amount of money that an individual can save or invest tax-free through the ISA by the largest ever amount to £20,000, nearly doubling the limit since 2010. As I have outlined, the pension allowances are generous, and the new MPAA remains considerably higher than median contributions.

Reducing the MPAA limits the extent to which pension savings can be recycled, while allowing those who want flexible access to pension savings the opportunity to rebuild some of their savings, should they choose to do so. The Government have consulted on the change and are confident that it is the right decision. I therefore urge hon. Members to withdraw the amendment and I commend the clause to the Committee.

Peter Dowd: In the spirit of co-operation and the assurances the Minister gave, I am prepared to withdraw the amendment in relation to a review. None the less, serious concerns have been identified by organisations. The Minister alluded to the fact that there did not appear to be much concern, but that is not what I am hearing, hence the need for a review. However, in the light of the Minister's assurances, I am happy to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 7 ordered to stand part of the Bill.

Clause 8

Dividend nil rate for tax year 2018-19 etc

Anneliese Dodds: I beg to move amendment 18, in clause 8, page 15, line 17, at end insert—

‘(1A) After section 13A (income charged at the dividend nil rate), insert—

“13B Review of effects of changes to dividend nil rate

(1) Prior to 30 June 2019, the Commissioners for Her Majesty’s Revenue and Customs shall complete a review of the effects of the changes made to this Act by section 8 of the Finance (No. 2) Act 2017.

(2) The review shall consider in particular the effects on the self-employed.

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

This amendment would require HMRC to undertake a review of the effects of the change to the dividend nil rate in Clause 8.

The Chair: With this it will be convenient to discuss clause 8 stand part.

Anneliese Dodds: As colleagues know, the clause changes, from 2018-19 onwards, the amount to which the dividend nil rate applies down to £2,000 under section 13A of the Income Tax Act 2007. The Opposition are particularly keen to hear the Government’s position on what the impact of the change is likely to be for the self-employed, who could be significantly affected. I would be grateful if the Minister clarified that today.

That change is occurring in a context where existing changes to tax arrangements for self-employed people have not always been adequately dealt with. For example, HMRC’s electronic portal is frequently raised with us as an issue by tax practitioners. I do not mean to sound like a stuck record in relation to my hon. Friend the Member for Bootle, but that is occurring in the context of considerable structural change in HMRC, and we know that many people are already struggling to get through to it to receive advice on making tax returns. This measure will clearly have interaction with other allowances, so greater clarification would be welcome.

That is why we are calling for a review. There needs to be more consideration of these issues and the tax system’s readiness to deal with the change. The amendment would therefore require HMRC to undertake a review of the effects of the change to the dividend nil rate in the clause.

Kirsty Blackman: I hear the hon. Lady’s words, but I would probably go even further. We do not agree that the change should be made to the dividend nil rate for a number of reasons. To begin with, those people who are self-employed may have been planning their self-employment for some time and may have been relying on the fact that the dividend nil rate is currently £5,000 in their financial planning. I do not think that there is enough notice for those people who have been making plans to become self-employed. It is not good enough from the Government. There is not enough notice, and the change they are making is pretty rubbish. People on pretty low incomes are going to be hit by some of the change. It is really important that, for example, people who are becoming self-employed for the first time have the nil rate allowance that they thought they were going to have. Those people have not been given enough time to make considerations.

The point raised by the hon. Lady in relation to getting through to HMRC is relevant, particularly given the closures of tax offices and the difficulty that my constituents are having when trying to contact HMRC. The guidance and forms on its website tend to be black and white, but the answer might be somewhere grey in the middle, so people have to phone to get the advice they need to fill in the form online appropriately. As I said, one of our concerns about the general movement towards making tax digital is how people can get advice on filling in online forms, never mind anything else. It is difficult for people to get through to HMRC, and that is a relevant consideration. We are inclined to vote against clause stand part when that comes. However, we would support the amendment, were it to be pressed to a vote.

Mel Stride: Before I respond to the amendment as well as the other points raised in the debate, let me first remind the Committee of what the clause seeks to achieve. As we have heard, it reduces the tax-free dividend allowance from £5,000 to £2,000 from April 2018. The change will ensure that support for investors is more effectively targeted and helps to deliver a fairer and more sustainable tax system. It will also help to reduce the tax differential between individuals working through their own company and those working as employees and self-employed. Crucially, it raises revenue to invest in our public services, raising approximately £2.6 billion out to 2021-22.

Since the tax-free dividend allowance was first announced, the landscape for small business owners, savers and investors has changed. The hon. Member for Oxford East specifically asked about support for businesses in the context of these changes. I can assure her that, as the party of business, we are wholeheartedly behind businesses. First, we have supported businesses by reducing the main corporation tax rate to 19%, which is now the lowest rate in the G20. Secondly, for savers, we have increased the amount of money that an individual can save or invest tax-free through an ISA, by the largest amount ever, to £20,000, nearly doubling the limit since 2010. Thirdly, we have continued to increase the personal allowance to £11,500 this April. We have committed to increasing it further, to £12,500, helping individuals keep more of the money that they earn.

The hon. Member for Aberdeen North raised a specific point about response rates from HMRC to telephone contact. That is one of the measures that we are constantly looking at—how good are customer services—and I reassure her that it is one measure where HMRC performance has been relatively strong recently.

The clause should be considered in the context of that wider support for business and the need to deliver a tax system that works for everyone. We also need to take account of the ongoing trends in the different ways in which people are working. The design of the current tax system means that individuals who work through a company can pay significantly less tax than individuals who are self-employed or who work as employees. That can be true even when those individuals are doing very similar work.

At the autumn statement last year, the Office for Budget Responsibility estimated that the faster growth of new incorporations, compared with the growth of employment, would reduce tax receipts by an additional £3.5 billion in 2021-22. By that year, HMRC estimated that the cost to the public finances of the existing company population will be more than £6 billion.

The Government are committed to helping all businesses to succeed, large and small, and in all parts of the United Kingdom, but to deliver and maintain low taxes for everyone, we need a tax base that is sustainable. The cost to the public finances of the growth in incorporation is clearly not sustainable. It is, therefore, right to make the small but sensible change to reduce some of the distortions to which I have referred.

As we have heard from the hon. Member for Oxford East, amendment 18 would commit HMRC to undertake a formal review of the effect of this change to the dividend nil rate by the end of June 2019. It has been specifically proposed that such a review should consider in particular the effect of the change on the self-employed. Such a formal review is not necessary.

As I have mentioned, the change needs to be considered in the context of the wider support that the Government have provided to business owners all across the United Kingdom, from reducing the rate of corporation tax to giving the self-employed the same access to the state pension as employees, worth almost £1,900 more per year, to introducing successive increases to the personal allowance, which is available in addition to the dividend allowance.

Indeed, the Government have given careful consideration to the impact of reducing the dividend allowance. A £2,000 allowance ensures that support is more effectively targeted following this change. Around 65% of all recipients of dividend income will continue to pay no tax on such income. That includes around 80% of all general investors. Typically, a general investor will still be able to invest around £50,000 without paying any tax on the resulting dividend income. Those investors who are affected will have, on average, investments worth around £100,000, which will put them in the top 10% of wealthiest households in the country. I therefore invite the hon. Lady to withdraw the amendment.

The Government are delivering a tax system that works for everyone, including businesses, savers and investors. As the OBR has highlighted, there is a rising and unsustainable cost to the public finances of the growth in incorporation. The clause would help to address that by reducing the tax differential between those who work for a company structure and pay themselves in dividends and those who work as employees or self-employed, while ensuring that support for investors is more effectively targeted. I, therefore, urge the hon. Lady to withdraw amendment 18, while I commend clause 8 to the Committee.

Anneliese Dodds: I am grateful to the Minister for his comments. However, we still feel that this is a substantial change. Despite his helpful comments, it does not appear that there has been sufficient consideration, specifically of the impact of this new measure on the income of the very entrepreneurs we should support, especially when they are beginning the life cycle of their new firm. We are concerned that, in effect, many of those live off the income from dividends at the beginning of their business and we do not feel that we have had the assurances that we require that there will not be a negative impact on their income. Therefore, we would like to push this amendment to a vote.

10.45 am

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 3]

AYES

Blackman, Kirsty
Creasy, Stella
Dodds, Anneliese
Dowd, Peter
George, Ruth
Hopkins, Kelvin
Lee, Ms Karen
Linden, David
Smith, Jeff

NOES

Afolami, Bim
Burghart, Alex
Cleverly, James
Fernandes, Suella
Ghani, Ms Nusrat
Hughes, Eddie
Maclean, Rachel
O'Brien, Neil
Stride, rh Mel
Stuart, Graham

Question accordingly negatived.

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

The Committee divided: Ayes 10, Noes 3.

Division No. 4]

AYES

Afolami, Bim
Burghart, Alex
Cleverly, James
Fernandes, Suella
Ghani, Ms Nusrat
Hughes, Eddie
Maclean, Rachel
O'Brien, Neil
Stride, rh Mel
Stuart, Graham

NOES

Blackman, Kirsty
Hopkins, Kelvin
Linden, David

Question accordingly agreed to.

Clause 8 ordered to stand part of the Bill.

Clause 9

LIFE INSURANCE POLICIES: RECALCULATING GAINS ON PART SURRENDERS ETC

Anneliese Dodds: I beg to move amendment 19, in clause 9, page 17, line 45, at end insert—

"512B Review of operation of sections 507A and 512A

(1) Prior to 30 June 2020, the Commissioners for Her Majesty's Revenue and Customs shall complete a review of the operation of sections 507A and 512A.

(2) The review shall consider in particular—

(a) the number of applications made under each section,

(b) the number of occasions a gain was recalculated on a just and reasonable basis under each section.

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

This amendment would require HMRC to undertake a review of the operation of the new provisions for requests for new calculations in relating to wholly disproportionate gains by policyholders.

The Chair: With this it will be convenient to discuss clause 9 stand part.

Anneliese Dodds: Clause 9 removes tax liability where wholly disproportionate gains inadvertently are made from surrendering life insurance. We can understand the motivation behind the measure. We know that the clause aims to introduce an application by which policyholders who part surrendered or part assigned their life insurance policies, including capital redemption policies and contracts for life annuities, and generated a wholly disproportionate taxable gain, can apply to HMRC to have their gain recalculated on a just and reasonable basis. None the less, we are concerned about the lack of key safeguards and the exercise of what is essentially a discretionary remedy by HMRC. The measure is not backed by the fundamental safeguard of a statutory right of appeal to a first-tier tribunal of the officer's decision on what constitutes a just and reasonable basis for the calculation. It would be helpful if the Minister explained the reasoning for not making express legislative provision for a right of appeal, which we feel is a fundamental safeguard in the exercise of a discretionary remedy. Therefore, our amendment asks for greater consideration of that and other issues through a review, and I hope the Government will accept that request.

Mel Stride: Clause 9 makes changes to ensure that policyholders who take value from their ongoing life insurance policies in such a way that a wholly disproportionate gain is generated, as the hon. Member for Oxford East pointed out, can apply to HMRC to have the gain recalculated on a just and reasonable basis. Recent litigation has exposed circumstances in which cash withdrawals from life insurance policies, known as part surrenders, can give rise to a wholly disproportionate taxable gain. That could also occur following an early sale of part of a policy, also known as a part assignment. In particular, large early withdrawals of cash from a policy that shows little or no underlying economic growth can generate taxable gains that are wholly disproportionate in size and effect. Usually, if cash had been taken by a different method, little or no gain would have arisen.

At Budget 2016, the Government announced their intention to change the tax rules on part surrenders and part assignments of life insurance policies. The changes made by clause 9 will introduce an application process through which policyholders who trigger wholly disproportionate gains can apply to HMRC to have their gain recalculated on a just and reasonable basis.

The hon. Lady raised the issue of appeals. Although taxpayers do not have a right of appeal, they have strong safeguards through the complaints procedure, which provides a simple and straightforward way for policyholders to express dissatisfaction with a decision and have it scrutinised independently. Recalculation applications will be dealt with by a small team in HMRC, ensuring consistency and quality of approach. If taxpayers are unhappy with the decision made, they can complain, and any complaint will be dealt with fairly and impartially by someone independent of the original decision maker. If taxpayers are still not satisfied, the complaint can be referred to the adjudicator or the Parliamentary and Health Service Ombudsman.

The changes will provide a fair outcome for policyholders who inadvertently generate disproportionate gains. An important point is that the measure is expected to affect fewer than 10 policyholders per year and to have a negligible cost to the Exchequer. The impact on life insurance companies, which broadly support the measure, is also expected to be negligible.

The Opposition amendment would require HMRC to complete a review of the operation of these changes by June 2020. The proposed changes in the clause provide a fair outcome for the very small number of policyholders—around 10—who inadvertently generate these gains. As mentioned earlier, we expect fewer than 10 policyholders to be affected. A formal mandated review, followed by a report to the House of Commons, would be an excessive requirement for changes so narrow in scope and for such a small number of individuals affected. I therefore ask the Committee to resist the amendment.

To conclude, clause 9 will provide a fairer outcome for a small number of policyholders who generate wholly disproportionate gains. I invite the hon. Lady not to press her amendment, and I commend the clause to the Committee.

Anneliese Dodds: We are willing to withdraw the amendment, but we want to ensure above all that the information and advice about the provisions are definitely made available to albeit small number of policyholders. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 9 ordered to stand part of the Bill.

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

10.54 am

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE BILL

(Except clauses 5, 15 and 25 and certain new clauses and new schedules)

Second Sitting

Tuesday 17 October 2017

(Afternoon)

CONTENTS

PBC (Bill 102) 2017 - 2019

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

not later than

Saturday 21 October 2017

The Committee consisted of the following Members:

Chairs: Mr George Howarth, † Mr Charles Walker

† Afolami, Bim *(Hitchin and Harpenden)* (Con)
† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Burghart, Alex *(Brentwood and Ongar)* (Con)
† Cleverly, James *(Braintree)* (Con)
† Creasy, Stella *(Walthamstow)* (Lab/Co-op)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Dowd, Peter *(Bootle)* (Lab)
† Fernandes, Suella *(Fareham)* (Con)
† George, Ruth *(High Peak)* (Lab)
† Ghani, Ms Nusrat *(Wealden)* (Con)
† Hopkins, Kelvin *(Luton North)* (Lab)
† Hughes, Eddie *(Walsall North)* (Con)
† Lee, Ms Karen *(Lincoln)* (Lab)
† Linden, David *(Glasgow East)* (SNP)
† Maclean, Rachel *(Redditch)* (Con)
† O'Brien, Neil *(Harborough)* (Con)
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Stride, Mel *(Financial Secretary to the Treasury)*
† Stuart, Graham *(Beverley and Holderness)* (Con)

Colin Lee, Jyoti Chandola, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 17 October 2017

(Afternoon)

[MR CHARLES WALKER *in the Chair*]

Finance Bill

(Except clauses 5, 15 and 25 and certain new clauses and new schedules)

2 pm

The Chair: Mr Howarth made some preliminary announcements this morning regarding Committee proceedings, including permission for Members to remove their jackets if they wish to do so in this October heatwave. Before we come to clause 10, I understand that the Minister wishes to raise a point of order.

The Financial Secretary to the Treasury (Mel Stride): On a point of order, Mr Walker. I believe that in this morning's sitting, in response to a question from the hon. Member for Bootle, I may have inadvertently suggested that the Bill's changes to the money purchase annual allowance regime will result in a £70 million per annum cost to the Exchequer. I should have said that £70 million of revenue will be raised for the Exchequer in each year.

The Chair: I thank the Minister for that clarification, as I am sure does the entire Committee.

Clause 10

PERSONAL PORTFOLIO BONDS

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

Mel Stride: It is a great pleasure to serve under your chairmanship, Mr Walker. Clause 10 provides the power to amend by way of statutory instrument the property categories that the holder of a life annuity, life insurance policy or capital redemption policy can select without making that policy or contract a personal portfolio bond.

The personal portfolio bond rules introduced in 1999 countered avoidance arrangements where an individual could select personal investments, such as property portfolios, in life insurance policies to defer the tax charge on any resulting income or gains. The legislation treats a policy as a personal portfolio bond if it allows the holder to select the property held in that policy. A policy will not be a personal portfolio bond if it permits only the selection of property specifically listed in the legislation. The categories of property listed in the legislation have features that ensure that the policyholder cannot customise them to allow personal property to be placed within the policy.

The list of permitted property has not materially changed since the rules were introduced in 1999. Since then, various new types of investment vehicle have been developed that similarly cannot be manipulated to include personal property. Up to now, those have not been added to the list. That unnecessarily narrows the range of investment choices for policyholders.

The clause provides the power to make secondary legislation to amend the categories of property listed. The power will ensure that, in future, the rules can be updated more quickly to accommodate new types of investment vehicles. Following Royal Assent, the Government will lay regulations using the power to add three investment vehicles as permitted property: real estate investment trusts, overseas investment trust companies and authorised contractual schemes. Draft statutory instruments have been provided to the Committee. The power will allow the Government to respond quickly as new methods of investment develop, to enable legislation to keep pace with changes in the financial services industry and ensure that tax rules do not needlessly impede innovation and competition in the sector.

Anneliese Dodds (Oxford East) (Lab/Co-op): I am grateful to the Minister for providing clarification. Is there any evidence of the extent of awareness among fund advisers regarding the existing restrictions, and how will they be made aware of the new rules? That is particularly important if new rules are to be adopted through secondary legislation. We have heard about the new categories of property that might be incorporated, but there is likely to be less spotlight on them in future if we do not discuss them in the context of a Finance Bill. At present, it is possible for fund advisers to accidentally acquire non-permitted assets for a client's policy, which rules it out as a PPB and means that the rules on yearly deemed gain do not apply.

Mel Stride: I reassure the hon. Lady that there has been extensive consultation on the measure. The consultation on reviewing the list of properties ran from 9 August to 3 October 2016 and explored adding three types of investment vehicle. The majority of respondents welcomed the proposed addition of the investment vehicles discussed. Many suggested further additions, which will require further review before any recommendation is made.

Question put and agreed to.

Clause 10 accordingly ordered to stand part of the Bill.

Clause 11

EIS AND SEIS: THE NO PRE-ARRANGED EXITS REQUIREMENT

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

The Chair: With this it will be convenient to discuss clauses 12 and 13 stand part.

Mel Stride: Clauses 11, 12 and 13 make changes to the tax-advantaged venture capital schemes: the enterprise investment scheme, the seed enterprise investment scheme and venture capital trusts. The changes provide small but useful easing of the rules, which I shall explain in more detail. Following the calling of the general election and subsequent negotiations between the Government and the Opposition, these clauses were removed from the Finance Act 2017. As all the clauses are wholly relieving, the Government have introduced retrospective legislation to ensure that taxpayers can still benefit from the changes being made from the original commencement date.

The tax-advantaged venture capital schemes provide a range of generous tax reliefs to encourage individuals to invest directly or indirectly in certain smaller and higher-risk early stage companies. These small companies would otherwise struggle to access the funding they need to grow and develop, because they have little or no track record to attract funding from the market.

Clause 11 makes changes to an anti-abuse rule, the no pre-arranged exits requirement, in the enterprise investment and seed enterprise investment schemes. The rule prevents tax relief from being provided if arrangements under which the shares were issued might lead to a disposal of those or other shares in the company and so potentially put the future continuation of the company at risk.

Many companies include such rights in their standard documents. However, rights allowing for share conversions in the future carry no risk to the integrity of the scheme, as excluding the rights can be administratively burdensome for some companies. The changes will allow companies to qualify for relief if they issue shares that include rights to a future conversion into shares of another class in that company. The changes are wholly relieving and will apply retrospectively, with effect for shares issued on or after 5 December 2016.

Clause 12 makes technical changes to clarify the law and ensures venture capital trusts can provide follow-on funding to certain groups of companies. The changes ensure that the VCT rules work in the same way as those for EIS. The rules for VCTs and EIS were changed in late 2015 to target the schemes more closely on early stage companies. However, the rules do allow older companies to receive tax-advantaged investments in some situations. These include follow-on funding provisions. Broadly speaking, follow-on funding may be provided to an older company as long as the company received its initial tax-advantaged funding at a time when it met the basic age limit. The changes made by clause 12 ensure that, where certain conditions are met, VCTs will be able to provide follow-on funding for companies that have been taken over by a new holding company after the initial funding was received.

Clause 13 makes changes to extend a power for the Treasury to make regulations on the exchange of certain investments held by a VCT. A VCT may hold non-qualifying investments, but only in very limited circumstances. Regulations under the current power ensure that VCTs are not at immediate risk of losing their approved status when they are obliged to exchange a qualifying investment for a non-qualifying investment. However, the power to make regulations applies only where the original investment is a qualifying investment.

The new regulations will provide broadly similar protection to VCTs where the original investment is a non-qualifying investment and the VCT is similarly required to exchange the investment as part of a commercial reorganisation or buy-out. Without the new regulations, VCTs would continue to rely on Her Majesty's Revenue and Customs exercising its discretion to avoid immediate loss of approval when a non-qualifying investment is exchanged. Draft regulations will be published for public consultation later in the year. The regulations will provide certainty to a VCT regarding the treatment of the new shares or securities obtained when it exchanges non-qualifying investments.

Clauses 11, 12 and 13 make technical easements to reduce administrative burdens and smooth certain rules within the tax-advantaged venture capital schemes. I therefore hope that they will stand part of the Bill.

Anneliese Dodds: I have two questions about clauses 11 and 12. First, EIS and SEIS are two of the four tax-advantaged venture capital schemes, alongside venture capital plus and social investment tax relief, which we will discuss under a later clause. In addition to the features mentioned by the Minister, the schemes share in common the fact that advance assurance applications and submissions of statutory compliance statements are often sought by those seeking to reassure potential investors about the tax treatment of their investments. Clearly, the new requirement will widen eligibility for EIS and SEIS, potentially leading to a greater number of requests to HMRC for these kinds of ex-ante assessments. I would be grateful if the Minister could assure us that HMRC will be able to satisfy those requests in a timely manner.

I understand from the Minister's response to my parliamentary question on this matter that there is no time limit on an advance assurance application, and while the target for more complex cases is 40 days, he admitted that more complex cases may take longer. Although I agree with him that the changes will simplify the administrative side for business to an extent, they could complicate qualifying criteria from HMRC's point of view. How will the Minister ensure that that does not lead to greater pressures on an already struggling HMRC?

On clause 12, my second question is perhaps more fundamental. As I understand it, EU state-aid rules generally suggest that the operation of such tax reliefs should focus on genuinely promoting new growth rather than on the acquiring of existing businesses, given that we are talking about the state exempting certain categories of firms from tax that others must pay. Will the Minister provide us with a taste of how he has assured himself that this relief genuinely will focus on the promotion of such new growth?

Mel Stride: I thank the hon. Lady for her questions. On clause 11, she has been in touch with the Treasury about the important matter of advance assurances from HMRC, which always does its utmost to provide advice in as timely a manner as possible. The change proposed by the clause, however, is to remove a requirement on HMRC to opine on the approach that some companies intend to take, which will introduce greater certainty.

Clause 12, which relates to VCTs and the introduction of a parent company, is also likely to ease the investment decision because it will take away the uncertainty that would otherwise accrue by having a parent company inserted into the corporate structure under consideration. These technical amendments therefore make important changes to existing legislation.

Question put and agreed to.

Clause 11 accordingly ordered to stand part of the Bill.

Clauses 12 and 13 ordered to stand part of the Bill.

Clause 14

Social investment tax relief

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

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

Amendment 20, in schedule 1, page 103, line 37, at end insert—

"10A After section 257TE (minor definitions etc), insert—

"257TF Review of operation of this Part

(1) Prior to 30 June 2019, the Commissioners for Her Majesty's Revenue and Customs shall complete a review of the operation of social investment tax relief.

(2) The review shall consider in particular—

(a) the effects of changes made to this Part by Schedule 1 to the Finance (No. 2) Act 2017, and

(b) the effectiveness of the anti-abuse provision.

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

This amendment would require HMRC to undertake a review of the operation of social investment tax relief, including the changes to it made by Schedule 1.

That schedule 1 be the First Schedule to the Bill.

Mel Stride: Clause 14 and schedule 1 make changes to increase the amount of investment that newer social enterprises can raise through social investment tax relief. These changes will make social investment more attractive to a wider range of enterprises and investors. Excluding lower risk activities will ensure that the scheme is well targeted and delivers value for money.

Would it be in order, Mr Walker, to speak now to amendment 20 and schedule 1?

The Chair: If the Minister sits down, the Opposition can speak to the amendment.

2.15 pm

Anneliese Dodds: As the Minister has indicated, amendment 20 is to the schedule, which is grouped with clause 14. We have a number of concerns about the proposed changes to social investment tax relief, which is why our amendment asks for a review of their effectiveness and impact.

As colleagues will be aware, social investment tax relief is aimed at supporting social enterprises, comprising those businesses that plough their profits—or at least a proportion of them—back into a social and-or environmental mission. With this relief, where investments by individuals are eligible, they can reduce an individual's income for income tax purposes by almost a third. It is clearly a significant relief and one that, while having many positive impacts, has been suggested as leading to abuses, with the social or environmental impacts from investment in some anecdotal cases being cosmetic rather than actual.

There are also underlying issues about whether there is a level playing field between social enterprises and the public sector when it comes to the delivery of some public services, which could be intensified by the development of additional scope or type of tax reliefs when it comes to social enterprises. Indeed, for those reasons, some people have entirely rejected even the principle of social investment tax relief in the first place. I understand Dame Hilary Blume, director of the Charities Advisory Trust, was concerned about the creation of the relief in the first place, saying it would attract those interested in profits rather than social good to the sector.

In my experience as a constituency MP—and others may share this experience—social enterprises that operate in my constituency, such as the charity Aspire Oxford, undertake work that the Government either have never done or which they have abandoned due to a lack of resources, such as the enormous reductions in support provided through probation services. It is important that organisations such as these, which genuinely deliver additionality, are supported. Nonetheless, in that context, we have a variety of concerns about the currently proposed changes and it is for that reason that we ask for a review. I would be grateful—even if our amendment does not pass—if the Minister could provide answers to a number of these concerns, presently or by letter in the future.

The first concern we have is about the process surrounding these measures. As colleagues will know, rather confusingly, not all social enterprises qualify for social enterprise relief. Predominantly, the relief is focused on community interest companies, charities and community benefit societies. For that reason, before receiving investment, many social enterprises ask HMRC for advance assurance—this topic pops up again—that they will qualify for SITR. I am concerned to have learned from the sector that assessors seem to have been taking decisions already about whether social enterprises will qualify for SITR on the basis of the rules we have in front of us today, which have not yet been passed by Parliament, rather than on the basis of the current rules.

I know the rules would have retrospective impacts: in practice they would be for investments dating from April 1. It seems strange, however, for assessors to be taking decisions already on the basis of the new rules and this is potentially a disadvantage for social enterprises that are negatively affected by the new rules.

I have also heard concerns about the new treatment of leasing within the new provisions. As I understand it, the Government conceive of leasing as an inherently low-risk activity and therefore not worthy of subsidy, but it is not clear to me that all the implications of this position have been thought through. An example is that of a specialist facility, such as a rundown heritage swimming pool. In fact, many of us may have those in our constituencies—as we know, many have closed. It is very difficult for local authorities to redevelop those facilities in current financial circumstances. We could imagine an example where a social enterprise might want to take on that pool, purchase it, attract investors into that project, but not run the swimming pool themselves as they do not have the expertise to do so. They might then want to have a leasing arrangement with a specialist leisure provider to deliver the services from that swimming pool. The problem with the new changes is that, in this context, even though the risk of that new approach would be reduced because the specialist provider would have more experience of running swimming pools than the social enterprise, the latter would be left in an invidious position, because it would lose the tax break if it engaged in that kind of leasing arrangement.

Stella Creasy (Walthamstow) (Lab/Co-op): My hon. Friend is making a powerful case about the importance of trying to make these kind of rules work for the reality of how social investment often happens in our local communities. Does she agree with me that there is also a concern that by excluding asset-leasing, things like community pubs and community land trusts might also be excluded by the Government, probably unintentionally? Many of us know of small community groups that may want to take over pubs in our communities that would be excluded by this measure and unintentionally actioned against. Surely we should be acting on that.

Anneliese Dodds: I am grateful to my hon. Friend for making that point, and I agree that this could apply to a range of different facilities. In many circumstances, this kind of arrangement is the only way to keep those facilities going. We could potentially see them entirely disappear—we all know about the sad disappearance of community pubs in our areas—so I am grateful to her for making that point.

In addition to those potential issues, we are also concerned about the differential treatment of social enterprises by age, with the £1.5 million cap being lifted for social enterprises under seven years old. Will the Minister explain why there is precisely this seven-year limit? It may in practice be that local authorities are relying on well-established, well-run and highly experienced social enterprises to help to provide essential services and facilities in conditions of extreme budget cuts, but it is those older enterprises that are potentially disadvantaged by this scheme. I hope that we are going to learn the exact decision-making process on this seven-year cut-off point. If it is specifically to advantage younger social enterprises, why is that the point? Is it the case that youth is being viewed as a proxy for the ability to take on risky activities? If so, where is the evidence basis for that?

I point again to the example of Aspire in my constituency that operates a range of programmes, including one that supports offenders going into work—people who would not normally be necessarily be taken on by different employers. Surely that is a highly risky activity, but it is one at which they—as an established social enterprise—excel. Age does not necessarily appear to be a good proxy for the ability to take on riskier activities. If this seven-year cut-off is not there to encourage younger social enterprises, then why has it been instituted? We need more information on this.

Finally, we feel that additional evidence on the effectiveness of the anti-avoidance clauses within the new provisions is required. Social enterprises in the voluntary sector have a long history in areas such as hospice care, specialist domestic violence and mental health services where they have often genuinely driven innovation. Other social enterprises, such as those I mentioned earlier, have merely donated some of their profits to charity, rather than having a genuinely social or environmental mission. May we have more clarification on how abuse will be identified and dealt with?

Kirsty Blackman (Aberdeen North) (SNP): I do not want to speak for long, but I wanted to say that the hon. Member for Oxford East made a comprehensive, passionate and well-informed case on the amendment. If the Labour party seeks to press the amendment to a vote, we will support it. If the Minister responds to any of the comments by letter, I would be keen to see some of his answers, so I would appreciate being copied into that response.

Mel Stride: Compared with typical companies, social enterprises face greater difficulties in accessing the funding they need to grow and develop. Social investment tax relief provides a number of generous tax reliefs to encourage individuals to invest in social enterprises that deliver social or community benefits. The current limit to the amount of investment that a social enterprise can receive through SITR is around £300,000 over three years. We announced in 2014 that we would look to expand the scheme, and we are now doing so.

The changes made by schedule 1 will increase the investment limit to £1.5 million over the lifetime of all social enterprises using SITR. In order to target the relief more effectively at the social enterprises that most struggle to attract investment, those under seven years old will no longer be bound by the three-year rolling investment limit of £300,000. I think this addresses the issues raised by the hon. Member for Oxford East about why the period is seven years. There is a greater vulnerability when social enterprises start up and they are fresh and young. They have yet to have a track record on which they can build, in order to grow. For those we are removing the roaming £300,000 over three years requirement. Social enterprises older than seven years can still use SITR for investment up to the three-year rolling investment limit of £300,000, subject to the lifetime limit of £1.5 million.

Schedule 1 makes a number of other changes to ensure that the scheme is well targeted at activities that will genuinely achieve socially beneficial aims, and provides value for money. That includes targeting SITR at social enterprises with fewer than 250 employees. Some activities have always been excluded from the relief so that it is not used as a tax-advantage route for low-risk investment. The excluded activities list will be updated to exclude a number of low-risk activities, including leasing assets and raising finance to lend on to others.

I agreed wholeheartedly with the hon. Member for Oxford East's assertion about the importance of these social enterprises. She mentioned Aspire, for example, in her own constituency and many of us can think of similar organisations in our constituencies. On the more detailed process points that she was interested in, particularly around HMRC and advanced assurances, I am happy to write to her.

On the specific issue of leasing, allowing those activities to benefit from SITR would risk diverting finance away from higher risk social enterprises. We must not lose sight of the fact that the whole purpose of this scheme is to encourage those kinds of organisations and all the good works that they do, which might not otherwise come forward for the reason of being high risk. Of course, those organisations struggle the most to raise finance. Leasing assets typically provides a reliable income stream, which makes it a lower risk activity. Allowing social enterprises to raise money to lend on to other enterprises would be complex to administer and would leave the scheme open to misuse.

Stella Creasy: As a Co-op, as well as Labour, MP, I am rather passionate about the idea of social investment. The Minister seems to be a little short-sighted about the

[Stella Creasy]

idea of assets—after all, there are many people looking at running community pubs, for instance, which is a great example of a community asset that we might want to support. I would not see that as an example of a low-risk venture. Surely, if he accepts our amendment, we can look at some of those issues and make sure that he is not missing out on some of the things he would like to see investment in because of a concept of risk that is rather narrow, rather than recognising some of the boundaries of co-operative and social investment.

Mel Stride: I thank the hon. Lady for her intervention. I guess there is a trade-off between getting very detailed and more precise in where we target these kinds of reliefs and, on the other hand, sometimes having complexity and confusion. It can be difficult to winkle out the precise anomalies that she may be alluding to. However, I can reassure her that, under the EIS scheme, many pubs, including community pubs, can qualify. They may be excluded under certain circumstances within the SITR scheme, but under EIS she will find that there are at least possibilities.

On the general issue of anti-avoidance, we are seeking to avoid situations where these schemes—whether they are EIS, SITR or VCTs—are simply being used as places to preserve capital at very little risk and to give a tax return as a consequence of the scheme. It is important that we have tight, sensible and effective avoidance measures in place.

Finally, further provisions to align the rules more closely with the enterprise investment scheme, including anti-abuse provisions, will also be introduced. Amendment 20 would require a review of the effects of the scheme, including the effectiveness of the anti-abuse provision and other changes being made by schedule 1. The Government have already committed to a full review of SITR within two years of its expansion. An early review would make it impossible to adequately gauge the effectiveness of the provisions that we are introducing now. Further, these anti-abuse provisions were introduced in direct response to HMRC becoming aware of the creation of aggressive tax-planning structures designed to exploit this relief. We estimate that around 800 social enterprises will benefit from the relief over the next five years. By 2021-22, SITR is forecast to cost £65 million per year, £30 million more than if the scheme was not enlarged.

We have had an interesting debate on the scheme. As we have already committed to a full review, I ask the hon. Member for Oxford East to withdraw amendment 20. Schedule 1 will increase the amount of investment that social enterprises can raise through SITR making it attractive to a wider range of enterprises and investors. Other changes will ensure that the scheme is well targeted and delivers value for money.

2.30 pm

Anneliese Dodds: I am grateful to the Minister for his clarification, which has been enormously helpful. However, he referred to winkling out particular anomalies and we feel that that is exactly what we need a little more of. On the issue of the seven years of activity as a social enterprise before qualifying for the three-year £1.5 million cap, I am concerned, despite the Minister's helpful comments, that we are not focusing on the exact loci of risk. We seem to be assuming that risk is inherent in the age of the social enterprise concerned and not on the activity that it is engaged in. It is perfectly possible—I mentioned an example earlier—for an older social enterprise to try to attract funding in order to undertake a very risky activity. Dealing with some of those risky activities is what we need social enterprise to be engaged in, particularly as we have many areas where local authority funding is no longer available and there are also market failures. We really need to have community facilities and different services preserved. I therefore wish to press the amendment.

Mel Stride: I think we are in total agreement with the hon. Lady on the issue of focusing these funds and incentives on riskier social enterprises, in other words, the ones that would not naturally happen without this kind of intervention. However, while those that are less than seven years old will be subject to the £1.5 million cap, which is a considerable increase in what we have had before and will not be restricted by the £300,000 maximum investment in any three-year period, those social enterprises that have been trading for longer than seven years, can still have access to £1.5 million in total, albeit in any three-year period they are restricted to £300,000 maximum to be raised. It is not as if there is a terrible cliff edge between the two. We will still be providing a lot of support for older social enterprise.

Anneliese Dodds: I thank the Minister, but I am still concerned about why exactly seven years has been chosen as the cut-off. Listening to his helpful remarks, I imagine that we could potentially see some gaming around this, because there is a significant tax advantage from having a younger social enterprise. Would we see social enterprises being created out of previous ones just to qualify for the different tax treatment when actually they would be focused on the same activity? It seems peculiar to me and I do not understand why the seven-year figure has been chosen. My dad was an accountant; he always said to me, "You've got to keep your bank statements for seven years", so I can understand seven years from that perspective. Why is there no gradation? Why seven and not another figure—three, five, 15 or 20 years? Perhaps some clarification can be provided.

Mel Stride: I suppose we are saying that whatever number of years we chose, the hon. Lady's argument would always be relevant, in the sense that it is an arbitrary figure. It happens to be seven years in this case. In terms of anti-avoidance and gaming at the margins, to which she referred, there are some strong anti-avoidance measures in the Bill that, for example, seek to address directly the specific issues she raised of perhaps one social enterprise taking over another that has a different age profile and in some way gaming the system as a consequence. Those elements are addressed in the anti-avoidance measures.

Question put and agreed to.

Clause 14 accordingly ordered to stand part of the Bill.

Schedule 1

SOCIAL INVESTMENT TAX RELIEF

Amendment proposed: 20, in schedule 1, page 103, line 37, at end insert—

"10A After section 257TE (minor definitions etc), insert—

"257TF Review of operation of this Part

(1) Prior to 30 June 2019, the Commissioners for Her Majesty's Revenue and Customs shall complete a review of the operation of social investment tax relief.

(2) The review shall consider in particular—

(a) the effects of changes made to this Part by Schedule 1 to the Finance (No. 2) Act 2017, and

(b) the effectiveness of the anti-abuse provision.

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

This amendment would require HMRC to undertake a review of the operation of social investment tax relief, including the changes to it made by Schedule 1.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 5]

AYES

Blackman, Kirsty
Creasy, Stella
Dodds, Anneliese
Dowd, Peter
George, Ruth
Hopkins, Kelvin
Lee, Ms Karen
Linden, David
Smith, Jeff

NOES

Afolami, Bim
Burghart, Alex
Cleverly, James
Fernandes, Suella
Ghani, Ms Nusrat
Hughes, Eddie
Maclean, Rachel
O'Brien, Neil
Stride, rh Mel
Stuart, Graham

Question accordingly negatived.

Schedule 1 agreed to.

Clause 16

Calculation of profits of trades and property businesses

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

The Chair: With this it will be convenient to discuss that schedule 2 be the Second schedule to the Bill.

Mel Stride: Clause 16 makes changes to ensure that landlords can use the cash basis to calculate their profits for tax, and simplifies the treatment of capital expenditure within the cash basis.

At Budget 2016, the Government announced that we would explore options to simplify the tax rules for businesses, self-employed people and landlords. Trading businesses have been able to use the cash basis method of calculating their profits for tax since 2013. The method calculates profits on a cash in, cash out basis and minimises the need for complicated accounting adjustments. It has been well received; more than 1 million trading businesses have chosen to use the cash basis since its introduction. Extending and improving the cash basis is a significant step to simplify the tax rules.

Following consultation, the Government announced that from April 2017 they would increase the cash basis threshold for traders to £150,000, extend the cash basis to some landlords, and simplify the treatment of capital expenditure in the cash basis. The increase to the cash basis threshold for traders was implemented by secondary legislation, so does not appear in the Bill.

The changes made by the clause will allow more than 2.3 million property businesses to choose to use the simpler cash basis method of calculating their profits for tax, which will provide administrative savings to approximately 1.8 million of them. The changes to the treatment of capital expenditure in the cash basis will allow capital expenditure to be deducted from income, unless it relates to specific types of assets listed in the legislation. That will mean that, including any additional property businesses, nearly 3 million businesses using the cash basis will have a clearer idea of what they can deduct for tax, and when.

The clause legislates for measures announced at spring Budget 2017 and takes effect from April 2017. It therefore has retrospective effect. The measures will simplify tax on many businesses and landlords, who will benefit from the use of the cash basis and the reform of the capital expenditure rules in the cash basis.

Question put and agreed to.

Clause 16 accordingly ordered to stand part of the Bill.

Schedule 2 agreed to.

Clause 17

Trading and property allowances

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

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

Amendment 21, in schedule 3, page 155, line 15, at end insert—

"**Chapter 3**

Review of chapters 1 and 2

783BR Review of operation of this Part

(1) Prior to 30 June 2020, the Commissioners for Her Majesty's Revenue and Customs shall complete a review of the operation of the provisions of this Part.

(2) The review shall consider in particular—

(a) the use and effects of full relief,

(b) the use and effects of partial relief,

(c) the use of relief in relation to trading income, and

(d) the use of relief in relation to property income.

(3) The review shall compare the effects on the Exchequer in each of the first two years of its operation with the effects forecast by the Office for Budget Responsibility at the time of—

(a) the 2016 Budget, and

(b) the 2016 Autumn Statement.

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

This amendment would require HMRC to undertake a review of the operation of the new trading and property allowances in the first two relevant tax years.

That schedule 3 be the Third schedule to the Bill.

Peter Dowd (Bootle) (Lab): It is a pleasure to serve under your chairmanship, Mr Walker.

I appreciate that the strictures of Finance Bill procedure commonly give rise to the overwhelming excitement of review amendments, so I ask the Committee to withhold its lack of surprise that amendment 21 would introduce yet another review. The Government's sensible stated aim in introducing the allowance is to recognise that

[Peter Dowd]

many taxpayers no longer fit within a neat and simple model of PAYE-only income or self-assessment-only income. We all recognise that that is the reality, but we should not get too carried away by the idea that online hobby trading is an entirely new activity triggered by the advent of the online sharing economy; I suspect it is more like old wine in new skins. Spending a weekend repairing a few clocks as a hobby and then selling them on eBay for extra income on the side is not an entirely new phenomenon. People 20 years ago did the same through car boot sales, antique fairs or classified ads; this is just a modern version.

Modernising the tax system to recognise the multiple sources of income that taxpayers may now receive is sensible, but we should not always imagine that the problems that we are trying to solve are entirely new, nor should we make too hasty a stab in the dark for solutions. The Association of Taxation Technicians says that, as drafted, the provisions discriminate against individuals who, in addition to having the type of microbusiness to which the trading allowance is intended to apply, also have a sole trader business which cannot benefit from the trading allowance. In that situation, the provisions prevent the microbusiness from qualifying for the trading allowance. The ATT's concern is that the allowance is potentially discriminatory.

The Government state that the aim of the allowance is to provide

"simplicity and certainty regarding Income Tax obligations on small amounts of income from providing goods, services, property or other assets…and to help the UK become leaders in the digital and sharing economy",

but it could easily end up creating new complications for taxpayers, or lead inadvertently to perverse incentives. The Chartered Institute of Taxation's low incomes tax reform group welcomes the aim of the measures, but has said that it is

"very concerned that unrepresented low-earners will struggle to understand some of the more complex rules, especially if they have overlap profits, more than one trade or source of income or have not elected, as often will be the case, to use the cash basis of accounting."

Its concerns stem especially from the fact that this relief's intended group of users is less likely to engage professional accountants or other advisers. As a result of the complications involved in having to choose a particular accounting basis or work out the types of income that apply, the allowance may fail to benefit that group of users. It may instead become yet another strand in the complex web of allowances that professional advisers throw into the mix when helping their clients to avoid tax.

Anneliese Dodds: I appreciate my hon. Friend's comments about the role of personal advisers; the same point came up this morning. Moreover, has not HMRC's online system for calculating the taxes payable on relatively small amounts of income already been found wanting? As a result of the interaction between the four different allowances—personal savings, tax-free dividend income, the savings starting rate and the personal allowance—individuals have become liable for more tax than they should have to pay, because the online system is not calibrated appropriately. In theory, the new provision is meant to obviate the need to declare income for those purposes, but does my hon. Friend not agree that it must be designed carefully to avoid the flaws that affect people with small incomes who qualify for the allowances?

2.45 pm

Peter Dowd: My hon. Friend hits the nail on the head; that is an excellent forensic point that the Minister will have heard, and will, I hope, take up, especially in relation to our amendment.

The potential problems might be still bigger in the case of property income where the new relief interacts with existing schemes such as rent-a-room relief. Taxpayers will need to work out which relief applies before determining whether and how they need to make a self-assessment return. Although I am confident that the Minister is genuine in his desire to help more people get on the right side and make the right declarations for their taxes, I worry that the added complexity could easily put off more people from making the correct declaration. I suspect that none of us wants that, including him, because it is not particularly sensible. In many cases, it will not be due to anyone's desire for dishonesty; it will be because taxpayers used to operating only within pay-as-you-earn will be confronted with a confusion of options in considering how they must declare to HMRC.

The Low Incomes Tax Reform Group has rightly highlighted the complications that might arise for lower-income households. The new reliefs might free taxpayers from the need to declare very small amounts to HMRC, but will not have the same effect of releasing their obligations to account to the Department for Work and Pensions if they are universal credit claimants. Those are the households that would benefit most from simplification, rather than finding themselves subject to the most bewildering requirements to account to the state. I do not wish to waylay the Committee with the ongoing issue of universal credit implementation, as we will undoubtedly have a debate about that tomorrow, but the Low Incomes Tax Reform Group highlights a fair point: so-called simplifications involving tax and social security can sometimes have the opposite effect on those expected to use them. I think that we have all witnessed that to a greater or lesser degree.

Our amendment proposes an HMRC review, to report by 2020, of the use of the reliefs and the resulting effects on the Exchequer. I know that the inclination is to resist all Opposition amendments, but I can see little cause to resist this one. Inevitably, just like other measures discussed earlier, the reliefs will be revisited, unpicked, reworked and recalibrated in future Budgets. Sensible and calm review by HMRC must be in the interests of everybody involved.

Kelvin Hopkins (Luton North) (Lab): It is a pleasure to serve under your chairmanship, Mr Walker. I support my hon. Friend the Member for Bootle. It is said that Britain has more accountants per head of population than any other country, probably because the complexity of our tax system means that we all need to use one. However, in this situation, as he said, the amounts involved might be small, and the cost of an accountant might be quite high. That could deter people from using accountants, getting them into more difficulty.

Is there not a case for a proper review by HMRC, which knows the score because it deals with such things on a daily basis? HMRC could advise the Government on introducing appropriate changes that would simplify the tax system as well as helping those who would benefit from tax reliefs in a more practical and pragmatic way.

Mel Stride: Clause 17 and schedule 3 introduce two new tax allowances so that, from April 2017, individuals with gross trading or property income below £1,000 no longer have to declare or pay tax on that income. Digital platforms are allowing more and more people to supplement their income by sharing property, resources, time and skills. It is perhaps a rather more rapidly growing segment than the hon. Member for Bootle recognised. The UK is a world leader in the sharing economy; a report by PwC shows that the UK sharing economy has grown at the fastest pace in Europe, with transactions worth about £7.4 billion in 2015. This is expected to grow to £140 billion in 2025.

As the economy changes, the tax system should keep pace. For this reason the Government want to support the sharing economy and ensure that the tax system is not burdensome for those making small amounts of income, whether through selling goods, providing services or renting out their property. This could include those advertising their plumbing services through an online platform or those renting out a driveway space, for example. The changes made by clause 17 will introduce two new income tax allowances so that the individuals with gross trading or property income below £1,000 will no longer have to declare or pay tax on that income. Many individuals engaging in these activities on a small scale are not aware of their tax obligations. The new allowances make these obligations clear and straightforward, providing much needed clarity for people making small levels of extra income.

The trading allowance will also include miscellaneous income from providing assets or services, creating certainty for individuals, who will not have to understand tax case law to determine whether their activities should be taxed as a trade. The Government estimate that at least 700,000 individuals could benefit from the allowances. Over three quarters of these are basic rate taxpayers who could save up to £400 in income tax each year.

The Opposition raised a number of points. One was the lack of availability of this allowance to those who are already making self-assessments to HMRC, because they are already sole traders. Part of the reason for that is to ensure that we do not have any diversion of activity from those individuals' general work arrangements into this scheme driven solely by an attempt to lower taxation. The point has been made about the importance of simplicity in the scheme. Certain aspects of the scheme clearly make it simple: people with that kind of income are not required to make a submission to HMRC, and there is a "miscellaneous" category of income that can address the complications around whether this is trading income—"miscellaneous" is quite a wide-ranging term.

The hon. Member for Bootle raised a fair point on rent-a-room tax relief arrangements; that is why HMRC's efforts in detailing its guidance on the gov.uk website are so important. All the allowances will be very carefully explained. The guidance is being prepared alongside representative bodies and will include clear, step-by-step explanations and a number of examples, so it will be very easy for people to follow exactly how the arrangements work. Support will also be available via the HMRC helpline.

Amendment 21 would require HMRC to complete a review of the cost and effectiveness of the allowances by 2020 and the effects on the Exchequer in each of the first two years. Such a review is unnecessary. As I have set out, the two new allowances ensure that the tax system is not burdensome for those making small amounts of income. Their effect will be to support the enormous contribution that the sharing economy is making to the UK economy, while simplifying the tax system to support the job creators of the future. As there is no need for taxpayers to declare this income to HMRC, any review would impose a disproportionate burden on taxpayers and be inconsistent with the core rationale for the reliefs. In addition, the Bill also includes specific clauses designed to prevent abuse, and HMRC will carefully monitor the reliefs to ensure that they work as intended. I therefore urge the Committee to resist this amendment.

The two new tax allowances will help micro-entrepreneurs by removing complexity and uncertainty for those wanting to earn small amounts of extra income. There will be no forms to fill in and no tax to pay. It is a tax break for the digital age, furthering the Government's commitment to simplify the tax system and help the UK become a global leader in the digital and sharing economy. I therefore commend the clause to the Committee.

Peter Dowd: We will not press the amendment to a vote but the Minister acknowledges, de facto, that the economy and the world of work is changing fast. There are so many developments out there—apps, online, the whole kit and caboodle—which is all the more reason for the Government to keep on top of this issue. That is why we want the review, because the world changes so quickly.

Ruth George (High Peak) (Lab): Obviously, universal credit is being rolled out. That will be a particular detriment to people on very low incomes who are self-employed, because they will be deemed to earn the minimum wage on 35 hours a week throughout the year: around £13,600.

If their actual income is below that at the moment, they can receive tax credits and are eligible to apply if they have children and a family. Under universal credit, they will not be able to receive such payments, though they may be liable for tax. That is another reason why a review after the roll-out of universal credit would be particularly useful, to see the impact on the self-employed and people with microbusinesses.

Peter Dowd: My hon. Friend makes a valid point. This is not quite as simple as the Minister would like us to believe, although I am not suggesting that he is trying to cajole us into it. The bottom line is that we will not push this to a vote today but we hope that the Minister takes into account the views we have expressed. If he does not wish to take account of our views, I exhort him to consider those of at least the two organisations that sent us documentation on the matter.

Question put and agreed to.

Clause 17 accordingly ordered to stand part of the Bill.

Schedule 3 agreed to.

Clause 18

CARRIED-FORWARD LOSSES

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

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

Amendment 22, in schedule 4, page 230, line 37, at end insert—

"188FAA Review of operation of this Part

(1) Prior to 30 June 2020, the Commissioners for Her Majesty's Revenue and Customs shall complete a review of the operation of the provisions of this Part.

(2) The review shall consider in particular—

(a) the use and effects of reliefs under this Part,

(b) the effects on the Exchequer in each year of operation,

(c) a comparison of the amounts referred to in paragraph (b) and any official forecasts of those amounts prior to the introduction of this Part.

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

This amendment would require HMRC to undertake a review of the operation of the provisions for group relief for carried-forward losses.

Amendment 23, in schedule 4 page 247, line 2, at end insert—

55A (1) Prior to 30 June 2019, the Commissioners for Her Majesty's Revenue and Customs shall complete a review in accordance with the provisions of this paragraph.

(2) The review shall consider the changes made in—

(a) paragraphs 24 to 26 of this Schedule in relation to insurance companies,

(b) paragraphs 27 to 46 of this Schedule in relation to certain creative industries,

(c) paragraphs 47 to 55 of this Schedule in relation to oil activities.

(3) The review shall consider in particular and in relation to each of the sectors mentioned in sub-paragraph (2)—

(a) the use and effects of the changes made,

(b) the effects on the Exchequer in each year of operation,

(c) a comparison of the amounts referred to in paragraph (b) and any official forecasts of those amounts prior to the introduction of this Part, and

(d) any effects on the economic activities of companies and others in each of the sectors mentioned in sub-paragraph (2).

(4) The Chancellor of the Exchequer shall lay a report of the review under this paragraph before the House of Commons as soon as practicable after its completion."

This amendment would require HMRC to undertake a review of the operation of the provisions for carrying forward trade losses for insurance companies, creative industries and oil activities.

That schedule 4 be the Fourth schedule to the Bill.

Clause 19 stand part.

Peter Dowd: These two clauses and the schedule represent the most complicated measures in the Bill, as I suspect everybody acknowledges. The corporate tax system and its rules on carrying forward losses present a maze of regulations and rules to be navigated by the heads of companies before they can claim relief. There is, therefore, some merit behind the Government's measures to relax the rules around losses.

Under these measures, companies can set losses arising on 1 April this year against the total taxable profits, rather than particular types of income of a company and its group members. The amount of losses they can carry forward will be restricted to 50% and will apply to any losses incurred at any time. Of course, on top of that, each company or group will be entitled to a £5 million annual allowance of unrestricted profit, ensuring that 99% of companies are unaffected by the restriction.

I would like to ask the Minister how the £5 million figure for the annual allowance was reached. In addition, what consideration has the Treasury given to lowering or raising the threshold for unrestricted profit? The reforms being discussed today were first announced at the 2016 Budget. The Government then consulted on the measure in the business tax road map, as it was called, which I understand has led to this package of clauses and schedule.

The changes to the current rules have been encouraged because, under the old system, companies could offset all their eligible taxable profits through losses carried forward. That led to a situation where in some instances a large company pays no tax in a year when it makes a substantial profit. The majority of G7 countries already have restrictions of this kind in place.

I believe it is important to look at international comparisons and examine how other countries deal with this complex issue. From my research, it is clear that the big distinctions on how countries focus on carried-forward losses are: the length of time losses can be carried back; the length of time losses can be carried forward; and when losses can be shared with other companies.

3 pm

First, we can see that the length of time that losses can be carried back to allow a refund of previous tax paid varies in other countries. In Australia, there is no limit, while the length of time is two years in the United States, and three years in Canada. Similarly, the length of time that losses can be carried forward to future years and offset against future profits is wide-ranging. The limit is 10 years in Canada and 20 years in the United States. In the UK and Australia, the length of time is indefinite. The final distinction is on when losses in other countries can be shared with other taxpayers, such as parent and/or sister companies. On that note, will the Minister inform the Committee how much work the Treasury has undertaken in examining and comparing the approaches that other countries take to carried-forward losses? What merit is there in the UK Treasury adopting best practice?

The anti-avoidance measures in clause 19 specifically will extend the loss refresh anti-avoidance rules in the Corporation Tax Act 2010 that prevent arrangements designed to convert carried-forward losses into in-year losses, which can be used more flexibly in terms of carried-forward UK property business losses and carried-forward non-trading losses on intangible fixed assets.

The measures will also change the timeframe within which a major change in the nature or conduct of a trade can occur. That timeframe will be extended from a period within three years of a change to a company's ownership to five years. That extended timeframe applies only where the change in ownership and the major change in the nature and conduct of a trade occur on or after 1 April 2017. The Government state in the explanatory notes:

"This change will ensure that where a company undergoes a change in ownership, and a major change in its business (within the relevant timescale) that involves a major change in a trade or business that has generated carried-forward losses, any losses arising from that trade or business before the change in ownership will be disallowed completely, and cannot be set against future profits or claimed as group relief".

Under the measure, a company may not claim group relief for any losses arising in a company before that company was acquired. The measures apply when a company

"acquires an asset under the intra-group transfer rules such that no gain or loss arises on the transfer, and, within 5 years of the change in ownership, that company makes a gain on the disposal of the asset."

As the explanatory notes state, the Bill

"introduces new timescales within which a major change in the business of a company or a co-transferred company must take place…The rules apply where a major change in a trade takes place within a period of 5 years of the change in ownership…or where a major change in an investment business takes place within a period of 8 years beginning 3 years before the change in ownership…This means that where there is a major change in a trade or business that has generated carried-forward losses, any losses arising from that trade or business before the change in ownership will be disallowed completely, and cannot be carried forward against future profits or claimed as group relief".

The Opposition fully support measures that clamp down on tax avoidance and deter companies from abusing the carried-forward loss mechanism, but the measures need to be tested further, particularly when looking at the number of opt-outs that clause 18 and schedule 4 give, for example, to the oil and gas industry, the creative industries, Northern Ireland and the insurance industry.

With the specific sector-wide opt-outs, there is concern that companies may, but not necessarily will use carried-forward losses as a way to avoid taxation. The creative industries bring more than £84.1 billion to the UK annually. Under the changes, a loss made in the separate film trade may be carried forward from a pre-completion period to a relevant later period. Where that is the case, the amount of that loss not attributable to film tax relief can be treated as a loss in a later period. We can all imagine a scenario where a film company uses those measures to avoid tax—I am not saying they will do that—by repeatedly carrying forward losses from one failed film project to another. Of course, that would be a wholly unique example, and is not reflective of the industry as a whole. I really want to emphasise that: it is not reflective, but it is why the Opposition are keen to push for a review of the effectiveness of the opt-outs given to the creative industries, insurance companies, and oil and gas companies in the Bill.

I want to turn to banking losses covered by the banking sector. In the 2016 Finance Bill, carried-forward losses for the banking sector were reduced from 50% to 25%. We are now 10 years on from the global financial crisis, and can all see the merit and importance of regulating the amounts of losses that banks can keep on their books, given that at the height of the crisis the Office for National Statistics records that the Government had to spend £1.6 trillion bailing out the banks. Although 25% may seem like a stringent figure, it may still be too high given the billions of pounds' worth of risks that banks have on their balance sheets throughout the year.

Durham University finance and economics professor Kevin Dowd—no relation, to the best of my knowledge—recently wrote a report published by the Adam Smith Institute, which said that British banking remains

"an accident waiting to happen."

He criticised the Bank of England's stress tests as being wholly inadequate, masking the fact that banks are more leveraged now than they were 10 years ago. The Governor of the Bank of England himself has said that UK banks are already forgetting the lessons of the global financial crisis, and it is our responsibility to remind them.

Given the renewed concern about the banking system and the added risks that banks may take in the light of Brexit, what consideration has the Minister given to lowering the figure at which banks can carry forward losses, and does he accept that there may be a case for limiting it further? If we continue to have an economy with, let us say, stagnant growth, high inflation, as the figures indicate today, poor productivity—30% below the Germans—and one of the lowest levels of investment in Europe, we are inevitably putting ourselves once more at the mercy of the banks. The Minister may doubt what I say, but I think that is pretty much a fact.

Kelvin Hopkins: There is a lot of evidence that the banks are still engaging in risky gambling on the international exchanges, and compensating for that by squeezing ordinary taxpayers, ordinary bank customers and small businesses in particular to back up their gambling losses. Would my hon. Friend say that we are still facing danger in the future because of the banks' behaviour?

Peter Dowd: We always have to be vigilant—that is the key. Vigilance is crucial. Virtually no one had experienced anything like the banking crisis in living memory. Given that, we have to be on our guard that we do not all breathe such a sigh of relief that it was so long ago that we lose our vigilance.

It seems to me that strong regulations, which will not only protect the taxpayer and their savings, but develop practices at the heart of the industry, are the only bulwark against another financial crisis being created and enacted through reckless banking practice. I hope that the Minister will give some thought to that, particularly given that when we finish the summer-autumn Finance Bill we will immediately start the winter Finance Bill. Given the Government's delayed and, I have to say, sometimes chaotic timetable, it will no doubt end up being called the spring Bill instead. Dare I say it, we have a Minister who is the man for all seasons in that regard. *[Interruption.]* Don't give up the day job, as they say—or perhaps hon. Members would like me to.

Many of the stakeholders to whom the Opposition spoke raised concerns about the complexity of the proposals and the speed with which the Government have attempted to take them through.

Anneliese Dodds: I am grateful to my hon. Friend for running through many of the problems that stakeholders have mentioned to us. One addition to the many ambiguities he mentioned is that, to my mind, a clear rationale does not seem to have been provided for the decision to loosen the rules so that past losses can be offset against

[Anneliese Dodds]

any type of profit, rather than the current position of only being able to offset them against the same type of profit—for example, only offsetting trading losses against trading profits. That is yet another change for which we perhaps require further information and debate.

Peter Dowd: My hon. Friend makes another good point. The Chartered Institute of Taxation has criticised the Government—"criticise" is the word I use, although I am not sure it would say that; it would most probably say it has brought this to the Government's attention—for not balancing

"its desires to raise some modest revenue with its duty to produce legislation that can be followed with predictability and certainty."

Other financial organisations have argued that the measure is likely to create winners and losers. Small groups unlikely to have £5 million of losses, for which this is a high proportion of the total, will benefit from the change. For large groups that wish to access the group relief changes, it is less clear. Deloitte has argued that the slowdown in offset of brought-forward losses for large groups may in fact mean an acceleration in the tax cost for larger companies. Will the Minister offer more clarity on how the group relief will work in practice—particularly the nomination process, whereby a specific company has to be nominated to manage the whole group relief?

The measure seems fraught with potential dangers. For starters, the Bill makes no mention of what happens when a company chooses to join or leave a group that benefits from the group relief. Will the Minister explain whether such a mechanism will be built into the legislation, or whether we will need a further clause in a future Finance Bill that tinkers with carried-forward losses once more? Given the uncertainty felt by many in the business community, the Opposition believe it is only right that the Government submit a review of the operation of the group relief in the carried-forward losses, assessing the cost and impact of the new restrictions and how they will impact on large companies.

Mel Stride: Clauses 18 and 19 and schedule 4 make changes to the rules for corporation tax losses, as we have discussed. They modernise the losses rules by increasing their flexibility, while at the same time ensuring that companies pay tax in years when they earn significant profits. When a company makes a loss, it can carry it forward and use it to offset the tax liability of certain income in future years. Carrying forward losses is an important feature of the tax system and ensures that the tax paid by companies is proportionate with their profits over the long term.

However, these loss relief rules are not reflective of the way businesses operate and are out of step with international practice, which I shall come on to in a moment. First, carried-forward losses can typically only be set against profits from the activities to which they relate, as the hon. Member for Bootle pointed out, rather than the profits of other activities in a company, or the profits of other companies within a group. Secondly, the absence of any restriction on the amount of taxable profit that can be relieved by carry-forward losses means businesses making substantial UK profits may not pay any corporation tax due to losses incurred on historic activities.

The clauses will have effect from 1 April 2017, in line with the commencement date previously announced by the Government. The changes made by clause 18 will mean that rules will be relaxed for losses arising from 1 April 2017 that are carried forward, such that those losses can be set against the profits of different activities within a company and the taxable profits of its group members. As we have said, the amount of annual profit that can be relieved by carried-forward losses will be restricted to 50% from 1 April 2017, subject to an allowance of £5 million per group.

The hon. Member for Bootle asked specifically about that £5 million figure, and about whether the Treasury has looked at international comparisons and factored that into its thinking on this matter. I assure him that it has. This rate is more generous than the rates in a number of other countries. In Germany, for example, the rate is €1 million. As he pointed out, the main rationale for focusing the restriction above £5 million is to bear down on the top 1% of profitable businesses in the country without going further down the spectrum. We believe that we have achieved the right trade-off between the level of the figure and the number of companies that will potentially be affected by the restriction.

3.15 pm

The amount of annual profit that can be relieved by carried-forward losses will be restricted to 50% from 1 April. That restriction will address a public concern by helping to ensure that companies that make substantial profits pay tax. It is worth dwelling on that point for a moment. There is a general feeling among the public that large companies, when they make a lot of profit, should pay to support the public services that we are all in favour of.

The restriction focuses on the largest companies. Due to the £5 million allowance, as the hon. Gentleman recognised, 99% of companies are forecast to be unaffected by the restriction, but all companies will benefit from the more modern and flexible loss-relief regime. The changes in clause 19 will stop companies entering into avoidance schemes to exploit the rules introduced by clause 18. Taken together, the loss-relief reforms will raise more than £1.6 billion over the next five years.

Amendment 22 would require HMRC to undertake a review of the operation of the provisions that introduce group relief for carried-forward losses. The current rules for carried-forward losses do not reflect the way businesses operate in practice and can lead to the unfair outcome of losses being worth more to some companies than to others, depending only on their group structure. The provisions to allow carried-forward losses to be set against the profits of group members are an important step to modernise the regime. The Bill will also introduce robust anti-avoidance provisions, to ensure that the new flexibility does not lead to opportunities for abuse. As with all policies, the Government will monitor the regime closely once it commences to ensure that it operates as intended.

I urge hon. Members to reject amendment 22. A mandated formal review is not an appropriate response to provisions that have been widely consulted upon and carefully designed. On anti-avoidance, the hon. Gentleman rightly raised certain circumstances that the Bill will deal with. For example, it will ensure that companies do not abuse the buying-in of losses by taking over other corporate bodies, or by using losses from trades that are not carried out by the acquiring company, which can be done using various devices.

The hon. Gentleman asked why there is a carve-out for creative industries under these arrangements. That is because they are subject to special rules when it comes to losses. While a creative project—a film, for example—is ongoing, its losses cannot be surrendered to companies in the same group. That means that the company is not able to use losses in the flexible way that other companies can. Those special rules are an anti-avoidance measure, and including creative losses in the relaxation part of the loss reform would risk opening up avoidance opportunities, which we clearly do not wish to happen.

The hon. Gentleman also asked about banks. He suggested that restricting the use of bank losses to 25% might be too generous. I remind him that banks are already subject to an 8% corporation tax surcharge and a levy on their balance sheets, which is not an approach that we have taken to other sectors of the economy. Further restrictions on losses on top of the specifically designed tax regime to reflect the unique position of banks in the economy would be disproportionate.

I turn to amendment 23, which would require HMRC to undertake a review of the operation of the provisions for carried-forward losses for insurance companies, creative industries and oil activities. It may be helpful if I explain why those sectors are being treated differently.

The provisions relating to insurance companies prevent the reforms from reducing the value of individuals' life assurance policies. The loss-relief reform is intended to apply to companies, and the unique structure of the life assurance industry means that it is necessary to make these provisions to prevent individuals from being unfairly impacted. As I said, the reforms have not been applied to creative industries because they already face high restrictions on the use of losses for anti-avoidance reasons, and the oil and gas regime is subject to a bespoke ring-fenced tax regime that prevents taxable profits from oil and gas extraction from being reduced by losses from other activities. It is right to maintain the integrity of that regime by continuing to treat it separately.

These clauses and the schedule introduce new rules that will modernise the UK's loss relief and will help to ensure that businesses cannot use carried-forward losses to pay no tax in each accounting period in which they make substantial profits. I hope that Opposition Members will not press their amendment, and I commend these measures to the Committee.

Peter Dowd: I tried to set to out as comprehensively as I could, without getting too complicated, complex or specific, why we were concerned to keep tabs on this. Trying to keep tabs on the Government's proposals has been today's theme, and that is why we have asked for reviews. In the current climate, when there are so many pressures on public services and a range of challenges for the country, we are all concerned to ensure that organisations that benefit from our fantastic country and from the protection of the rule of law pay their dues. That is not to point the finger at anyone specifically to say they are not paying their dues, but to ensure that we to some extent guard the guards. That is what we are trying to do today: to guard the guards; that is our job and our responsibility. Given the Minister's explanation, we will not press the amendment, but no doubt we will come back to these issues in due course.

Question put and agreed to.

Clause 18 accordingly ordered to stand part of the Bill.

Schedule 4 agreed to.

Clause 19 ordered to stand part of the Bill.

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

3.22 pm

Adjourned till Thursday 19 October at half-past Eleven o'clock.

Written evidence reported to the House

FB 01 Mark Coulter, Technical Consultant, Kerr Henderson (Financial Services) Ltd.

FB 02 The Tax Faculty, Institute of Chartered Accountants in England and Wales

FB 03 Association of Taxation Technicians (ATT)

FB 05 Low Incomes Tax Reform Group (clause 7)

FB 06 Low Incomes Tax Reform Group further submission (clause 17 and Schedule 3)

FB 07 Chartered Institute of Taxation (clauses 18 and 19 and schedule 4)

FB 08 Chartered Institute of Taxation further submission (clause 20 and schedule 5)

FB 09 Chartered Institute of Taxation further submission (clauses 27 and 28)

FB 10 Chartered Institute of Taxation further submission (clauses 29 to 33 and schedules 8 to 10)

FB 11 Chartered Institute of Taxation further submission

FB 12 Association of Taxation Technicians (ATT) further submission (new schedule A1, paragraph 12)

FB 13 Association of Taxation Technicians (ATT) further submission (new schedule A1, paragraph 14)

FB 14 Chartered Institute of Taxation further submission (clause 9 – life insurance policies)

FB 15 Chartered Institute of Taxation further submission (clause 16 – calculation of profits of trades and property businesses)

FB 16 Enterprise Tax Consultants

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE BILL

(Except clauses 5, 15 and 25 and certain new clauses and new schedules)

Third Sitting

Thursday 19 October 2017

(Morning)

CONTENTS

PBC (Bill 102) 2017 - 2019

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

not later than

Monday 23 October 2017

The Committee consisted of the following Members:

Chairs: †Mr George Howarth, Mr Charles Walker

† Afolami, Bim *(Hitchin and Harpenden)* (Con)
† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Burghart, Alex *(Brentwood and Ongar)* (Con)
† Cleverly, James *(Braintree)* (Con)
† Creasy, Stella *(Walthamstow)* (Lab/Co-op)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Dowd, Peter *(Bootle)* (Lab)
† Fernandes, Suella *(Fareham)* (Con)
† George, Ruth *(High Peak)* (Lab)
† Ghani, Ms Nusrat *(Wealden)* (Con)
† Hopkins, Kelvin *(Luton North)* (Lab)
† Hughes, Eddie *(Walsall North)* (Con)
† Lee, Ms Karen *(Lincoln)* (Lab)
† Linden, David *(Glasgow East)* (SNP)
† Maclean, Rachel *(Redditch)* (Con)
† O'Brien, Neil *(Harborough)* (Con)
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Stride, Mel *(Financial Secretary to the Treasury)*
† Stuart, Graham *(Beverley and Holderness)* (Con)

Colin Lee, Jyoti Chandola, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 19 October 2017

(Morning)

[Mr George Howarth *in the Chair*]

Finance Bill

(Except clauses 5, 15 and 25 and certain new clauses and new schedules)

Clause 20

Corporate interest restriction

11.30 am

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

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

Amendment 5, in schedule 5, page 364, line 10, at end insert—

"**443A Review of effects in relation to PFI companies**

(1) Within three months of the coming into force of this Chapter, the Commissioners for Her Majesty's Revenue and Customs shall complete a review of the effects of the provisions of this Chapter in relation to PFI companies.

(2) The review shall consider in particular the effects if the provisions of—

(a) the Chapter, and

(b) the exemption in section 439

were not to apply to PFI companies.

(3) The Chancellor of the Exchequer shall lay a report of the review under this section before the House of Commons within three months of its completion."

This amendment requires a review to be undertaken of the impact of the provisions of Chapter 8 of new Part 10 of TIOPA 2010 in relation to PFI companies and if the provisions did not apply to PFI companies.

Amendment 28, in schedule 5, page 367, line 46, at end insert—

"**448A Sectoral reporting on operation of this Chapter**

(1) Within fifteen months of the coming into force of this Chapter, the Commissioners for Her Majesty's Revenue and Customs shall complete a review about the operation of its provisions in relation to different sectors.

(2) The sectors covered by this review shall be—

(a) water and sewerage,

(b) gas and electricity,

(c) telecommunications,

(d) railway facilities,

(e) roads and other transport facilities,

(f) health facilities,

(g) educational facilities,

(h) facilities or housing accommodation provided for use by any of the armed forces,

(i) facilities or housing accommodation provided for use by any police force,

(j) court or prison facilities,

(k) waste processing facilities,

(l) buildings (or parts of buildings) occupied by any relevant public body other than for purposes principally concerned with matters specified in paragraphs (a) to (k).

(3) A review under this section shall separately identify, in respect of each sector, information on operation in respect of qualifying infrastructure companies undertaking activities that were previously undertaken by a nationalised industry.

(4) The Chancellor of the Exchequer shall lay a report of the review under this section before the House of Commons within three months of its completion."

This amendment would require HMRC to report on the operation of the special provisions in Schedule 5 relating to public infrastructure in relation to sectors and, within sectors, in relation to privatised companies as a group.

Amendment 6, in schedule 5, page 368, line 13, at end insert—

"'a PFI company' means a company which has entered into a contract with a public sector body under the Private Finance Initiative or the PF2 initiative."

This amendment defines a PFI company.

That schedule 5 be the Fifth schedule to the Bill.

New clause 1—*Review of relief from corporation tax relief for PFI companies*—

"(1) Within three months of the passing of this Act, the Commissioners for Her Majesty's Revenue and Customs shall complete a review about how corporation tax relief is given for losses, deficits, expenses and other amounts of PFI companies.

(2) For the purposes of this section, 'a PFI company' means a company which has entered into a contract with a public sector body under the Private Finance Initiative or the PF2 initiative.

(3) The Chancellor of the Exchequer shall lay a report of the review under this section before the House of Commons within three months of its completion."

This new clause requires a review to be undertaken of the corporation tax reliefs available to PFI companies.

Stella Creasy (Walthamstow) (Lab/Co-op): It is a pleasure to serve under your chairmanship this morning, Mr Howarth. I am looking forward to this debate because it is something all of us across the House feel concerned about. I recognise that we are debating the Finance Bill. I reassure you that the amendments and the majority of what I will talk about today are about taxation and, in particular, the requirements of the legislation. I just want briefly to set out how that fits into the context of the concerns that are shared across the House about private finance and the cost to the public sector of borrowing to be able to build the infrastructure that we all know we need.

To be clear, Governments of all colours have used private finance and continue to do so. The private finance initiative and private finance 2 schemes are little different from each other. It is recognised that questions about the companies involved and the role of taxation in the decision to use PFI or PF2 to fund public infrastructure are questions for all of us, because we see in our constituencies the problems that are caused.

I note that the constituency of the hon. Member for Brentwood and Ongar now has repayments of £169 million as a result of private finance. The constituency of my hon. Friend the Member for Bootle, the shadow Minister, has £423 million-worth of repayments required under private finance contracts. I would describe private finance as the hire purchase of the public sector—indeed the legal loan sharks of the public sector— because the companies offer credit to the public sector, but at a high cost. In particular, the cost of the credit—the taxation that will come from the companies involved—is part of the decision to go with them. That is specifically part of the Green Book calculations. I am looking forward to the Minister telling us what has happened to those Green Book calculations, which were supposedly withdrawn in 2013 but I understand are still being used by Departments for private finance deals, to understand how tax plays a part in the decision to use private finance companies. The idea is that this form of credit may be more expensive but that the companies will repay us in taxation in the UK. That forms part of the decision to use them. The widespread evidence now is that those companies are not paying UK taxes, and that they are benefiting from changes in our tax regime over the past 20 or 30 years. That should trouble all of us because we are not getting the value for money that the deals were supposed to be.

One of my concerns that I hope the Minister will address is that PF2 also pays little regard to the question of where the companies are situated and how much tax they pay. I have therefore tabled two amendments—in fact, three; one is about defining private finance companies—to understand what kind of deal we are getting from those companies and how we as taxpayers and those who represent taxpayers can get a better deal for the British public.

For the avoidance of doubt, the debate is not about not using private finance. One day, I hope that we will have another debate—I am sure the Minister will look forward to it as much as he is looking forward to this one—about the alternatives to private finance. There is a role for private finance, but the question is, if we are getting a bad deal and if the companies are not honouring the obligations that we as taxpayers assigned to them, what can we do about it?

Clearly, the PFI companies are making huge profit. Research from the Centre for Health and the Public Interest shows that over the next five years almost £1 billion in taxpayer funds will go to PFI companies in the form of pre-tax profits. That is 22% of the extra £4.5 billion given to the Department of Health alone.

In my constituency I see at first hand the impact of this. Whipps Cross University Hospital is technically in the constituency next door, but serves my local community—it is part of Barts, which has the biggest PFI contract in the country: £1 billion-worth of build, £7 billion to be repaid. The hospital is paying back £150 million a year in PFI charges, more than 50% of which is interest alone on the loan. The hospital downgraded the nurses' post to try to save money, and so found that many nurses left. It therefore faced a higher agency bill.

It is clear that PFI and the cost of those loans drives problems. It is also clear that those companies make what I would term excessive profits. That is where new clause 1 begins to try to offer us some answers. If the companies make excessive profits, that is not part of the contract that we signed with them. The National Audit Office has been incredibly critical of how taxation played a role in decisions about private finance companies, but that has not been realised.

Also, not that many companies are involved, yet the tax returns are huge. Just eight companies own or appear to have equity stakes in 92% of all the PFI contracts in the NHS. Innisfree manages Barts, which is my local hospital, and it has just 25 staff but stands to make £18 billion over the coming years. It might be thought, therefore, that companies of that size and stature would pay a substantial amount of tax—I see that the hon. Member for Brentwood and Ongar can predict where I am going with this; sadly, it does not appear to be the case.

Indeed, many of the companies seem to report little or no tax in the UK. One of the simple reasons for that is that many of them are not registered in the UK. That is crucial because the provisions in the Bill to give those companies a relief on paying tax on the interest that they get from shareholder debt are predicated on the idea that they are UK companies. That is the starting point for amendments 5 and 6. The Bill will bring in a cap on the amount of relief that companies can claim against interest. However, there is a public sector exemption, for public sector infrastructure companies, and it will substantially benefit the companies in question.

Having been a Member of this House for seven years, I have always assumed that when such a provision is introduced we will be able to debate its merits. I note that the restrictions in relation to the measure mean that we cannot stop it, or ask whether we are being wise and whether, given that we know the companies do not necessarily pay the tax it was assumed they would in the UK, we are getting their tax situation right. We cannot stop the measure, but we can certainly ask just how much the companies are going to benefit from it.

Amendments 5 and 6 are intended to enable taxpayers to understand how much the companies will benefit from the exemption, and how much extra money they will be able to write off against their tax bill, thus paying little tax in the future. It matters very much to the companies, because most are heavily indebted to their shareholders. They use a model involving 80% to 90% senior debt; the rest is equity loans in terms of the products that they offer. PF2 will change that very little. The amount of debt that they carry, and therefore the amount of interest that they can trade off, which the measure will allow them to do, will be relevant to their ability to give returns to their shareholders.

It is clear that those companies give their shareholders substantial returns, and will be able to fund that through such tax relief. Indeed, the shareholders' returns are 28% on their sales—more than double the 12% to 15% that was predicted in the business cases. Between 2000 and 2016 the total value of sales of shares in PFI companies was £17 billion. It is notable that in 2016 100% of equity transactions involving those companies were to offshore infrastructure funds in Jersey, Guernsey and Luxembourg. That is based on a sample of 334 projects.

Those companies are going to get a substantial tax relief from the exemption. Yet they do not pay tax in the UK—or, certainly, there is a lot of evidence that they do not. It is an exemption that will enable them to continue to justify paying little or no tax; they will be able to write off the interest on their loans and projects against it. Yet taxpayers are not benefiting from the tax that they said they would pay.

New clause 1 goes to the heart of that question. Those companies signed up for public sector contracts, with particular rates of tax at the time they were finalised. Yet, as we know, corporation tax has varied substantially over the past decade. The debate is not about what the right level of corporation tax is; it is about a simple

[Stella Creasy]

principle. If a company has signed up to pay a certain rate of tax, and the tax rate changes, it clearly benefits from that. We signed up to the deals for taxpayers, however, on the basis that they would pay a certain rate of tax. That tax rate will now change. New clause 1, again, asks just how much the companies are benefiting from the changes.

I know that the Minister will tell me that there are various anti-discriminatory clauses in the PFI and indeed the PF2 contracts. I agree with him. Therefore, how we might start to reclaim some of that excessive profit is a tricky question, but there is a strong case that, if a company has signed up in good faith to a particular rate of tax, surely that is the rate of tax that it should pay. That is written into the contract, it is part of the business case in the Green Book that is made on these sorts of deals. We as taxpayers have an expectation. Indeed, I would expect the Minister to have a series of sums reflecting the amount of money that would be paid back that he would write off against the large sums that I talked about. However, given that the corporation tax situation has moved from some of these companies nominally paying 28% to their paying 19% or less, that is clearly a substantial discount on what they were expected to pay. New clause 1 asks us to do what, frankly, at the moment we do not do as a country—understand what the difference is between what we expected to get in from tax from these companies and what we will get in.

It is always troubling to me that the Treasury does not seem to have a central database either of how much we were paying to take on these loans—particularly the rates of return, which we know are substantially higher than the rate of borrowing on the public sector—or of the taxation these companies are paying back versus what they were expected to pay back. New clause 1 would get to the heart of that matter and it sits alongside amendments 5 and 6 in trying to understand where these companies are making excessive profits from the public sector.

I am sure that the Minister will tell me that this is a dreadful attack on the private sector and that we should not be saying that these companies are ripping the British public off and that they are legal loan sharks. However, I ask him: if he will not accept the amendments, will he commit to gathering the data about how much these companies have paid in tax, how much these have made to the value-for-money case for these businesses, and therefore how our communities will be able to pay back the sums involved?

I am sure that the hon. Member for Brentwood and Ongar would love to have £169 million to invest in his local community; there are many worthy causes that I am sure he would support. I am sure that the hon. Member for Hitchin and Harpenden would be interested in the £170 million that I believe Stevenage, near his constituency, will have to pay out to PFI companies. That money could be invested in the public infrastructure that we so desperately need.

I am sure that all of us would agree that we expect these companies to pay their tax, as they signed up to in these contracts, yet it is clear that they do not. So if the Minister is not prepared to accept these incredibly reasonable amendments in this environment, I hope that he will set out precisely what he is going to do to get our tax money back. All of us and all of our constituents need and deserve nothing less.

Peter Dowd (Bootle) (Lab): It is again a pleasure to serve under your stewardship, Mr Howarth.

I thank my hon. Friend for tabling the amendment, which seeks a review of the effect that the measures we are discussing will have on PFI companies. The Government blithely assert, including in their notes on the Bill, that companies involved in public benefit infrastructure spending are an inherently low risk for tax avoidance. That is an odd claim, especially in the light of what my hon. Friend has said. We know that some PFI companies have engaged in profit shifting to non-UK jurisdictions. It does not make sense to say that just because the profits of a company are extracted from public investment it cannot seek to be paid in a way that is fiscally undesirable.

No one should bemoan the huge public infrastructure investment that the last Labour Government enabled. It was fixing many of the problems left from years of neglect in the public sector. All Governments have taken part in PFI. When PFI was in effect the only game in town, so to speak, many public authorities took up the chance to make the investment they needed; my hon. Friend identified some in my constituency that benefited from such investment. However, we know that some contracts have produced excessive costs for the public sector, where direct borrowing could have produced much lower ongoing costs and provided for more direct influence over the quality of some ancillary services. Therefore, it is right that a review be used to work out whether we should be privileging PFI companies with exemptions from these measures at the same time as knowing that they often benefit from guaranteed profits at the public expense.

11.45 am

Kirsty Blackman (Aberdeen North) (SNP): I appreciate where the hon. Member for Walthamstow is coming from with the amendments. We support Labour on new clause 1, which calls for a review of how much we are spending and where the money is going. Good points have been well made about how companies are making more of a profit as a result of the changes in corporation tax rates.

On the other amendments, we are concerned about the possible impact that any changes to PFI would have on Scotland. We are still paying off a number of PFI projects in Scotland. I know that people say that all Governments have implemented such projects, but the Scottish Government have moved away from the PFI funding model because the SNP does not support it. We have the Scottish Futures Trust and not-for-profit delivery mechanisms, which mean that profits do not go to private companies.

Stella Creasy: To be clear, the evidence of the problems with the PFI model extends to the not-for-profit model. I encourage the hon. Lady to read the work of Mark Hellowell of the University of Edinburgh. No political party can claim the moral high ground when it comes to private finance in this country.

Kirsty Blackman: I appreciate the hon. Lady's comments. The not-for-profit model that was set up when I was a local councillor, which built schools in Aberdeen, was significantly better than some of the previous rental models. Perhaps that was just because Aberdeen was particularly diligent with the not-for-profit model that it chose specifically for its schools funding project.

As I have said, I am concerned about the effect the amendments might have on the projects in Scotland that were put in place under the previous Scottish Executive. The SNP Scottish Government have been very clear that the old PFI models are not the way to go and that they are incredibly burdensome for the public purse. Although there is a shiny new building, quite often they saddle the public purse with repayments for a very long time, which can amount to much more than the original cost of the building. There is also less flexibility, because the rules of the private sector organisation have to be abided by.

I agree with the concerns raised about PFI models and that we should not use them. The SNP Scottish Government have recognised that and are using initiatives such as the Scottish Futures Trust, which has delivered a significant amount of funding, savings and benefits to the people of Scotland. As I have said, we support new clause 1 because we do not agree with PFI models and think that it is completely reasonable to reconsider them, but we do not support the Labour party's other amendments.

Kelvin Hopkins (Luton North) (Lab): It is a pleasure to serve under your chairmanship, Mr Howarth. Rather than speak specifically to the amendment, I want to make a comment. My hon. Friend the Member for Walthamstow has raised some very important issues about PFI, but from the beginning it has been an outrageous rip-off of the public purse and the citizens of this country. It should be abandoned. Indeed, in his speech at our party conference, the shadow Chancellor suggested that we should take PFI contracts into public ownership, saving billions for the public purse over time. That is what I want. I have spoken against, voted against and written a chapter of a book against PFI, because it is utterly ridiculous and total nonsense. It is driven by ideology to try to drive as much of the public sector as possible into the private sector. That is what PFI is really about: it puts vast sums of public money into rich private pockets. I will pursue that view vigorously over the next few years.

The Financial Secretary to the Treasury (Mel Stride): It is once again a great pleasure to serve under your chairmanship, Mr Howarth. Before I respond specifically to the amendments tabled by Opposition Members, I will set out the aims of the Bill and some details of how it will work.

Clause 20 and schedule 5 introduce new rules to limit the amount of interest expense and similar financing costs that a corporate group can deduct against its taxable profits. Interest is a deductible expense in the calculation of profit subject to corporation tax. Therefore, there is a risk of groups borrowing excessively in the United Kingdom, with the resulting deductions for interest expense eroding the UK tax base.

The new rules are part of the Government's wider changes to align the location of taxable profits with the location of economic activity. The rules follow the internationally agreed recommendations from the OECD's base erosion and profit shifting, or BEPS, project to tackle tax avoidance by multinational companies. The rules aim to prevent businesses from reducing their taxable profits by using a disproportionate amount of interest expense in the UK.

The schedule introduces a new part into the Taxation (International and Other Provisions) Act 2010 and will raise about £1 billion a year from multinational enterprises and other large companies. The rules take effect from 1 April 2017, as announced in the business tax road map published in 2016 and reconfirmed at the spring Budget this year. Maintaining that commencement date ensures that groups that have already made changes in light of the new rules are not unfairly disadvantaged and that there is no delay in protecting the UK tax base. Given the sophisticated nature of corporate finance, the rules are detailed and technical. However, the core effect of the rules, which aim to match deductions with taxable profits, is relatively simple.

All groups will be able to deduct £2 million in net interest expense a year, so only larger businesses—those with financing costs above that level—can suffer a restriction. Above that threshold, the core rules will restrict interest deductions to a proportion of the group's UK earnings or the net external expense of the group, whichever is lower. I will discuss the rules in further detail.

First, the fixed ratio rule will limit interest deductions to 30% of the company's taxable EBITDA—earnings before interest, tax, depreciation and amortisation. Secondly, the modified debt cap will limit interest deductions to the net external interest expense of the worldwide group; this rule is consistent with the recommendation in the OECD BEPS report. There are provisions to ensure that the rules will not adversely affect groups that are highly leveraged with third-party debt for genuine commercial reasons. Thirdly, the group ratio rule will allow groups to increase their deductions if their UK borrowing does not exceed a fair proportion of the external borrowing of the worldwide group. In addition, there are public infrastructure rules that provide an alternative but equally effective approach for companies that are highly leveraged because they own and manage public infrastructure assets.

The Bill provides rules to help address fluctuations in levels of net interest expense and EBITDA. Amounts of restricted interest are carried forward indefinitely and may be deducted in a later period if there is a sufficient allowance. Unused interest allowance can also be carried forward, for up to five years.

The Bill introduces additional provisions to ensure that the rules work for certain types of business, such as banks and insurers, joint ventures, securitisation vehicles and real estate investment trusts. There are also rules to deal with particular issues including related parties; leases; payments to charities; the oil and gas tax regime; incentives such as the patent box and research and development tax credits; and double taxation relief. Given the technical nature of the Bill, we need to deal with a wide range of corporate arrangements. We will, as always, continue to keep their detailed implementation under review.

I welcome the opportunity to debate amendments 5 and 6 and new clause 1, tabled by the hon. Member for Walthamstow. Amendments 5 and 6 propose a review

[Mel Stride]

within three months of Royal Assent on the effect of the provisions contained in the new chapter 8 proposed by the schedule on companies with PFI contracts. Legislating for a review of the rules within three months is unnecessary. The Government have already undertaken extensive work and consultation on the issue over the past 18 months. We will continue to monitor the impact of the legislation, and Government officials continue to meet key stakeholders impacted by the rules in the chapter.

Proposed new chapter 8 includes the public infrastructure rules designed to ensure that companies holding public infrastructure assets are not disproportionately affected by the corporate interest restriction. In particular, proposed new section 439 of chapter 8 contains a grandfathering provision for loans entered into by certain companies on or before 12 May 2016. Such companies are highly leveraged as part of their standard business model, given their fixed assets and fixed income flows. The grandfathering ensures that investors who entered into contracts to provide Government services in good faith are not unfairly impacted. That could be the case where the additional tax expense was not factored into original funding models and there is no scope to pass on any of the cost. Given that PFI projects are long-term in nature and provide many of our vital public services, the rules grandfather the treatment of interest payable to related parties to the extent that the loan was agreed prior to the publication, on 12 May 2016, of detailed proposals for the interest restriction rules.

Stella Creasy: The Minister says that he has met the stakeholders affected and is setting out how those companies might be impacted. Will he clarify which companies his officials have met to discuss these rules?

Mel Stride: With respect to the hon. Lady, I do not think I said that I had met all the stakeholders, but as part of their ongoing work in this area officials naturally meet a large range of officials. If she is keen to know exactly who they are and what types of companies, I would be happy to ask my officials to write to her with that information.

The hon. Lady also proposes a new clause, which would require a review within three months of Royal Assent of how tax relief is given for losses, deficits, expenses and other amounts in relation to PFI companies. PFI companies do not obtain any special treatment under the tax rules in the way that losses, deficits, expenses and other amounts are treated. Legislating for a review of these rules in three months is unnecessary. As we debated on Tuesday, the Government have already undertaken extensive work on the treatment of losses and deficits over the past 18 months and through extensive consultation. The Government will continue to monitor the legislation's impact, and officials continue to meet key stakeholders impacted by the rules in this chapter.

I turn now to some of the more general and specific points that the hon. Lady has raised. In doing so, I should acknowledge the important contribution she has made over a long period in Parliament on the important issues surrounding PFI. She is right to point out that PFI contracts are the creatures of many different Governments. It would be widely accepted that many of the issues that have arisen, and to which she and other Members have alluded, certainly occurred under the watch of the previous Labour Government. She rightly points out that not all of those contracts are perfect. That is evidenced by the fact that this Government have secured a rebate of about £2.5 billion by working with the private sector and raising funds through that approach.

We have had a general discussion about PFI, and proposed chapter 8 gives rise to the question whether PFI infrastructure projects should be treated differently from other projects that would otherwise be subject to the interest restriction. I have two important points to make. First, these are infrastructure projects, so they are, by their very nature, highly leveraged. They are projects where large amounts of interest are often part of the natural, right and proper, way in which they are constructed.

The second point, which in a sense follows from that, is that of proportionality. To what degree does one apply this kind of approach to a business of that particular nature, given that the downstream revenues from PFI arrangements cannot be easily adjusted to accommodate the provisions that would otherwise apply in the Bill?

The hon. Lady raised two specific points. One was related to the Green Book calculations. In 2012 we set up the operational efficiency programme to deliver savings from existing programmes. That brought in £2.5 billion. We also introduced the new PF2 model, to offer better value for money and greater transparency in the operation of these arrangements.

Kelvin Hopkins: Rather than having another elaborate PFI system, would it not be simpler, in the health service and in the education sector, to build by traditional public borrowing, which is extremely cheap and would save billions for the taxpayer?

Mel Stride: With great respect to the hon. Gentleman, I think that is probably a little out of scope of the issues being dealt with in the Bill. I make the point that his party is committed to bringing a lot of these back in, as it has described. That is a fine idea in principle, but it will cost a huge amount of money and there has been no suggestion from his party as to how it would be raised, what taxes will have to be raised as a consequence, or what additional borrowing will have to occur in order to do that.

12 noon

To return to the hon. Lady's point, the Green Book methodology as it applies to the PFI is not directly concerned with the tax treatment under discussion, but I am very happy to write to her about that. Her other point was, in effect, whether chapter 8 applies to an overseas company? She made constant reference to the idea that a lot of these organisations were foreign-based in one form or another. I can give her some reassurance on that, because chapter 8—it applies the particular treatment to which she objects in respect of PFIs—applies to UK companies, which still typically include the company that holds the PFI contract. It does not apply to overseas companies or investors.

I welcome the opportunity to debate amendment 28, tabled by Opposition Members. It proposes a review within 15 months of Royal Assent of the effect of the provisions contained in chapter 8 of the schedule in relation to the sectors listed in the amendment. As I have mentioned, chapter 8 introduces the public infrastructure rules. With those rules, providers of public infrastructure may find that they are disproportionately impacted by the rules as the nature of the businesses require substantial investment, and their commercial characteristics often lead to such finance being provided in the form of debt.

Legislating for a review of the rules in 15 months is unnecessary. As I have described, the Government have already undertaken extensive work and consultation on this area over the past 18 months. We will continue to monitor the impact of the legislation and officials will continue to meet key stakeholders impacted by the rules in the chapter.

As I said at the outset, I welcome this debate. The Government have already looked closely at the impact that the rules will have on companies with PFI contracts, and indeed on all companies within the scope of the rules. The provisions made in the legislation strike the correct balance between being robust, while not disproportionately impacting on PFI investors, and not damaging the reputation of the UK as a place to do business. I therefore invite Opposition Members not to press amendments 5, 6 and 28 and new clause 1 to a Division.

Schedule 5 introduces new rules that will restrict the ability of businesses to reduce their taxable profits through excessive UK interest expense. The rules are consistent with the UK's wider policy to align the location of taxable profits with the location of economic activity and better reflect the global reality of modern business. Introducing the rules ensures that the UK upholds its commitment to timely and effective implementation of the OECD's recommendations to make sure multinational corporations pay tax reflective of the business they carry out in this country. I therefore commend the clause to the Committee.

Peter Dowd: I do not think that the Minister has recognised the paradigm shift in the public's view of PFI. In fact, Mr Howarth, as you know, in the area where we live there is a big debate at the moment about a significant infrastructure project, which is creating all sorts of tensions because of the implications of the way it is constructed. I am not criticising anybody, because all political parties—certainly the two main parties—have dipped their fingers, possibly even up to their shoulders, into PFI, so it is not a question of pointing a finger at anyone.

My hon. Friend the Member for Walthamstow eloquently and forensically identified some of the issues, and I thank her for that. However, things are moving on and we have to keep up with the tone outside in the country. People are becoming increasingly suspicious of PFI contracts. I know that we are not discussing the whole question of PFI. I completely accept that, but there is a question about the generality of the measure, to contextualise it. What we have here in the Bill is one of the most complex measures ever legislated for in Britain. Schedule 5 alone stretches to 157 pages of dense text, which is far longer than the entire length of the majority of Bills that we debate in Parliament, and I daresay is longer than the entire tax code of some jurisdictions. We have to take that into account; that is the context we are working in.

The length, of course, relates to the complexity of what the measure tries to achieve, but sometimes the complexity and length do not improve the operation of law. The excessive length of the existing tax code is well known. In reality we have in PFI, as identified in amendment 28, a range of services in the public sector: water, sewerage, gas and electricity, telecoms, railway facilities, roads, health facilities—referred to earlier—educational facilities, court and prison facilities, and waste processing facilities. We have moved beyond dealing with this as just a technical issue—it is a wider issue—but for today's purposes we must identify how much those projects cost the taxpayer and how much of our tax take they denude us of.

The UK's engagement in the OECD's base erosion and profit sharing project, which the Minister referred to, will be welcome if it really does lead to the end of practices that have denuded Exchequers here and abroad of much needed receipts, but many people are not convinced about that. They genuinely are not convinced that PFI projects, which have been in operation for the best part of a quarter of a century, have given us the best value for money. There are deep concerns about the Exchequer being denuded of tax, especially when many of these projects, if not all of them, have the copper-bottomed guarantee of the British state. They are hardly the riskiest ventures in the world. In fact, they are probably some of the safest. We have to take that into account. There has been a shift in people's attitude to PFI. We must recognise that things have moved on.

We certainly do not oppose the overall aim of reducing companies' ability to shift profits through artificial interest charge arrangements—no one is suggesting that—but as I and others have said, there is a concern that those deeply complex measures and the many loopholes have already found their way into the minds of tax advisers and into the accounting practices of many corporations. I said to the Minister only the other day that we are here to guard the guards, and I know that he recognises that we are perfectly entitled to ask many questions.

The debate about PFI—the concept, the philosophy, the notion—will take place elsewhere. The shadow Chancellor mentioned it in his party conference speech. We will take the issue out to the public, but given the context we want to delve down, and one of the only ways that the Opposition have to delve down is to ask HMRC to report on the implications. Amendment 28 would do that.

The Chair: I am going to call the hon. Member for Walthamstow, who tabled two of the amendments. The hon. Member for Bootle cleverly managed to balance the context and the amendments, but we need speeches that, although they might refer to the context, actually speak to the amendments at hand.

Stella Creasy: Be under no illusions, Mr Howarth; I intend very much to speak to the amendments at hand.

The Minister argued, slightly bizarrely, that we already have information about whether the changes would affect PFI companies, because the Government have been able to assess that, yet they are rejecting our call to put that information in the public domain. The Minister said clearly that his officials have met PFI companies, and I asked him to clarify which companies. I hope that when he meets stakeholders he will meet my local hospital, which is dealing with the difficult consequences

[Stella Creasy]

of PFI deals for its financial position. I would argue that officials who are essentially having to sack nurses to pay back PFI loans are equally stakeholders, so I would be interested to know whether he has met any of them.

Kelvin Hopkins: Does my hon. Friend have a figure for the total cost of PFI repayments every year to the national health service? That would illustrate the enormous burden of PFI schemes on our health service.

Stella Creasy: I can go better than that—

The Chair: Order. We do not want too much context.

Stella Creasy: Well, this is why how much tax these companies pay matters. I hate to tell the Minister how to do his job, but I have looked at the PFI and public sector comparator documents used to assess the value for money of the deals, and they explicitly talk about the levels of tax that the companies pay and, indeed, look at how those would be traded off against the cost of borrowing to the public sector.

My hon. Friend the Member for Luton North asks about the £300 billion for which we are now indebted in repayments on the loans, as against the £55 billion of outlay. One reason why we took on the £300 billion was that we expected to get back in tax from the companies money to trade off against it. That was an explicit part of the value-for-money calculations done by the Departments. That is why the Green Book matters. That is why I am slightly troubled when the Minister says that tax treatment is part of the deal, but does not then want to give us those data. He says that his Department has looked at the matter and therefore the amendment is unnecessary. Will he therefore commit simply to publishing the information used to assess whether the exemption was in the public interest? It can be in the public interest only if it does not affect the amount of tax that we get back from the companies to go towards the £300 billion that we will have to pay out as a consequence of signing the contracts.

I encourage the Minister to read the work from the National Audit Office on this issue, and specifically about the tax adjustments made in the contracts and whether that really did get value for money for us, and indeed its assessment of PF2. Far be it from me to suggest that pride comes before a fall, but I think that he will find it as troubling as I do that we have not cracked how best to borrow, given that, as my hon. Friend the shadow Minister says, we are always a good bet. Frankly, we never let hospitals or schools go bust, so we always repay our debts. I also encourage my colleagues from north of the border in Scotland to do that, given that the problems also apply to the Scottish Futures Trust. This is about the use of private finance companies. Their tax take is absolutely part of the calculation.

I note, too, that the Minister did not address at all new clause 1 and the levels of tax that the companies signed up to pay. Again, that is very troubling. Either the Minister is telling us that he knows and does not want to tell us, or he does not know and does not care. Either way, we as taxpayers should know and should care, because that money should go towards the £300 billion.

The new clause matters because we know that tax relief on interest paid to shareholders and other affiliates where the debt is held at arm's length, which is what many of these companies do, has been widely abused, with shareholders injecting debt for the sole purpose of reducing their pre-tax profits and hence the company's corporation tax. When the Minister gives the tax relief to these particular companies, which he admits are highly leveraged, he is giving them a bonanza. All the amendments do is ask the Government to admit just how much that is, because all of us will have to recognise that that money, which the companies will be able to pay off against their loans, is money that we will have to find to bridge the gap in relation to the £300 billion that we have now committed to paying them. It is entirely in order and within the scope of this legislation, Mr Howarth, that we should ask for that information.

For the avoidance of doubt, let me be very clear that I have absolutely no intention of giving these companies a penny more of taxpayers' money. I do not wish to get into litigious battles with them about their tearing up their contracts and giving their lawyers an opportunity to claim even more money. Frankly, they have had more than enough from the British taxpayer. I am determined that we can table legislation and show these companies that we are serious about recognising where they have generated excessive profits, where we can learn from the windfall tax of the previous Labour Government, to be able to bring them to the table to renegotiate the costs and get the money back for the British taxpayer so that we can properly invest in infrastructure.

There is another debate to be had about the range of credit available to this country, but with this legislation and the tax breaks that this Government are giving to these companies, it is the taxpayer who will lose out, and we deserve to know by just how much.

Anneliese Dodds (Oxford East) (Lab/Co-op): It is a pleasure to serve under your chairmanship, Mr Howarth. I have just two comments. The first is in response to what the Minister said about the extent to which the new measures implement OECD recommendations. The second is a comment about our amendment 28.

As I am sure the Minister is aware, the OECD BEPS recommendations, and specifically recommendation 4, which applies to this area, offer a range of possibilities when it comes to deciding what the write-off can be. The cap is allowed to be between 10% and 30%. Her Majesty's Government have decided to go with 30%, but it is feasible for states to go down to 10%. When the EU looked at implementing this measure through the anti-tax avoidance directive, which of course applies to us for as long we are still a member of the EU, again a range between 10% and 30% was given. I have not yet heard why the Government have chosen 30% rather than 10%.

On amendment 28, our request for a review is specifically about the rationale for having special provisions for public infrastructure-providing companies. That is in the light of some quite worrying developments occurring around large swathes of British public infrastructure now being owned by firms and in effect provided through debt finance.

12.15 pm

One example we touched on in some Finance Bill debates is Thames Water. As the Minister will know, back in 2006 Macquarie bank purchased Thames Water.

It did sell it off—after a number of problems, if we are honest—but during that period our water infrastructure was owned by a firm that was in effect debt-financed, and through the Cayman Islands, which is a separate issue. There are genuine questions about whether that model is appropriate. Does it cause additional potential risks to service quality and continuity? What would happen if that debt financing model could not be serviced by one of these firms?

Stella Creasy: My hon. Friend is making a powerful point about the nature of these companies based overseas. Does she share my frustration that the Minister seems to think that does not matter because these clauses will only affect companies in the UK while not recognising that those companies have only nominal addresses in the United Kingdom, with their parent companies being based overseas? They are able to trade off the tax exemptions that the Bill will bring in. All of these PFI infrastructure companies may well claim to be UK-based for tax purposes to trade off these incomes, but actually they will be in Guernsey and Jersey, the Cayman Islands and the like. It is a con.

Anneliese Dodds: I am grateful to my hon. Friend for making those points. Indeed, that issue came up in Committee of the Whole House. There needs to be much more muscular engagement in questions around profit shifting between jurisdictions and especially between those that have low or no-tax regimes, where there appears to be a lot of evidence of harmful tax practices.

Mel Stride: I thank hon. Members for their contributions to this important and interesting debate. To come back on a few of the points made by the hon. Member for Walthamstow, at the heart of this there is a distinction. She kept raising the issue of how PFI organisations should have taken into account that tax treatments could change. To some degree that is a fair argument, but there is a distinction for a company that is involved in highly leveraged infrastructure projects, which after all is delivering to public services. While she might be right that many PFI contracts have been very lucrative, not all of them have been; some are far more marginal. She has to conjure with the possibility that, if we go down the road she suggests, some may fail. That is an important point for her to consider.

On the hon. Lady's second point, it may be the case that part of the rationale for entering into PFI agreements was an assumption about what future taxes may be paid under the pre-chapter 8 system. However, such a decision would have been taken at that time, on that basis, and that is nothing other than what she would expect them to do. An important point is that after the announcement of these arrangements all PFI arrangements will not be subject to chapter 8; they will be under the arrangements we discussed previously.

The hon. Lady talks about smoke and mirrors in relation to overseas businesses effectively brass-plating over here, with all the profits being diverted elsewhere. There is plenty of anti-avoidance legislation out there, including the diverted profits tax, to address those matters.

The hon. Member for Oxford East raised the BEPS project and recommendation 4. She is right that there is a corridor—a range of percentages that could be applied for the corporate interest restriction—and that is between 10% and 30%. The Government have a balance to strike because of the importance of the UK remaining competitive. Germany, Italy and Spain have all elected to go for 30%. It should not be overlooked that these measures are bringing in £1 billion extra every year in which they operate, which is a considerable increase in the tax take. The Bill will bring in about £16 billion across the scorecard period, about £5 billion of which will be from this one measure. On that basis, I ask the Committee to reject the amendments and to support the clause and the schedule.

Question put and agreed to.

Clause 20 accordingly ordered to stand part of the Bill.

Schedule 5

Corporate interest restriction

Amendment proposed: 5, in schedule 5, page 364, line 10, at end insert—

"443A Review of effects in relation to PFI companies

(1) Within three months of the coming into force of this Chapter, the Commissioners for Her Majesty's Revenue and Customs shall complete a review of the effects of the provisions of this Chapter in relation to PFI companies.

(2) The review shall consider in particular the effects if the provisions of—

(a) the Chapter, and

(b) the exemption in section 439 were not to apply to PFI companies.

(3) The Chancellor of the Exchequer shall lay a report of the review under this section before the House of Commons within three months of its completion."—*(Stella Creasy.)*

This amendment requires a review to be undertaken of the impact of the provisions of Chapter 8 of new Part 10 of TIOPA 2010 in relation to PFI companies and if the provisions did not apply to PFI companies.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 10.

Division No. 6]

AYES

Creasy, Stella
Dodds, Anneliese
Dowd, Peter
George, Ruth
Hopkins, Kelvin
Lee, Ms Karen
Smith, Jeff

NOES

Afolami, Bim
Burghart, Alex
Cleverly, James
Fernandes, Suella
Ghani, Ms Nusrat
Hughes, Eddie
Maclean, Rachel
O'Brien, Neil
Stride, rh Mel
Stuart, Graham

Question accordingly negatived.

Amendment proposed: 28, in schedule 5, page 367, line 46, at end insert—

"448A Sectoral reporting on operation of this Chapter

(1) Within fifteen months of the coming into force of this Chapter, the Commissioners for Her Majesty's Revenue and Customs shall complete a review about the operation of its provisions in relation to different sectors.

(2) The sectors covered by this review shall be—

(a) water and sewerage,

(b) gas and electricity,

(c) telecommunications,

(d) railway facilities,

(e) roads and other transport facilities,

(f) health facilities,

(g) educational facilities,

(h) facilities or housing accommodation provided for use by any of the armed forces,

(i) facilities or housing accommodation provided for use by any police force,

(j) court or prison facilities,

(k) waste processing facilities,

(l) buildings (or parts of buildings) occupied by any relevant public body other than for purposes principally concerned with matters specified in paragraphs (a) to (k).

(3) A review under this section shall separately identify, in respect of each sector, information on operation in respect of qualifying infrastructure companies undertaking activities that were previously undertaken by a nationalised industry.

(4) The Chancellor of the Exchequer shall lay a report of the review under this section before the House of Commons within three months of its completion."—*(Peter Dowd.)*

This amendment would require HMRC to report on the operation of the special provisions in Schedule 5 relating to public infrastructure in relation to sectors and, within sectors, in relation to privatised companies as a group.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 10.

Division No. 7]

AYES

Creasy, Stella
Dodds, Anneliese
Dowd, Peter
George, Ruth
Hopkins, Kelvin
Lee, Ms Karen
Smith, Jeff

NOES

Afolami, Bim
Burghart, Alex
Cleverly, James
Fernandes, Suella
Ghani, Ms Nusrat
Hughes, Eddie
Maclean, Rachel
O'Brien, Neil
Stride, rh Mel
Stuart, Graham

Question accordingly negatived.

Schedule 5 agreed to.

Clause 21

MUSEUM AND GALLERY EXHIBITIONS

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

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

Amendment 29, in schedule 6, page 479, line 15, at end insert—

"CHAPTER 7

REVIEW AND POLICY STATEMENT

1218ZFB Review of operation of this Part and policy statement

(1) No later than 30 September 2020, the Chancellor of the Exchequer shall lay before the House of Commons a report of a review and a policy statement in accordance with the provisions of this section.

(2) The review shall consider—

(a) the number of touring exhibitions benefiting from the relief,

(b) the number of other exhibitions benefiting from the relief,

(c) an assessment of the operation of the provisions.

(3) The policy statement shall set our proposals for the continuation, discontinuation or modification of the relief from 2022 onwards."

This amendment would make statutory provision for the 2020 review of the operation of the new museums and galleries tax relief, including consideration of its effects and its future beyond 2022.

That schedule 6 be the Sixth schedule to the Bill.

Mel Stride: The Government recognise the cultural value of museums and galleries across the United Kingdom, and understand the role they play in local communities. Clause 21 and schedule 6 provide support to those institutions across the country by introducing a corporation tax relief for the production of new exhibitions. The relief will encourage large and small museums and galleries to develop creative new exhibitions and to display their collections to a wider audience. To provide further incentive for institutions to tour their best exhibitions across the UK and abroad, there will be a higher rate of relief for touring exhibitions.

There are more than 1,700 officially accredited museums and galleries in the United Kingdom, as well as many other galleries without permanent collections. The relief introduced by clause 21 recognises the importance of new, creative exhibitions to those cultural institutions.

The Government originally intended the relief to be available solely on temporary and touring exhibitions. However, a consultation over autumn 2016 made it clear that that would not be accessible to a number of smaller museums and galleries. To ensure a wide range of institutions across the country are able to access the relief, autumn statement 2016 announced that it would be extended to permanent exhibitions. Given that they can at times be much more expensive than temporary exhibitions, the relief will be capped at the equivalent of £500,000 of qualifying expenditure per exhibition, to allow the change without significantly increasing costs to the Exchequer.

Following the responses to a consultation document released shortly after the autumn statement, the Government have also amended the legislation to include exhibitions with an element of live performance where that is not the main focus. Through constructive and positive engagement with the industry, we have been able to design a relief that will work across the sector.

Clause 21 introduces a new corporation tax relief and payable tax credit for the qualifying cost to museums and galleries of producing a new exhibition. It will allow qualifying museums and galleries to claim a payable tax credit worth up to 25% of the cost of developing a touring exhibition and 20% of the cost of a non-touring exhibition. The clause will take effect from 1 April this year, allowing museums and galleries to benefit from the date that was announced and expected.

The relief is aimed at museums and galleries with charitable or educational objectives. Across the country, such institutions play a major role in society by maintaining important objects and educating people about different cultures or local history. For that reason, the relief will only be available to charitable or local authority-owned museums. Exhibitions that are not open to the general public or that are run purely to advertise or sell goods or services will not be eligible.

Peter Dowd: No doubt all hon. Members support these measures, which will see more people, particularly children and young people, having the opportunity to access touring museum and gallery exhibitions and expand their educational horizons.

The United Kingdom leads the way with its diverse range of museums and galleries. It is estimated that there are 2,500 museums and galleries in the UK, which collectively receive more than 100 million visits a year. That is quite substantial. As you will know, Mr Howarth, some of the finest museums and galleries in the country are in our own city region: the Walker Art Gallery, the Atkinson, the Lady Lever, the Merseyside Maritime Museum, the World Museum, the International Slavery Museum, the Beatles museum—the list goes on.

The huge impact the sector has on the economy cannot be discounted. According to the Department for Digital, Culture, Media and Sport, the culture sector accounts for 10% of GDP. Broadly speaking, £1 in every £1,000 in the UK economy is directly related to the museum and gallery sector, and there is a spend of more than £650 million a year.

The funding of museum and gallery exhibitions varies between national museums and the smaller independent museums. On average, national museums generate almost half of their own income, while the rest comes from the Government. Small independent museums are often fully funded by private donations, ticket sales and sponsorship. Most museums and gallery exhibitions are limited to large city centres, with a sizeable proportion in the capital. Domestically touring exhibitions allow the opportunity for people who would not otherwise have access to museums and galleries to see, visit and be in contact with them. We are fully behind the measures in schedule 6, which seek to support smaller companies that produce touring museum and gallery exhibitions and struggle to break even.

12.30 pm

We welcome the prohibition in the schedule of exhibitions that are designed to advertise goods and services or include competitions, items for sale, live display of animals or plants and so on. After all, those things are not defined as either a museum or a gallery exhibition. However, we are concerned that this relief, like many tax reliefs, will be taken advantage of by predominantly larger and already established companies for the purposes of sponsoring a touring museum exhibition or gallery show to minimise a tax bill. That in turn will undermine the effectiveness of the relief.

Amendment 29 calls for the Government to publish a review of the effectiveness of the measure after its implementation, so that we can ascertain its impact on the sector, and particularly smaller and independent companies.

There are a number of questions. Why does the relief apply only to the cost of developing temporary or touring exhibitions? The Government initially indicated that they would consult on the design over the summer. You referred to consultation. Perhaps you could say a little bit more about that.

The Chair: I think the hon. Gentleman is referring to the Minister. I assure him that I have nothing further to say about it.

Peter Dowd: Which is a shame, I have to say.

The Minister referred to consultation. Consultation about what we want to do in the future, what people would like to see from the relief and how it might operate is in advance of the implementation. We consult, and we think this or that is a good idea, but it is also important to find out whether the relief has had the effect that the consultation wanted to achieve. One of the only ways to establish whether the consultation and the implementation have been effective is a review, and that is what we seek. If we are to have these reliefs, we must review whether they are doing the job they are supposed to do. The amendment is fairly simple in that regard.

Kelvin Hopkins: I support what my hon. Friend said, and I hope Members will support the amendment and that it will be successful. I have a brief comment to make.

In my ideal world, we would fund museums and the rich cultural heritage we have not through tax reliefs but by direct funding. We would collect all the tax and then pay it to museums and galleries directly through local authority and national funding and by specific grants where necessary. There would, of course, be charitable and private donations as well, but the great bulk of it would be in the public sector. I hope we can look towards a world where we have direct public funding, rather than a complex jungle of tax reliefs, and collect all the tax and forget about the tax reliefs.

The Chair: The hon. Gentleman has a tendency in this Committee to lead us down paths beyond the scope of the amendments he addresses. That being a matter of broadening our cultural horizons, I have been very lenient with him, but I hope he will in future stick to the matter at hand.

Mel Stride: I thank Opposition Members for their contributions. The hon. Member for Bootle calls once again for a review. We seem to be having a review-fest. Of course, there are always some arguments for having a review, but the critical thing is whether it is proportionate and sensible, given the measures we are taking on consultation. We will, of course, keep all these issues and the concerns he raised about the possible misuse of the provisions for the purposes of tax avoidance closely under review.

Peter Dowd: I understand where the Minister is coming from in his reference to a review-fest. I referred earlier to the size of the Bill, which is one of the longest Finance Bills in the history of Parliament. Given that the Government have started the festival off with the size of the Bill, we are perfectly entitled to a festival on reviews of that huge Bill. I am sure the Minister agrees with that.

The Chair: I do not think we want to get bogged down in the length of the Bill itself, but should rather confine ourselves to the amendments.

Mel Stride: Quite right, Mr Howarth. I think we should just agree that I will see you at Glastonbury next year. Sorry—I will see the hon. Gentleman there; I might see you there as well, Mr Howarth.

On the specific point the hon. Gentleman raised about ensuring that relief is not abused, anti-avoidance rules are clearly critical to the long-term success and

[Mel Stride]

stability of the museums and galleries exhibition tax relief. The Government will include rules similar to those applied under the film tax relief to prevent artificial inflation claims. In addition, there will be a general anti-avoidance rule, based on the general anti-abuse rule, denying relief where there are any tax avoidance arrangements relating to the production. During the consultation, respondents generally said that the strategy appeared robust and did not identify any additional opportunities for abuse. Of course, as I have said previously, HMRC will continue to monitor these important matters. On that basis, I hope that the hon. Gentleman not press his amendment.

Question put and agreed to.

Clause 21 accordingly ordered to stand part of the Bill.

Schedule 6 agreed to.

Clause 22

Grassroots sport

Anneliese Dodds: I beg to move amendment 30, in clause 22, page 27, line 25, at end insert—

"217E Review of operation of this Part

(1) Within fifteen months of the coming into force of this Part, the Commissioners for Her Majesty's Revenue and Customs shall complete a review about the operation its provisions (including in relation to different eligible sports).

(2) The review shall, so far as practical, identify the extent to which the provisions have benefitted particular eligible sports.

(3) The Chancellor of the Exchequer shall lay a report of the review under this section before the House of Commons within three months of its completion."

This amendment would make statutory provision for a review of the new relief for grassroots sport, including identification of benefits to particular sports where possible.

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

Anneliese Dodds: I should at the start declare an interest in this topic: my partner is an amateur football referee in the Uhlsport Hellenic League and others.

First, we need to be clear that the measures have been introduced, according to the Government's consultation of last year, at least partly due to a lack of other funding sources for sport. That is obviously rather worrying, particularly following widespread concern that the legacy of the Olympic games has not been capitalised on to build the habitual involvement of the wider population in sport.

We also need to consider this measure in the context of other taxation measures that affect sports facilities, not least the changes to business rates and the fact that there was such a long postponement of the uprating. That has had a significant impact on many clubs, whose headquarters or area of operation is also that of a small business; I am particularly thinking about riding schools, for example, which may have seen a substantial increase in their business rate. There is also an unfortunate interaction between small business rate relief and the relief provided through the community amateur sports clubs relief. I mention that because it is important that we do not look at this issue entirely in isolation, because corporate support for sport can be enormously fickle; it will relate to the nature of the business environment. Many smaller sports clubs—exactly those the measure seeks to support—need reliable funding over the long term, and they particularly need to know that their premises will be supported over the long term.

For those reasons and others, we believe that there needs to be a thorough review of the benefits of this proposed relief for grassroots sports. We think it particularly important that that review examines which sports would be supported through the mechanism. That is especially important when it is clear that there are funding gaps in certain areas of sport in Britain, compared with other countries. For example, the provision of athletics facilities outside the capital is very patchy, particularly for amateur athletics. That is why we request a review of the measure.

Mel Stride: Before I speak to the amendment, I will set out for Committee members the general background and aims of the clause. Clause 22 introduces a new tax relief to support investment in grassroots sports by companies and our sports national governing bodies. It will help governing bodies channel their profits into grassroots sports and will give companies a simple means of making valuable contributions to support grassroots sport activity.

The changes made by the clause will allow qualifying expenditure on grassroots sports as a deduction from the company's total profits in calculating their corporation tax profits. Sport governing bodies and their subsidiaries will be able to make deductions for all their contributions to grassroots sports. Companies will be able to make deductions for all contributions to grassroots sports through sport governing bodies, and deductions of up to £2,500 in total annually for direct contributions to grassroots sports. The relief has been designed to be simple to make it attractive to potential contributors and to allow as many organisations that support grassroots sports to benefit as possible.

Contributions must facilitate participation in eligible amateur sport, and the activities must be open to a sufficiently broad section of the public. The hon. Member for Oxford East asked who would be included and excluded. I am happy to write to her on that matter so that she has all the information she needs. No payments to participators will be allowed, other than to cover the reasonable cost of participation. Such requirements will ensure that payments are made for the intended purposes and will prevent payments from being made for personal benefit.

Following the calling of the general election, clause 22 was removed from the original Bill. The clause will take effect from 1 April 2017 so that taxpayers can still benefit from the changes being made from the original commencement date.

I do not want to dwell too long on amendment 30 because I am conscious that we are eager to make progress on what is a very lengthy Bill. On the issue that the hon. Lady raised about the interplay between business rate relief and sports club reliefs, if she writes to me with her questions I will be happy to provide the information to her. However, I can reassure hon. Members that the

Government ran a full consultation on the policy and the legislation prior to its inclusion in the Bill. During that process, there was extensive engagement with key stakeholders to ensure that the legislation is well designed and targeted at meeting its policy objectives. I was pleased to see a recent article in *World Sports Advocate* welcoming this new relief as

"a welcome incentive to support community sport for everyone".

An important aspect of the legislation is that it has been deliberately designed to be as simple as possible to operate. There is no new reporting requirement and we want the new relief, particularly the relief for small deductions by companies, to benefit a wide range of sports in the UK without added administration burdens and costs. The Department for Digital, Culture, Media and Sport will of course continue to liaise closely with the sports governing bodies on a range of issues through their existing processes. A review, particularly to the timescale proposed, is neither practical nor necessary, and I hope that Opposition Members will not press their amendment to a vote.

Anneliese Dodds: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 22 ordered to stand part of the Bill.

Clause 23

Profits from the exploitation of patents: cost-sharing arrangements

Anneliese Dodds: I beg to move amendment 31, in clause 23, page 32, line 45, at end insert—

"357GCZG Review of changes to provisions for cost-sharing arrangements

(1) Within fifteen months of the passing of the Finance (No. 2) Act 2017, the Commissioners for Her Majesty's Revenue and Customs shall complete a review about the effects of the changes to cost-sharing arrangements.

(2) In this section, "the changes to cost-sharing arrangements" means the changes to this Part of this Act made by section 23 of the Finance (No. 2) Act 2017.

(3) The Chancellor of the Exchequer shall lay a report of the review under this section before the House of Commons within three months of its completion."

This amendment would make statutory provision for a review of the effects of the changes relating to cost-sharing arrangements on profits from the exploitation of patents or similar intellectual property.

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

Anneliese Dodds: As hon. Members will be aware, the patent box system in the UK was introduced following the Labour Government's 2009 Budget, which committed to,

"consider the evidence for changes to the way the tax system encourages innovative activity and the relative attractiveness to global firms as they make decisions on where to locate their research and development and other innovation activities."

As a result of that commitment, the patent box was created, intended to cover income from patents dating from April 2013. In 2010, before it came into practice, it was altered by the coalition Government.

The patent box rules reduced the corporation tax that accrues to profits from the development and exploitation of patents and some other forms of intellectual property. Our regime was identified during the OECD BEPS process, which we have already referred to this morning, as harmful and open to abuse. It was also identified as potentially harmful by the EU's code of conduct group in 2013. It is therefore positive to see attempts to tighten the regime, following other measures that were discussed last year.

We have already seen a shift to the nexus basis for identifying the fraction of profits that will be allowed in a claim through the patent box as derived from R and D activities. That brings us in line with international best practice. It is good to see other countries adopting that approach as well. In this context, the British tax regime undoubtedly will have some impact on business investment decisions, but comparative evidence suggests that other factors, not least infrastructure and the availability of highly skilled researchers, technologists and other workers, are most significant to our overall competitiveness.

12.45 pm

These provisions would ensure that companies that undertake research and development as part of cost-sharing arrangements are neither penalised nor advantaged, so in effect the provisions are designed be more neutral as regards group structure. Having said that, the draft legislation is highly complex. Furthermore, the whole basis for the provisions is the approach agreed by the OECD that R and D spending is a proxy for R and D effort. We suggest that those provisions should be reviewed, because we think that more work is needed to ensure that those two concepts are aligned to prevent potential abuses. The provisions have put us under the international spotlight, so it is important that, as we continue to try to preserve and enhance research and development effort in the UK, we also live up to our international obligations. That is why we think that a review would be appropriate.

Mel Stride: The Opposition amendment would require the Government to review the effects of the changes to cost-sharing arrangements made in clause 23. Before I set out why that review would be inappropriate, I will remind Committee members of the background of the clause and what it is designed to achieve.

The clause introduces provisions for companies undertaking R and D collaboratively under a cost-sharing arrangement that will ensure that those companies are neither advantaged nor disadvantaged compared with those undertaking R and D outside such an arrangement. Following the calling of the general election and subsequent wash-up negotiations between the Government and the Opposition, clause 23 was removed from the Bill that became the Finance Act 2017. The Government propose that the provisions in the clause will apply from 1 April 2017 as originally intended and announced.

The UK patent box was introduced by the coalition Government in 2012. It provides a reduced rate of tax to companies exploiting intellectual property, such as patents, to incentivise them to grow their businesses and to create jobs in the UK. The Finance Act 2016 included changes to the patent box rules in line with the new international framework agreed by the OECD for intellectual property regimes, as part of the BEPS action plan. The main change was the introduction of the R and D fraction, which connects the amount of profit from an item of intellectual property that can benefit from the patent box to the proportion of the R and D activity undertaken by the claimant company.

[Mel Stride]

The 2016 Act did not directly address R and D undertaken as part of cost-sharing arrangements, as it required further consultation to ensure that, as the hon. Member for Oxford East pointed out, very complex collaborative arrangements are appropriately addressed. Following completion of the consultation, the clause now adds specific provisions to deal with cost-sharing arrangements.

Under a cost-sharing arrangement, typically companies agree to undertake a proportion of R and D activity as part of a collaborative project, therefore receiving a commensurate proportion of income if the project is successful. That means that the calculation of the R and D fraction must take into account how the company has discharged its proportion of the R and D costs throughout the life of the arrangement.

The arrangements create specific challenges in the application of the OECD framework. Over the life of the arrangement, the claimant's R and D activity may fluctuate year on year and trigger additional top-up contributions—balancing payments—payable to and from the claimant company to other companies in the cost-sharing agreement. Although at the end of the project the claimant may have met its agreed proportion of R and D costs, the interim position can differ greatly. Without providing a specific mechanism to deal with the treatment of the payments, the claimant's R and D fraction would be unduly depressed, putting it at a comparative disadvantage to claimants undertaking R and D outside a cost-sharing arrangement. The changes made by clause 23 are therefore exclusively focused on addressing that issue. Specifically, balancing payments made by the claimant will generally be treated as if subcontracted to the other member of the cost-sharing arrangement, so the impact on the fraction will depend on whether the two parties are connected.

It might be helpful at this stage to remind the Committee that under the revised patent box rules, payments to connected subcontractors reduce the R&D fraction, as does spending on acquired intellectual property, in line with the OECD guidelines. Balancing payments received by the claimant—that is, receipts—will be offset against outgoing payments, again depending on the relationship between the parties.

The hon. Lady raised the question whether that could be used for the purposes of tax avoidance. My comment is that the OECD base erosion and profit shifting project agreed an acceptable framework for intellectual property regimes that would address concerns about profit shifting, and the UK patent box regime was revised in the Finance Act 2016 to align with that framework. The changes ensure that the amount of profit and benefit from the patent box is restricted to the proportion of research and development undertaken by the company when compared with the total research and development. As a result of the changes, the payments and receipts should net out to ensure that, at the end of the project, the claimant's R&D fraction reflects only the costs it has incurred to meet its agreed share of R&D activity.

Amendment 31 would impose a requirement on the Government to undertake a review of the effects of these changes to the patent box regime. However, the Government have carefully considered the regime and consulted extensively with stakeholders to ensure that the changes comply with the relevant international frameworks and provide no opportunities for abuse. The Government regularly publish statistics on the patent box and will continue to monitor the impacts of both the patent box and these legislative changes. On those grounds, I urge the hon. Members to reject the amendment.

Anneliese Dodds: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 23 ordered to stand part of the Bill.

Clause 24 ordered to stand part of the Bill.

Schedule 7 agreed to.

Clause 26 ordered to stand part of the Bill.

Clause 27

Substantial shareholding exemption

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

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

Government amendments 1 and 2.

Clause 28 stand part.

Mel Stride: Clauses 27 and 28 deal with the exemption from corporation tax on gains and losses arising on certain disposals of shares, known as the substantial shareholding exemption, or SSE. Clause 27 simplifies the substantial shareholding exemption by removing some conditions that impose unnecessary administrative burdens. Amendments 1 and 2 to clause 28 together ensure that the definition of a substantial shareholding in companies owned by institutional investors applies for the whole of the SSE rules, as intended. Clause 28 introduces a new and simpler SSE for companies owned by some tax-exempt institutional investors; it will help to promote the UK as a place where global investors can establish and manage their investments in trading businesses, infrastructure projects and real estate.

The exemption was originally introduced in 2002, with the aim of eliminating the potential double taxation of trading profits when a corporate shareholder disposes of a large shareholding in a trading company or sub-group. That allows a group of companies to restructure its trading operations without facing a further tax charge. The value of the shares being sold generally reflects profits that have already been taxed, so a tax on disposal of the shareholding would amount to another layer of taxation. The Government announced a consultation on the existing rules at Budget 2016, with the aim of simplifying the rules and making the UK more competitive globally.

The changes made by clause 27 will simplify the regime in a number of ways, affording greater certainty to the business community at negligible cost. Those changes include removing the onerous condition that the company making the share disposal must show that it, and any group of which it is a part, does not have substantial non-trading activity. Previously, the company making the disposal would have had to establish the level of trading activity across a group, which could be worldwide. The change ensures that all companies holding large shareholdings in trading companies can benefit from the exemption, with a reduced administrative burden. They also extend the ownership period in which a substantial shareholding must be held in order to qualify. That ensures that companies can continue to benefit from the exemption in instances where shareholdings are disposed of in tranches over many years, or where an initially large stake in a growing company is diluted to below 10% by new share issues.

The changes made by clause 28 provide a simpler exemption for companies owned by a specific class of investor, defined as qualifying institutional investors. Those include pension funds, widely marketed UK investment funds, life assurance funds and other large international investors that would be exempted from UK tax on their chargeable gains if they held shares directly. The clause allows them to organise their investments through UK holding companies by removing tax barriers. At present, most choose to locate their holding companies in a variety of other European jurisdictions that have effective share exemption regimes. Clause 28 provides an exemption without regard to the nature of the business activities of either the company making the disposal or the company in which it has a substantial shareholding.

Government amendments 1 and 2 are essential to ensure that institutional investments in shares costing at least £20 million always qualify for SSE. That is an extension of the general SSE threshold that requires holdings to be at least 10% of the shares. Unless an amendment is made, the £20 million rule would apply to investments in real estate or other non-trade activities but not to other activities that are equally important to the UK, such as investments in major infrastructure projects or other trading companies.

The changes introduced by the clauses will make the UK tax regime more competitive globally and will incentivise these institutional investors to hold and manage their investments from the UK, with negligible cost to the Exchequer. Following the calling of the general election, these clauses were removed from the Finance Act 2017. The changes are almost wholly relieving and so the Bill provides for them to take effect retrospectively, so that taxpayers can still benefit from the changes being made from the original commencement date. The clauses simplify the corporation tax regime and make the UK a more attractive location for investment. I urge the Committee to accept amendments 1 and 2 and commend clauses 27 and 28.

Anneliese Dodds: I have a couple of brief questions. Clause 27 provides the Treasury with new powers to regulate the list of approved investors that qualify for the substantial shareholding exemption. It would therefore be helpful to know what checks will be placed on the Treasury's use of those new powers. In its assessment of the measure, the Treasury said that the financial impact would be negligible, which sounds slightly peculiar. Any further information about that would be gratefully received.

I understand the rationale for the measure in clause 28, which will shift the qualifying conditions for exemption from the activities of the disposing company or the company being disposed of to instead focus on, as described by the Minister, the shareholding for which the disposal is made and to the other shareholders of the company disposed of. I would be interested to learn whether the Minister believes that the new measures will extend beyond trading companies to encompass, for example, commercial real estate. What assessment has he made of the likely impact that might have?

More broadly, I am keen to learn how the Government are trying to balance the need to ensure that tax treatments do not artificially impact on commercial decision making with the need to prevent any potential for abuse.

Mel Stride: The hon. Lady asks a large number of technical questions, which are gratefully received, but I hope she will forgive me if I drop her a note on the more specific points. The measures have been scored by the Office for Budget Responsibility as having a negligible cost. They are independently assessed and scored by that authority. I hope on that basis we can move forward.

Question put and agreed to.

Clause 27 accordingly ordered to stand part of the Bill.

Clause 28

SUBSTANTIAL SHAREHOLDING EXEMPTION: INSTITUTIONAL INVESTORS

Amendments made: 1, in clause 28, page 38, line 5, leave out from "applies" to "in" in line 6.

Amendment 2, in clause 28, page 38, line 10, leave out "paragraph 7" and insert "this Schedule".—*(Mel Stride.)*

Clause 28, as amended, ordered to stand part of the Bill.

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

1 pm

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE BILL

(Except clauses 5, 15 and 25 and certain new clauses and new schedules)

Fourth Sitting

Thursday 19 October 2017

(Afternoon)

CONTENTS

PBC (Bill 102) 2017 - 2019

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

not later than

Monday 23 October 2017

The Committee consisted of the following Members:

Chairs: Mr George Howarth, †Mr Charles Walker

† Afolami, Bim *(Hitchin and Harpenden)* (Con)
† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Burghart, Alex *(Brentwood and Ongar)* (Con)
† Cleverly, James *(Braintree)* (Con)
† Creasy, Stella *(Walthamstow)* (Lab/Co-op)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Dowd, Peter *(Bootle)* (Lab)
† Fernandes, Suella *(Fareham)* (Con)
† George, Ruth *(High Peak)* (Lab)
† Ghani, Ms Nusrat *(Wealden)* (Con)
† Hopkins, Kelvin *(Luton North)* (Lab)
† Hughes, Eddie *(Walsall North)* (Con)
† Lee, Ms Karen *(Lincoln)* (Lab)
† Linden, David *(Glasgow East)* (SNP)
† Maclean, Rachel *(Redditch)* (Con)
† O'Brien, Neil *(Harborough)* (Con)
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Stride, Mel *(Financial Secretary to the Treasury)*
† Stuart, Graham *(Beverley and Holderness)* (Con)

Colin Lee, Jyoti Chandola, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 19 October 2017

(Afternoon)

[Mr Charles Walker *in the Chair*]

Finance Bill

(Except clauses 5, 15 and 25 and certain new clauses and new schedules)

Clause 29

Deemed domicile: income tax and capital gains tax

2 pm

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

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

That schedule 8 be the Eighth schedule to the Bill.

Clause 30 stand part.

Clause 31 stand part.

That schedule 9 be the Ninth schedule to the Bill.

Clause 32 stand part.

New clause 3—*Deemed domicile: review of protection of overseas trusts*—

"(1) Within fifteen months of the passing of this Act, the Commissioners for Her Majesty's Revenue and Customs shall complete a review about the operation of the provisions for the protection of overseas trusts in relation to deemed domicile.

(2) The review shall in particular consider—

(a) the effects of those provisions on the Exchequer,

(b) the behavioural effects of those provisions, and

(c) the effects on the matters specified in paragraphs (a) and (b) if those provisions were repealed.

(3) For the purposes of this section, "the provisions for the protection of overseas trusts" means the provisions inserted by paragraphs 18 to 38 and 40 of Schedule 8 to this Act.

(4) The Chancellor of the Exchequer shall lay a report of the review under this section before the House of Commons within three months of its completion."

This new clause requires a review to be undertaken of the effects of the provisions for protecting overseas trusts from the new provisions in relation to deemed domicile.

Peter Dowd (Bootle) (Lab): As ever, it is a pleasure to work under your stewardship, Mr Walker, and your perfect pronunciation of the word "schedule".

I would like to deal with the Government's overall intention behind this group of clauses and schedules reforming non-domiciled status. Under the measures being introduced through the Bill, an individual who has been resident in the UK for 15 out of the last 20 years will be considered UK-domiciled for the purposes of income tax, capital gains tax and inheritance tax. From appearances, one might think that overall the Government are finally doing away with non-dom status, but that is far from fact.

The changes in the measures are superficial—one could even say artificial—and designed to give the impression that the Government are seriously clamping down on tax avoidance. Why else would an exemption be built into the measures for offshore trusts? Another question is why else would the Government have given a grace period for those non-doms affected to get an offshore trust if they do not have one already? Another question begging for an answer is why else would the Government have actively signposted the changes for non-doms, which has set hares running? It seems to me that those are things that the architect of the measures would do if they were of a mind to completely undermine the measures' effectiveness. They close one loophole and—hey presto!—create another. Put a new coat of paint on it and no one will notice—job done.

I of course accept that some people will be caught by the changes, but I imagine that it will be the few—and "few" is the operative word—who cannot afford the financial advice fees and legal fees to set up an offshore trust. Once again, we are talking about low-hanging fruit. In my opinion and that of some of my colleagues, this is indicative of the Government's tax policy. They are doing this rather than tackling tax avoidance undertaken by wealthy individuals who are—I will mix my rodent analogies here—squirrelling their money away in offshore trusts, or large multinational corporations that play cat and mouse with Her Majesty's Revenue and Customs, with, in this situation, HMRC being the mouse and the one that rarely roars to boot. It is happening daily: certain people are not paying their fair share, and the Government are instead attempting to squeeze further taxes out of everyone else. That is no doubt motivated in part by the dwindling resources of HMRC, whose staff levels have been cut by 17% since 2010. The shame that HMRC does not have the resources to clamp down on the use of offshore trusts is part of the motivation behind these measures, but I am not convinced that the Government have the inclination to do so, either.

The delayed timetabling of the measures will also have an impact on their effectiveness. They were first proposed in the summer Budget 2015, they were consulted on in late 2016, and they were meant to be debated and come into effect in March 2017. Of course, we had an unnecessary snap election, whose mother was hubris and whose father turned out to be pyrrhic. As Plutarch noted—it is always worthwhile getting in a quote from Plutarch:

"If we are victorious in one more battle with the Romans, we shall be utterly ruined."

I ask Government Members opposite to bear that in mind when the next election comes.

Graham Stuart (Beverley and Holderness) (Con): And in Latin?

Peter Dowd: I actually was going to bring that, but the Chair has difficulty enough pronouncing English to check me on my Latin.

Added to that, we had a zombie Parliament throughout the summer, with the Minister announcing that the measures would not be brought back until September. In total, that means that the best-advised non-doms will have had two years' advance notice, while even those with little to no advice would have had seven months to prepare, even without the Government's grace period. That is why the Opposition are proposing that, at the very least, the Government conduct—the Minister will not be surprised to hear this—a review to assess the impact of leaving in the exemption for offshore trusts on the effectiveness of the measures.

Our opposition to these measures is well noted. I raised concerns over them on Second Reading of the Finance Act 2017. We raised them further in private discussions with the Government, to no avail, as well as during the Ways and Means resolutions debate and on Second Reading of the Bill, so our view is fairly well laid out. What we want is genuinely not unrealistic or far removed from the observations of most members of the public, which is, in short, the removal of the exemption for offshore trusts from these clauses and schedules. It is simply lubricious—I was thinking of another word—to introduce measures abolishing non-dom status while at the same time creating further loopholes. I would have used "disingenuous", but no doubt you would have ruled me out of order, Mr Walker.

I ask the Minister once more, as I have at every stage of the Bill, to remove the exemption for offshore trusts. If the Government are truly committed to abolishing non-dom status and not just paying lip service to it, the Minister should have no problem doing so.

Ruth George (High Peak) (Lab): Does my hon. Friend agree that creating this loophole, which enables non-domiciled individuals who are coming back into UK domicile to simply send funds to offshore trusts, creates work for accountants and tax specialists without actually assisting the Treasury or the Government?

Peter Dowd: That is a very good point. It is also actually creating an awful lot of work for us, the amount of times we have asked for this to be dealt with. It is getting pretty repetitive. I do not know how many times we have to ask for this to be dealt with once and for all; no doubt we will come back to it time and again until something is sorted out.

This is not only about non-doms using offshore trusts to hide their money and essentially subvert the measures in the clause; it is about the source of the money and its value, particularly when we are discussing how to clamp down on tax avoidance. The Government should consider a register of offshore trusts, ensuring that non-doms have to register the sources of their property and income. Again, that request is not unreasonable to the public and to our constituents who elect and send us to this place, all of whom have to register the sources of their income with HMRC. In fact, a number of the measures in the Bill will require even more financial information to be passed on to HMRC through the bulk collection of financial data by third parties. It seems to many people that there is one law for one group and another for the rest of us. That cannot be right.

Kelvin Hopkins (Luton North) (Lab): The issue of non-dom taxation has been going on for years. The reality is that Conservative Governments and perhaps even Labour Governments have not gone far enough to eliminate the problem by saying that these people are going to pay tax properly and not wriggle all the time. Does my hon. Friend agree that we have to get rid of a world where rich people live in Monaco in the south of France and fly in a couple of times a week in their private planes, working in the City and making billions, just to avoid tax, and that we should be making sure they pay their taxes and be looking after ordinary people?

Peter Dowd: What we need is a fair taxation system—that is the key. I do not think it is beyond the wit of this Government or any Government, for that matter, to deal with that. That is not to say that we have not moved some. That would not be appropriate. We have moved on.

The Financial Secretary to the Treasury (Mel Stride): In terms of having moved some, as the hon. Gentleman puts it, does he accept that with the current proposals we have gone much further in the direction he seeks than was the case under any previous Labour Government?

Peter Dowd: It is a moving feast. Dealing with tax avoidance is—to use the old hackneyed phrase—a process, not an event. That process, at different times over the decades, moves along at different paces and with varying levels of enthusiasm. We have to set the tone and send the message from this place that we will tackle tax avoidance wherever we see it occurring. We should all do that as robustly as we can. It is not a beauty contest between which party has done the most. The reality is that we all have to stick together in tackling tax avoidance. That is the reason for our proposal, which would move this process further on, regardless of what may or may not have happened in the past.

The contention between the Opposition and the Government on this part of the Bill highlights a fundamental problem with parliamentary procedure around financial legislation. Some argue—I do not necessarily agree—that it is ludicrous that the Government can introduce a measure that claims to abolish non-dom status with an exemption for offshore trusts, and that the Opposition are unable to push through an amendment that would remove it. That goes back to the point I made earlier when the Minister referred to a review-fest. That is one of the only tools the Opposition have in this situation, given the nature of proceedings.

I do not criticise that at all. We are where we are. It would be better if we were not here, in some regards, but we are. We are trying, with the tools available to us, to move the debate on. I understand the limited scope that the Opposition have to amend financial legislation, particularly on bringing more people into tax or raising revenue. That may have to be looked at, especially in the light of the Minister's concern that we are partying too much on this issue.

Ruth George: Given that the only reason for a trust going offshore seems to be to engage a lower rate of taxation, does my hon. Friend join me in asking the Minister what the reasons are for the exemption for offshore trusts and for opposing listing those offshore trusts to ensure we have greater transparency in our tax system?

Peter Dowd: That is a fair point. I will hang on every word the Minister says when he explains that today; he will have my full attention and concentration.

The convention of the limit on parliamentary scrutiny, particularly at a time when the Government do not have a parliamentary majority, risks enfeebling the Opposition by denying us the ability to properly scrutinise the Government and their financial legislation—essentially,

[Peter Dowd]

the ability to do our job. Here we are, with a limited armoury, and that is why we are asking for a review. It is important that this is as transparent and open as possible. This is the line I bring to the Committee and have put to the House a number of times: it is not a question of us, the Opposition, guarding the guards; it is a question of the public guarding the guards. That is why we have tabled this measure.

2.15 pm

Mel Stride: Again, it is a pleasure to serve under your chairmanship, Mr Walker.

Members of the Committee are now turning their attention to clauses 29 to 32, which with schedules 8 and 9 bring an end to permanent non-dom status in the United Kingdom. This historic change was announced by the Government at the 2015 summer Budget. The provisions were then introduced in the Finance Bill in the last Parliament, but were removed at the Opposition's request following the calling of the general election. At the time, the Government announced they would return to legislate these proposals at the earliest opportunity, and I am pleased to be able to deliver on that promise and introduce the changes from April 2017, as originally intended. I should perhaps pick up the comments by the hon. Member for Bootle who suggested that the delays, such as they are, may in some way have favoured non-doms by delaying the introduction of these measures. These measures will be introduced, as we have always indicated, in April this year. In that sense, they are retrospective in a way in which I am sure he will approve.

As the Committee will be aware, individuals who are non-domiciled in the UK for tax purposes enjoy two significant advantages. The first is that where such individuals are resident in the UK, they have access to the remittance basis of taxation. That allows them to defer tax on any of their income and gains arising overseas until they are brought into the United Kingdom. The second big advantage is an inheritance tax rule, whereby those who are domiciled overseas need pay tax on only their assets that are situated in the UK, rather than on their assets worldwide. Those advantages have been a feature of the UK tax system for many years. As successive Governments have recognised, the advantages have played a big role in ensuring that the UK is an attractive place to live and work for people from around the world, and it should not be forgotten that non-doms have actually brought in around £9 billion each year in much-needed revenue for the Exchequer.

None the less, the Government recognise that there are some unfairnesses in the current rules for non-doms that need to be addressed. For example, the Government believe that it is unfair that someone can live in the UK for lengthy periods of time—in some cases, virtually their entire life—and continue to enjoy tax advantages that are not available to the vast majority of people who live and work in the UK. These provisions seek to address that unfairness, and I am sure that will enjoy cross-party support.

The changes being made by clause 29 will bring an end to the permanent non-dom status for the purposes of both income tax and capital gains tax. That means that from April 2017 anyone who has been resident in the UK for 15 or more of the previous 20 years can no longer be treated as a non-dom for tax purposes. They will instead be taxed in the same way as everybody else and pay tax on their worldwide income and gains. Likewise, anyone who was born here with a UK domicile of origin will also become deemed domiciled whenever they are resident in the UK. The clause fundamentally changes the way that non-doms pay tax in the UK, raising a further £1.6 billion over the next five years to fund our vital public services.

Clause 30 sets out how the deeming rules apply for the purposes of inheritance tax, ensuring that all those who become deemed domiciled under the new provisions are liable for UK inheritance tax in the same way as UK residents are. Clause 31 ensures that individuals who become deemed domiciled under the new provisions pay the right amount of tax on any benefits they receive from overseas trusts that they set up while they were domiciled outside the UK. Finally, clause 32 ensures that a double charge is prevented by excluding gains that represent carried interest from the trust charging provisions.

The hon. Member for Bootle wants the removal of what he terms "the exemptions" from off-shore trusts for those who have become deemed domiciled under these new proposals. I assure him, and he should reflect on the fact, that any moneys coming out of those trusts for whatever purpose will be taxed once an individual becomes deemed domiciled.

There is also an important matter of proportionality here. As I have already indicated, the Exchequer raises around £9 billion per year from those who are non-domiciled in the United Kingdom. That is a huge amount of money, which goes some way to paying for our doctors and nurses, our armed forces and so on. These measures will raise a further £1.6 billion over the scorecard period, as I have indicated.

Ruth George: How can the Treasury be so sure of the projected future income of £1.6 billion when there is a loophole for transferring money to offshore trusts that could be used to avoid the taxation? How can those future projections possibly be calculated?

Mel Stride: I am clearly not in a position to share with the hon. Lady the entire ins and outs of all the intricacies of calculating such figures, but I can assure her that the numbers are looked at in great detail and are scored by the independent Office for Budget Responsibility. They are robust figures, albeit that no figures are entirely, absolutely guaranteed in cast iron ahead of time—but they are robust.

During the debate, the hon. Lady raised an important issue about transparency of trust arrangements. The UK is right at the forefront of greater transparency. We spearheaded an initiative to systematically share information on beneficial ownership arrangements with more than 50 countries. That will help law enforcement to unravel complex, cross-border changes in companies and trusts. Following our work with international partners, by September 2018 more than 100 jurisdictions will be sharing information with the UK under the common reporting standard, which will provide HMRC with taxpayer information from tax authorities around the world, enabling it to better target tax evaders.

That brings me to my next point. The hon. Member for Bootle would have us believe two things: that we are only on the side of the wealthy and that we are not actually that interested in clamping down on tax avoidance. On the first point, I remind the Committee that the top 1% of earners in this country pay 27% of all taxes. That is virtually at an historic high, and is certainly higher than was the case under the previous Labour Government.

Anneliese Dodds (Oxford East) (Lab/Co-op): Does that not reflect the wealth of the very richest in our society? Surely it would be more appropriate to assess the ratio of tax against their whole income and wealth. In that case, most studies would suggest that the very worst-off people pay much more of their income in tax than the very best-off. That figure does not suggest that we have a more progressive tax system—it does not give us any indication of the progressivity of the tax system.

Mel Stride: I hate to disagree with the hon. Lady, but I have to. If she checks something called the Gini coefficient, which is about income inequality—

Anneliese Dodds *rose—*

Mel Stride: I will give way to the hon. Lady. She is keen.

Anneliese Dodds: With all due respect, the Gini coefficient does not reflect the impact of tax on people's incomes. I repeat my point: if we are looking at the progressivity of the tax system, considering the overall tax that is contributed by the 1% is not helpful. The two are independent.

Mel Stride: With respect, the first point is that income inequality is at its lowest level for 30 years. That is a simple fact. Secondly, in terms of how progressive the tax system is, we are the Government that, since 2010, have raised the personal allowance to £11,500, which has taken about 3 million people out of tax altogether, and we have a manifesto commitment to raise that still further, by 2020, to £12,500. Much that we are doing is extremely progressive.

It is also a fact that the wealthiest 3,000 in this country pay as much tax as the poorest 9 million, just to put some of those figures into perspective.

Anneliese Dodds: That is clearly a reflection of very severe income inequality. If we focus on income, rather than on tax, which the Minister is trying to pull us towards, and look at the overall impact to the fiscal system, taking into account that fact that working tax credits are being folded into universal credit, the very poorest people in Britain are much worse off now than in previous years.

The Chair: Order. We will indulge the Minister with one more response. We might then have to make a little progress.

Mel Stride: A very quick one—perhaps we should leave it there, but no. The national living wage is another example of doing things for those who are less well-off. There are many things to consider.

David Linden (Glasgow East) (SNP): Does the Minister accept that the national living wage that he is trumpeting is in fact a con trick, because it does not apply to under-25s?

Mel Stride: I do not think that is true, because we have a national minimum wage that certainly applies to under-25s. However, as Mr Walker has suggested, we are probably going slightly beyond the scope—fun though it is—of the actual matter in hand.

The Chair: Just a tad.

Ruth George *rose—*

Mel Stride: I think I might make a little progress.

Ruth George: I was going to return to the matter in hand.

Mel Stride: If the hon. Lady will let me make a little progress, perhaps we will have time later.

Another point the hon. Member for Bootle raised was the suggestion that we are somehow slack or not concerned about tax avoidance. This Government have clamped down on avoidance to the extent that we have brought in £160 billion in revenue by clamping down on tax avoidance, evasion and non-compliance. We have done that despite his constant assertions that HMRC is under-resourced and incapable of acting. We are bringing in record levels of compliance income at the moment.

Peter Dowd: I think the Minister misrepresents what I was saying. I was trying to say that we need to push harder. The reality is that HMRC does as good a job as it possibly can given its resource. I suspect that if its resource were returned to the previous level, HMRC would do an even better job.

Mel Stride: Given the resource that HMRC has, which the hon. Gentleman suggests is inadequate, the tax gap—the amount of tax that we have failed to collect by not bearing down on avoidance—is at its lowest level for many, many years, including every year under the last Government. It is 6.5% compared with, I think, 8.3% in 2005-06. In terms of bearing down on avoidance, we are doing our bit.

Anneliese Dodds *rose—*

The Chair: Order. Everybody sit down for a bit. We have not heard the word non-domiciled for a long time. I would quite like to hear it.

Anneliese Dodds: I am grateful, Mr Walker. I was grimacing because I felt like I had to come back on the Minister's assertion, but we are talking generally about tax avoidance and evasion and we have had those general debates in earlier discussions. It is just that when specific claims are made, it is hard for the Opposition not to react and respond to them. To repeat points that we went around the houses on in earlier debates, the tax gap figures—as I know the Minister is aware, because he is very well-versed in these matters—do not cover problems related to profit-shifting, which many experts have suggested constitute a huge portion of taxes that are forgone. The element of error in the tax gap has increased.

The Chair: Order. I may not have a grasp of English, but I do have a grasp of this Committee, and it is trying my patience. Let us get back to the subject. I am very cross.

Mel Stride: Mr Walker, you are right, as you always are. Let me now turn to new clause 3, tabled by the Opposition, which is the subject of debate at the moment. The new clause would commit the Government to publish a review of the effects of the provisions for protecting overseas trusts from the deemed domicile changes set out in schedule 8.

The provisions outlined in schedule 8 relate to trusts that were created before an individual became deemed domiciled under the new rules. As I am sure members of the Committee will appreciate, many non-doms will have set up family structures in their home country long before they ever considered moving to the UK. That is an important point. The Government believe that it would be unreasonable to expect individuals in such circumstances to pay UK tax on all the money in such a structure as it arose. The provisions therefore protect such trusts from unintended consequences and ensure that the UK remains an attractive place for those individuals to live and work.

Let me be clear: even with those protections in place, those non-doms who do become deemed UK-domiciled will only be protected on income and gains that remain inside the trust. Any moneys withdrawn, or benefits provided, will lead to a tax charge.

The Government recognise that non-doms make an important contribution to the UK's economy. In terms of tax alone, as I have already stated, they contribute more than £9 billion to the Exchequer per year. It is therefore vital that these changes are not introduced in a way that would drive non-doms out of the UK altogether.

2.30 pm

Kirsty Blackman (Aberdeen North) (SNP): I promise that I will stick to the topic of the debate. For the avoidance of doubt, we will support the Opposition's new clause 3. I heard what the Minister said about previous family structures, but that does not give us enough reassurance that the system that is being set up for overseas trusts is the correct one.

Mel Stride: I thank the hon. Lady for making her intentions so clear.

These changes are fair, and they have been carefully considered and consulted on since they were announced more than two years ago. With regard to a review of the legislation, as stated in the tax information and impact note published in December 2016, HMRC will monitor the effects of the provisions through information collected in tax returns. I therefore urge the Opposition not to press new clause 3.

The changes introduced by clauses 29 to 32 and schedules 8 and 9 will bring an end to permanent non-domicile tax status. When people live in the UK permanently, it is right that they should pay the same tax as everyone else. This is the biggest and most fundamental change to non-dom taxation in history, and strikes the right balance between raising £1.6 billion of much-needed revenue and ensuring that the UK tax system remains internationally competitive.

Peter Dowd: In the light of what has been said today, we may want to tease out the matter of non-doms further at a later date, but let us be clear: there is nothing wrong with being a non-dom. It is not an illness or a disease. It is not something that we want to eradicate absolutely. We do not want to tell non-doms to go home or to go back to where they lived. This is not about that; it is about fairness in comparison with people who are not non-doms. That is what it comes down to.

We recognise that non-doms contribute to our economy. I do not think that anyone is denying that at all. Non-doms have existed in this country since Napoleonic times, in effect. That is the essence of their origin. After 200 years, we might think, notwithstanding the fact that we are coming out of Europe, that we should have done something about them sooner. The bottom line is that there is nothing wrong with being a non-dom. There are issues vis-à-vis the status of parents of non-doms, too, which we will no doubt come back to in due course.

We have made our point for today's purposes. As I alluded to, new clause 3 seeks to have a review in relation to non-doms. I do not think that there is anything wrong with asking for a review of how this proposal will work. That is our job, and we will persist with it. We are determined to raise this issue time and again.

The Chair: The Committee will be aware that new clause 3 will be moved later. I do not want anybody to feel disappointed or cheated.

Question put and agreed to.

Clause 29 accordingly ordered to stand part of the Bill.

Schedule 8 agreed to.

Clauses 30 and 31 ordered to stand part of the Bill.

Schedule 9 agreed to.

Clause 32 ordered to stand part of the Bill.

Clause 33

Inheritance tax on overseas property representing UK residential property

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

The Chair: With this it will be convenient to consider that schedule 10 be the Tenth schedule to the Bill.

Mel Stride: Clause 33 and schedule 10 introduce the final element of this historic package of non-dom reforms. As with the clauses that we have just discussed, it was our intention to include these provisions in the previous Finance Bill, and we are pleased to be able to introduce the changes from April 2017 as we originally intended. The changes will ensure that non-domiciled individuals who hold UK residential property through an overseas structure are liable for inheritance tax on that property, in the same way as UK residents.

The basic inheritance tax position is that a non-UK-domiciled individual is liable for UK inheritance tax only on the property in their estate that is situated in the UK. That has been the case since inheritance tax was first introduced.

However, it has long been fairly common practice for some individuals to take deliberate steps to avoid tax on homes they hold in the United Kingdom. Instead of owning UK residential properties directly in their own names, they set up an overseas company or partnership that has legal ownership of the property. They will often use overseas trusts as part of those structures. The effect of doing so is that the non-domiciled individual is no longer a UK homeowner; instead they own shares in an overseas company or an interest in an overseas partnership. In other words, by changing the structure of the way they hold UK assets—UK property is transformed into overseas property—they are no longer subject to UK inheritance tax.

The Government do not believe it is fair that non-doms with residential property in the UK can avoid paying UK inheritance tax in that way. That is why we are making changes to ensure that, from now on, they will pay the same tax as everybody else. The changes made by clause 33 and schedule 10 will ensure that individuals domiciled overseas pay inheritance tax on UK residential properties they hold through overseas structures. They will do so by looking through the overseas structures to the underlying UK property, bringing any share or interest into the scope of inheritance tax, even if those shares are overseas. In other words, the clause will ensure that an inheritance tax charge will arise wherever the value of such structures is derived from a residential property in the UK.

The clause closes a long-standing loophole that has allowed non-domiciled individuals to structure their assets to avoid inheritance tax on their UK homes. This change will ensure that non-dom individuals with residential property in the United Kingdom are treated the same way as everyone else, raising an estimated £250 million over the next four years.

Stella Creasy (Walthamstow) (Lab/Co-op): Having heard the Minister make a compelling case about the importance of ensuring that non-doms do not avoid paying tax, I look forward to the debate that we will have on new clause 2, which raises exactly the same issues about the treatment of commercial property as a way for non-doms to avoid residential property taxes. I look forward to the Minister supporting the new clause accordingly.

Mel Stride: Like the hon. Lady, I cannot wait to get to the matter at hand.

Question put and agreed to.

Clause 33 accordingly ordered to stand part of the Bill.

Schedule 10 agreed to.

Clause 34

Employment income provided through third parties

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

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

That schedule 11 be the Eleventh schedule to the Bill.

Clause 35 stand part.

That schedule 12 be the Twelfth schedule to the Bill.

Mel Stride: Clause 34 introduces schedule 11, which makes changes to ensure that businesses and individuals who have used disguised remuneration tax avoidance schemes pay their fair share of income tax and national insurance contributions. Clause 35 and schedule 12 follow on from clause 34 in tackling similar avoidance schemes used by the self-employed, introducing new rules to make those schemes ineffective and ensuring that individuals pay the tax they owe.

Disguised remuneration schemes claim to avoid tax and national insurance contributions by paying individuals through third parties in ways that promoters claim are not taxable, such as loans. These schemes are highly artificial, and it is the Government's firm view that they have never worked. The coalition Government began tackling the schemes in 2011, introducing legislation to successfully stop the schemes that existed at that time. Since then, HMRC has collected more than £1.8 billion in settlements from scheme users.

However, not every scheme user settled, and since 2011 the tax avoidance industry has created and sold more than 70 new and different schemes aimed at sidestepping the 2011 legislation. These schemes are generally more contrived and aggressive than those that existed before and are growing in popularity, including with the self-employed. These schemes deprive the Exchequer of hundreds of millions of pounds each year and have been used by up to 65,000 companies and individuals. The Government's firm view is that they do not work. We therefore need to take further action to tackle this avoidance and ensure that scheme users pay their fair share.

The Government introduced legislation in the Finance Act 2017 to put it beyond doubt that new employment income schemes are caught within the existing rules. Schedule 11 will tackle the existing use of schemes by introducing a new charge on loans outstanding from these arrangements on 5 April 2019. Affected scheme users can avoid the loan charge by repaying the loan and replacing it with a commercial loan, or by settling the tax due with HMRC. The Government will bring forward further measures in the coming year's Finance Bill to ensure that the rules are appropriately targeted.

Clause 35 will put it beyond doubt that these schemes do not work for the self-employed. Where there is an arrangement of this type, the receipt will be taxed as a trading receipt, no matter what form it is received in by the self-employed individual. The clause applies from 6 April 2017 to protect Exchequer revenue and ensure that scheme users pay their fair share. Schedule 12 introduces a new charge on loans outstanding from self-employed schemes on 5 April 2019 in a similar way to schedule 11.

It is right that everyone should pay their fair share of tax and make a contribution to public services. These changes will ensure that users of disguised remuneration schemes pay the tax they owe and will help to bring in more than £3 billion by 2020-21.

Anneliese Dodds: I will first address clause 34 and schedule 11 before moving on to clause 35, given that both were created at the same time. As I understand it, clause 34 and schedule 11 re-characterise loans as remuneration for tax purposes, but in some cases they would be doing so many years after the original transaction. The Opposition want to see change in this area, because abuses have been clearly documented.

However, this measure comes after a long period of relative inaction, at least in the areas where this legislation is focused. That has meant that many people believed the arrangements they entered into were legal and did not constitute tax avoidance. The April 2019 change in these circumstances could, some have opined to us,

[Anneliese Dodds]

cause significant problems, for example to individuals whose situation has changed such that they no longer have the funds to meet the tax charge. How will the Minister ensure that this measure will not cause hardship or injustice to individuals who planned on the basis of previous arrangements, and how will that be balanced against the clear and pressing need to prevent the abuse, which the measure is targeted at?

Clause 35 and schedule 12 aim to tackle avoidance by the self-employed and those trading through a partnership, where their taxable income has been replaced by loans and other non-taxable amounts in order to avoid tax. The pertinent question is how to ensure that the measure is not overly wide-ranging. In particular, how will it be ensured that a transaction entered into in the ordinary course of business, and on commercial arm's length terms, is not caught within the definition of remuneration? The scope of the measure appears to be relatively wide, particularly when compared with others—for example, the Incomes Tax (Earnings and Pensions) Act 2003, which discards remuneration—where certain transactions are excluded, but they are not here. It would be helpful to have more specification on that.

Finally, there is a broader question: how will the Minister ensure that these measures are genuinely achieving their objective of ensuring that the full earnings of self-employment remain part of the individual's taxable income, subject to income tax and national insurance contributions, and that attempts to circumvent that position and still reward the individual are genuinely ignored?

Mel Stride: I thank the hon. Lady for her typically thoughtful contribution and important questions. She raised the issue of the retrospection or otherwise of these measures. We will certainly be looking at individuals who may have entered into these kinds of arrangements as far back as 1999. Critically, they have until 2019 to clean those arrangements up, if they wish to. If the schemes are legitimate and above board, they have no reason to be concerned because those schemes will stand the tests that we have set.

2.45 pm

Let us be clear about what we are looking at: clear tax avoidance. Put simply, an employer may decide that instead of paying an employee, an employee benefit trust or similar, they will make a supposed loan to the employee that they both know will never be repaid—perhaps the loan is not at a commercial rate of interest, or there are no payments of capital or interest throughout the time of the scheme. The net result is that the employee saves on their income tax and the employer saves on their national insurance payments. We need to be clear that clear abuse is wrong and we are stamping down on it.

The hon. Lady asked how we will meet our objectives and ensure that we are content. As with all significant revenue-raising measures, we will closely monitor the effect on behaviour as we follow these cases up. HMRC already has great experience of clamping down on these kind of activities. She asked how much might be raised and how we will know whether the measure is effective. She gave the example of people struggling to pay after being clamped down on. HMRC often confronts that circumstance in its line of work. People who are concerned about their ability to make a full payment of tax on time should contact HMRC at the earliest opportunity. It considers all requests for time to pay individually, based on the customer's financial circumstances. I hope that those comments address her points.

Question put and agreed to.

Clause 34 accordingly ordered to stand part of the Bill.

Schedule 11 agreed to.

Clause 35 ordered to stand part of the Bill.

Schedule 12 agreed to.

Clauses 36 and 37 ordered to stand part of the Bill.

Clause 38

First-year allowance for expenditure on electric vehicle charging points

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

Mel Stride: Clause 38 introduces a new tax relief to support the development and installation of recharging equipment for electric vehicles. The first-year allowance of 100% allows businesses to deduct charge point investments from their pre-tax profits in the year of purchase. To ensure that businesses could take advantage of the changes as soon as possible, the legislation had effect from the date of its announcement, which was 23 November 2016.

The Government are committed to encouraging the uptake of cleaner, more efficient vehicles that can help improve air quality in our towns and cities. We are doing that in a number of ways through the tax system. First, from 2020-21 company car tax rates for ultra-low emission vehicles will be lowered to 2% to incentivise uptake of the cleanest cars. Under the new vehicle excise duty system for cars registered after 1 April 2017, people with the cleanest zero-emission cars will pay nothing in first-year rates.

The availability of electric charge points is key to encouraging further take-up of cleaner vehicles by giving ULEV drivers greater confidence about where and how far they can drive. There are already more than 11,000 charge points at more than 4,000 locations in the UK, but more are needed. It currently takes at least 30 minutes to charge an ultra-low emission vehicle, which gives a range of between 50 and 100 miles, compared with 30 seconds to fill a petrol-powered car for a similar mileage range. We need to make charge points a more common feature on our roads in order to make electric cars a more convenient and reliable mode of transport.

Clause 38 supports the development and installation of electric charge point equipment by introducing a new tax relief for eligible expenditure on charge point infrastructure. Businesses that invest in electric charge points can deduct the expenditure from their pre-tax profits, thereby benefiting from a lower tax bill. The tax relief complements existing reliefs that encourage the use of cleaner vehicles, including the 100% first-year allowance for cars with low carbon dioxide emissions and the 100% first-year allowance for equipment used by cars powered by natural gas, biogas and hydrogen. It will help to increase the number of electric charge points on our roads, improving the infrastructure for electric car drivers and encouraging further take-up of low-emission vehicles for a cleaner environment.

Anneliese Dodds: We support measures to increase the uptake in electric vehicles, and we recognise that creating more electric vehicle charge points is a part of that. However, I would be grateful if the Minister addressed two questions.

First, as I understand it—he will correct me if I have the wrong end of the stick—the clause focuses on firms that invest at least £200,000 a year in plant and machines. Small business will not be able to take advantage of the same tax breaks, and I am concerned that that could create an imbalance. In town centres with a zero-carbon target—the first was in my home city of Oxford—businesses are required to use only electric vehicles or other zero-carbon modes of transport, so it is important that they are on a level playing field. Is there an imbalance? I may have misunderstood the legislation, but I would appreciate the Minister's thoughts.

Secondly, how does the policy relate to other measures within the fiscal system that aim to promote low-carbon technologies? The founder and CEO of the renewable energy investor Rockfire Capital states:

> "Increasing availability of charging for electric cars is all very good but the biggest challenge is making sure the energy used is as green as the cars. These measures are a drop in the ocean compared with what is actually required."

Removing the renewable energy exemption from the climate change levy has reduced the tax incentives for business to invest in large-scale renewable energy schemes. Green cars are only green if green energy is going into them.

Ruth George: Like my hon. Friend, I am pleased to see decent allowance made for expenditure on electric vehicle charge points. It is much needed, particularly in my rural constituency, where it will be difficult to install the infrastructure in a way that business can comply with. I echo her point about small businesses. I understand that the Automated and Electric Vehicles Bill may introduce a requirement for service stations to install electric vehicle charge points. Many service stations are independently owned; it seems particularly hard on them that they will not receive tax incentives for installing charge points, but larger companies will.

Will the Minister explain why the cut-off date is 31 March 2019 for corporation tax and 5 April 2019 for income tax? The technology is already being produced but will change constantly over the next few years. It is important to ensure that companies can consider the full range of technology coming on the market and adapt their charging points to the most successful and future-proofed. For that reason, it seems odd to include an arbitrary time limit. Can the Minister explain that?

Mel Stride: I have a direct answer for the hon. Members for High Peak and for Oxford East: the relief will be available to businesses of all sizes. I take on board the point made by the hon. Member for High Peak about her own constituents in that context.

The hon. Member for Oxford East raised the general issue of whether the electricity going through the charging points would be green enough. It is probably not the purpose of the Committee to determine that, but I certainly share her aspiration that we should encourage as much green energy as possible, which is why we are investing so much in the shift from traditional power generation to greener alternatives. She also quoted the suggestion that the number of charging points was a drop in the ocean, which is why we hope that such tax reliefs will help set up charging points as quickly as possible.

The hon. Member for High Peak also asked about the March and April dates for tax year ends for the different categories.

Ruth George: It was simply why the cut-off is there.

Mel Stride: I thought the question was about March and April. The reason for March and April was that individuals and companies have different tax year ends in that respect.

Ruth George: May I clarify? I was simply asking why there was a 2019 cut-off, not why there were two dates of 31 March and 5 April, which I think is fairly widely understood.

Mel Stride: I believe that is the review date—the point at which we would naturally want to look again at the issue and see how the roll-out has occurred.

Question put and agreed to.

Clause 38 accordingly ordered to stand part of the Bill.

Clause 39 ordered to stand part of the Bill.

Clause 40

Co-ownership authorised contractual schemes: capital allowances

Anneliese Dodds: I beg to move amendment 32, in clause 40, page 58, line 31, at end insert—

> **"262AG Review of operation of co-ownership authorised contractual schemes**
>
> (1) Within fifteen months of the passing of the Finance (No. 2) Act 2017, the Commissioners for Her Majesty's Revenue and Customs shall complete a review of the operation of the new provisions for co-ownership authorised contractual schemes.
>
> (2) The review shall, in particular, consider the operation of these provisions in relation to master funds.
>
> (3) In this section, "the new provisions for co-ownership authorised contractual schemes" means—
>
> (a) sections 262AA to 262AF of this Act, and
>
> (b) regulations made under sections 41 and 42 of the Finance (No. 2) Act 2017.
>
> (4) The Chancellor of the Exchequer shall lay a report of the review under this section before the House of Commons within three months of its completion."

This amendment would make statutory provision for a review of the operation of the new provisions for co-ownership authorised contractual schemes.

The Chair: With this it will be convenient to discuss clauses 40 to 42 stand part.

Anneliese Dodds: As colleagues will have noted, the Opposition are requesting a review of the operation of the new provisions for co-ownership authorised contractual schemes. Authorised contractual schemes, previously referred to as tax transparent funds, can be established as either limited partnerships or co-ownership schemes, although this discussion will focus on the latter.

The schemes were introduced in 2013 to aid the establishment of UCITS master funds in the UK. A number of the new rules appear relatively sensible from my perspective—for example, in clause 41, the provision of additional information by schemes to their investors—but

[Anneliese Dodds]

I have some concerns, particularly about clauses 40 and 42. That is why we have suggested that a review would be helpful.

Clause 40 focuses on reducing the administrative burdens of such schemes. I am concerned that additional consideration should be given to the potential for tax avoidance now that the Government are loosening rules. Luxembourg and Dublin already provide tax transparent vehicles. Surely, in our focus on ensuring that Britain is an attractive destination for investment, we must ensure that our offer is based on our investment expertise and the investment opportunities available here, rather than any artificial factors. Furthermore, I do not feel from what I have examined that I have sufficient understanding of the rationale for enacting some of the provisions through secondary legislation. It would be helpful to understand how the Minister will ensure that the measures are discussed with an appropriate degree of accountability.

3 pm

Mel Stride: Before I respond to the amendment tabled by Labour Members, I would like to set out for members of the Committee the overall aims as they relate to this particular piece of legislation.

Clauses 40, 41 and 42 make changes to ensure that the tax system works effectively for investors in co-ownership authorised contractual schemes, which I will refer to as COACS for short. COACS are UK collective investment schemes authorised by the Financial Conduct Authority. They were introduced in 2013 to make the asset management industry more competitive internationally, to reduce industry costs and to increase returns to investors. These schemes are transparent for tax on income. That means that the income generated by the scheme is taxed on the investors, not on the scheme. Investors are taxed as if they had invested directly rather than through the scheme.

COACS have been welcomed by investors, which are predominantly institutions such as pension funds and life insurance companies. Following consultation last year, the Government are now making three changes to simplify the tax rules for investors in COACS and to align them with rules for other types of investment funds so far as is practical.

Amendment 32 would require HMRC to complete a review of the operation of COACS by early 2019. I reassure the hon. Member for Oxford East that the Government have consulted extensively on the measure. There was a formal consultation in summer 2016, in which the industry participated fully and constructively. The consultation process also included a well-attended open forum of interested parties in September 2016 to investigate and evaluate options. In addition, the Government have held regular discussions with industry representatives. It was in those discussions that the issue that clause 40 seeks to address was first highlighted. The Government will continue to engage with the sector on COACS and the practical implementation of the rules governing the schemes.

The hon. Lady referred to master funds, which are a fund structure where a fund has a number of separate feeder funds as its investors. They were not the subject of any response to the consultation, but HMRC stands ready to engage further with industry, should it have any questions related to COACS and master funds. The hon. Lady suggested that there may be a possible means of tax avoidance here. Income accruing to a master fund that is a co-ownership authorised contractual scheme is treated as the income of the investors, so UK investors cannot avoid tax on it. Clause 42 and its related secondary legislation will help to protect revenue. The measure as a whole is robust against potential tax avoidance, but HMRC will of course continue to be vigilant.

Kirsty Blackman: The Minister has been positive about the transference of accountability with COACS. I want to raise a query. Will he confirm that the changes being made will not erode the transparency and accountability of the scheme as it is? Will that be kept under review ?

Mel Stride: Absolutely. All these matters will be kept under review. It is not the Government's belief that the changes will erode the scheme; we believe that the changes will facilitate and ease the operation of these particular schemes to the advantage of pension funds and others who typically make use of them.

In the light of the extensive consultation held and the Government's continuing commitment to work with industry on the implementation of rules governing COACS, I hope that the hon. Member for Oxford East will withdraw the amendment.

I turn now to the background to the clauses. COACS are not subject to tax, but the operators of the schemes hold information needed by investors to complete their own tax returns and to claim any capital allowances to which they are entitled. The calculation of capital allowances falls in practice on the investors and can be extremely complex. In addition, operators hold information that would help HMRC to check that investors' tax returns are accurate, but at the moment there is no statutory requirement for COACS to provide tax information to either investors or HMRC. That is one example of the easements, from the investors' and HMRC's point of view, that the hon. Member for Oxford East may be interested in. Further, where a COACS holds investments in offshore funds, the rules that normally apply to ensure that offshore income is taxed appropriately on UK investors do not work as they should.

Clause 40 introduces new rules that allow the operator of a COACS to elect to calculate any capital allowances due, benefiting investors by avoiding the need to exchange large amounts of information with the operator of the COACS. The election can be made for periods that start on or after 1 April 2017. Clause 41 enables the Treasury to make regulations that will do three things to help to ensure that the right tax is paid on investments in COACS. First, the regulations will require the operator of a COACS to provide sufficient information to investors for them to complete their own tax returns. Secondly, they will require the operator to provide information to HMRC about the income arising to investors each year, and provide HMRC with a power to request copies of any other information provided to investors. Thirdly, they will impose penalties if scheme operators do not comply.

Clause 42 enables the Treasury to make regulations that will require a COACS that has invested in an offshore fund to ensure that all of the offshore fund's income is treated as its investors' income, regardless of whether it is actually distributed to them. This removes the risk of income rolling up offshore without being taxed as it arises. It also brings the treatment of investors in COACS into line with the treatment of UK investors in offshore funds generally.

These targeted measures will help to ensure that the tax system works efficiently for investors in COACS, and that they pay the right tax on their investments. I hope that the hon. Lady will withdraw the amendment, and that clauses 40, 41 and 42 will stand part of the Bill unamended.

Anneliese Dodds: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clauses 40 to 42 ordered to stand part of the Bill.

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

3.7 pm

Adjourned till Tuesday 24 October at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

FB 17 An individual who wishes to remain anonymous

FB 18 Chartered Institute of Taxation further submission (clauses 60, 61 and 62, and schedule 14)

FB 19 Nathan Hamilton

FB 20 Taylor Wessing LLP

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE BILL

(Except clauses 5, 15 and 25 and certain new clauses and new schedules)

Fifth Sitting

Tuesday 24 October 2017

(Morning)

CONTENTS

PBC (Bill 102) 2017 - 2019

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

not later than

Saturday 28 October 2017

The Committee consisted of the following Members:

Chairs: † Mr George Howarth, Mr Charles Walker

† Afolami, Bim *(Hitchin and Harpenden)* (Con)
† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Burghart, Alex *(Brentwood and Ongar)* (Con)
† Cleverly, James *(Braintree)* (Con)
† Creasy, Stella *(Walthamstow)* (Lab/Co-op)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Dowd, Peter *(Bootle)* (Lab)
† Fernandes, Suella *(Fareham)* (Con)
† George, Ruth *(High Peak)* (Lab)
† Ghani, Ms Nusrat *(Wealden)* (Con)
† Hopkins, Kelvin *(Luton North)* (Lab)
† Hughes, Eddie *(Walsall North)* (Con)
† Lee, Ms Karen *(Lincoln)* (Lab)
† Linden, David *(Glasgow East)* (SNP)
† Maclean, Rachel *(Redditch)* (Con)
† O'Brien, Neil *(Harborough)* (Con)
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Stride, Mel *(Financial Secretary to the Treasury)*
† Stuart, Graham *(Beverley and Holderness)* (Con)

Colin Lee, Jyoti Chandola, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 24 October 2017

(Morning)

[Mr George Howarth *in the Chair*]

Finance Bill

(Except clauses 5, 15 and 25 and certain new clauses and new schedules)

Clause 43

Air passenger duty: rates of duty from 1 April 2018

9.25 am

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

The Financial Secretary to the Treasury (Mel Stride): It is a pleasure once again to serve under your chairmanship, Mr Howarth. Clause 43 will ensure that rates of air passenger duty for the tax year 2018-19 increase in line with the retail prices index. The changes will ensure that the aviation sector continues to play a part in contributing towards general taxation.

APD forms an important part of Government revenue. The Government have raised APD by RPI each year since 2012, and the clause continues that trend. With no tax on aviation fuel or VAT on international and domestic flights, APD ensures that the aviation sector plays its part in contributing towards general taxation, raising £3.1 billion per annum. The aviation sector continues to perform strongly. The UK has the third largest aviation network in the world, and passenger numbers at UK airports have grown by more than 15% in the past five years.

Clause 43 sets the APD rates for the tax year 2018-19 in line with RPI. The changes will increase the long-haul reduced rate for economy class tickets by just £3 and the standard rate for all classes above economy by just £6. The rounding of APD rates to the nearest pound means that short-haul rates will remain frozen for the sixth year in a row. That will benefit 80% of all airline passengers. To give industry sufficient notice, we will announce APD rates for 2019-20 at the autumn Budget 2017, legislating in the corresponding Finance Bill.

APD is a fair and efficient tax, where the amount paid corresponds to the distance and class of travel of the passenger. The changes made by clause 43 will ensure that the aviation sector continues to play its part in contributing towards general taxation, raising £3.1 billion a year.

Anneliese Dodds (Oxford East) (Lab/Co-op): It is a pleasure to serve under your chairmanship, Mr Howarth. I have a couple of questions. Air passenger duty is a matter of considerable public debate, and debate within the industry, so it is appropriate that we probe this.

First, can the Minister provide us with a little more understanding of what he views as the purpose of this tax? In his introductory remarks, he appeared to reduce it specifically to revenue raising. Others have seen the duty as a potential green tax as well, although clearly it is not hypothecated for that purpose. It would be helpful to know whether he believes the duty has any kind of deterrent effect.

Secondly, in the light of the Scottish Government's policy approach, does the Minister anticipate a race to the bottom in relation to APD in future, particularly given the representations made by Newcastle airport and others about potential unfair competition from across the border?

Finally, mention has been made in some of the discussions on this duty of the potential impact on those with protected characteristics who might need to travel more frequently on long-haul flights, for example. It would be helpful to hear the Minister's views on whether these changes might have a disproportionate impact on certain ethnic minorities. That has come up in some of the debates around APD.

Mel Stride: I thank the hon. Lady for her questions, which I will answer in order.

The purpose of APD is clearly, as the hon. Lady identified and as I explained in my opening remarks, to raise revenue—£3.1 billion in this instance. Like all taxes, it will also change behaviour to some degree, and to the extent that it makes flying a little bit more expensive, it could be expected to have the effect of diminishing demand for air travel. The lower rates for economy, which takes up more space on aircraft than first class, assist in ensuring that flights are as full as they can be.

The hon. Lady mentioned the Scottish Parliament and the devolution of APD, which will become air departure tax in Scotland. That tax has not yet been switched on, although devolution arrangements are in place, and we will of course monitor the issues that she has understandably raised in respect of competition with airports, particularly in the north of England. On long-haul flights and the impact on various groups, including ethnic minorities, I would be happy to write to the hon. Lady with any information that we have.

Kelvin Hopkins (Luton North) (Lab): I am glad that the Minister has raised the question of ethnic minorities. My constituency has a large Caribbean community, who are concerned about air passenger duty's effect on flights to the Caribbean to see family and so on. Has the Minister received any specific representations on that? The other question, of course, is about the airlines themselves. In Luton, we have London Luton airport. What representations have the airlines made to the Minister?

Mel Stride: If I may, I shall write to the hon. Gentleman on the specific questions that he has raised about the consultation on these measures.

Question put and agreed to.

Clause 43 accordingly ordered to stand part of the Bill.

Clause 44

Petroleum revenue tax: elections for oil fields to become non-taxable

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

Kirsty Blackman (Aberdeen North) (SNP): It is welcome that the Government are looking to reduce the administrative burden in relation to elections for oilfields to become non-taxable. That is positive news. The Chancellor of the Exchequer has mentioned in two Budgets that there will be changes in the taxation system to make it easier for late-life assets to be transferred. I have heard noises from the Chancellor in recent times that he may not introduce that in the autumn statement this year, and I will just make this pitch to the Minister. This issue is incredibly important. The oil and gas industry is not asking at this moment for significant changes, but for the change in relation to the transfer of late-life assets. I would very much appreciate it if, in the context of reducing the administrative burden and making things easier for companies dealing with the very mature field in the North sea, the Minister would hear my case on that and make the case to the Chancellor.

Anneliese Dodds: I must admit to being slightly confused about the purported impact of this change. Some of the inputs from stakeholder bodies seem to imply that there will be some kind of Revenue impact as a result of the changes in relation to procedures for elections for oilfields to become non-taxable. For example, Oil & Gas UK has welcomed the change, saying that the move will reduce the headline rate of tax paid on UK oil and gas production. In contrast, Friends of the Earth has expressed disappointment at the tax cut. As I understand it, petroleum revenue tax was permanently zero-rated in 2016, and the Government's assessment of the measure's impact on the Exchequer is that it will be negligible. Therefore, can the Minister enlighten us on why some people appear to view the measure as potentially having an Exchequer impact, but the Government do not appear to have that view?

Mel Stride: Perhaps I should set the scene that I would have set had I realised that others were going to contribute to this debate, because I think that that will pick up some of the questions that have been raised. However, before I do that, I shall turn immediately to the question raised by the hon. Member for Aberdeen North about the transfer of long-life assets. I will take her remarks as a Budget representation, but I am sure that she understands that at this moment, in the run-up to the Budget, I will not comment further on specific taxes or arrangements relating thereto.

Clause 44 makes changes to simplify the process for opting oil and gas fields out of the petroleum revenue tax regime, reducing the administrative burdens on affected companies. To ensure that participators could take advantage of the changes as soon as possible, the legislation had effect from the date of its announcement, on 23 November 2016. I shall provide Committee members with some background to the measure.

At Budget 2016, as part of a £1 billion package of measures to support the oil and gas industry, the Government announced that PRT would be permanently zero-rated. That was to simplify the tax regime, to level the playing field between older fields and new developments and to increase the attractiveness of UK investment opportunities. It was decided that the tax should not be abolished completely, because some companies still require access to their tax history for carrying back trading losses and decommissioning costs. As a result, participators still have to submit returns, which many find complex, time consuming and expensive. Following consultation with industry, the Government are therefore simplifying the rules for opting fields out of the PRT regime. The changes made by clause 44 will allow the responsible person for a taxable oilfield to remove the field from the PRT regime simply by making an election to do so and then notifying HMRC. When coupled with the Government's removal of other reporting requirements, these changes will save companies an estimated £620,000 in total ongoing costs per annum.

The clause builds on the Government's support for the UK oil and gas industry, including the £2.3 billion package of fiscal reforms announced in the 2015-16 Budget. I therefore hope that the clause will stand part of the Bill.

Question put and agreed to.

Clause 44 accordingly ordered to stand part of the Bill.

Clauses 45 to 47 ordered to stand part of the Bill.

Clause 48

Carrying on a third country goods fulfilment business

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

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

Clauses 49 to 55 stand part.

That schedule 13 be the Thirteenth schedule to the Bill.

Clauses 56 to 59 stand part.

New clause 5—*Annual report on powers in relation to third country goods fulfilment businesses—*

'(1) The Commissioners must prepare a report on the operation of the provisions of Part 3 of this Act in relation to each tax year after their commencement within six months after the completion of that tax year.

(2) The Chancellor of the Exchequer shall lay a report under subsection (1) before the House of Commons.

(3) Each report under subsection (1) shall cover in particular—

(a) prosecutions for an offence under section 53,

(b) penalties imposed under Schedule 13,

(c) the effects on the operation of Part 3 of the United Kingdom's withdrawal from the European Union or (as the case may be) preparations for that withdrawal,

(d) implications of the matters specified in sub-paragraph (c) for the activities and resource requirements of HMRC in connection with the provisions of this Part,

(e) implications of the matters specified in sub-paragraph (c) for the exercise of the powers to make regulations under Part 3, and

(f) HMRC's assessment of the extent to which the operation of, or changes to the operation of, comparable provisions in other countries affect businesses in the United Kingdom.'

This new clause requires HMRC to produce an annual report on the operation of Part 3 relating to third party goods fulfilment businesses and specifies some of the information to be included in that annual report.

Peter Dowd (Bootle) (Lab): It is, as ever, a pleasure to serve under your stewardship, Mr Howarth.

I want to talk about fulfilment businesses in part 3, clauses 48 to 59, and the annual report on powers in relation to third-party goods fulfilment businesses, or new clause 5. I will speak a little about the fulfilment business measures before addressing the specifics of our new clause.

We welcome the action and powers for HMRC to deal with the problems created by the difficulty in properly taxing and charging VAT on the profusion of small businesses trading online through platforms such as Amazon. They are not just problems for the Exchequer. Many small businesses find themselves outcompeted and outpriced by overseas traders, which not only have lower operating costs but artificially lower their prices by failing to pay VAT on the goods they sell to UK consumers through fulfilment houses based here. It is essential that we act to protect both the taxpayer in general and the thousands of small British businesses that are, as we have discussed, the lifeblood of our economy.

It is not just lower prices and running costs that present problems for our small businesses. I have dealt with casework from small businesses that found themselves severely disadvantaged when filling out their VAT returns when they were unable to obtain VAT receipts from either their overseas supplier or the fulfilment business in question. In one case, the reason for the problem was simple: there were no VAT receipts because the seller had not charged VAT, unbeknownst to that particular British business. The online fulfilment house involved simply washed its hands of the matter and blamed a third-party seller that it supposedly has no control or influence over. It is right that we bring our laws up to date and ask the huge online fulfilment businesses to take their responsibilities to our society seriously, assist the Exchequer in levying the proper taxes and stop hiding behind the excuse of separate businesses.

Many of the overseas sellers we are talking about could not and would not exist were it not for online retailing sites and the fulfilment services they provide. The business models are entirely based on the mode of operation laid down by the multinational online marketplace, which makes their businesses possible. Action has been too slow to deal with these problems, which have festered for far too long, but better late than never. We do not seek to hinder action on this at all and we welcome the broad sweep of these measures and other related efforts to address the problems that have grown up from online marketplaces and fulfilment houses.

New clause 5 seeks another review—this time on an annual basis—examining the working of these new powers and responsibilities so that Parliament can keep a check and a close eye on the problems around fulfilment businesses. It is an expanding market and business sector and we have to try to keep up with it. We hope that the new clause will prevent any future problems from festering too long and ensure that Her Majesty's Treasury keeps a close eye on changing business practices in this field, which might threaten the Exchequer or, importantly, undermine small businesses.

Kelvin Hopkins: It is a pleasure to serve under your chairmanship again this morning, Mr Howarth. When I first entered this House over 20 years ago, I visited my local VAT office and they said that if they had more VAT officers they could collect many more times their own salaries. That has been the case ever since. I am not so familiar with third country goods fulfilment businesses, but it nevertheless strikes me as something that requires a proper resource within the VAT component of HMRC. I wonder whether we are still understaffing VAT offices and whether we could collect much more by employing more staff. At that time, the ratio between the staff salary and the tax they collected was about 5:1. Every additional member of the VAT staff produced five times more than their own salary. If that is still the case today—it may be an even bigger ratio—it would be helpful to think about employing more staff.

Mel Stride: Clauses 48 to 59 and schedule 13 implement the fulfilment house due diligence scheme. The scheme will require that from 1 April 2018, fulfilment businesses in the UK that fulfil goods for traders based outside the EU must register with HMRC, keep certain records, and carry out robust due diligence checks on their overseas clients.

The fulfilment house due diligence scheme is part of a package of measures announced at Budget 2016 that will disrupt and deter VAT abuse by overseas traders who sell goods to UK consumers via online markets. To address the point raised by the hon. Member for Luton North, the measure is not one that requires lots of extra inspectors; it requires a different attitude and regime for the fulfilment houses that are facilitating this VAT fraud. We expect it to be effective in those terms, rather than needing large numbers of additional staff.

Together, these measures are expected to deliver £875 million for the Exchequer by 2021. Many overseas traders selling via online marketplaces import their goods en masse to fulfilment houses in the UK, in readiness to fulfil anticipated future orders from UK customers. Once imported, the fulfilment house businesses will store, pack and sometimes deliver these goods on their behalf. Currently, certain overseas traders do not comply with the obligation to charge VAT on their goods held at UK fulfilment houses, as the hon. Member for Luton North pointed out. This not only deprives the UK Government of a significant amount of revenue but allows these overseas traders to obtain an unfair competitive advantage over the honest majority of VAT-compliant businesses operating in our country.

Clauses 48 to 59 and schedule 13 implement the fulfilment house due diligence scheme. Clause 48 sets out that all UK fulfilment houses that fulfil goods owned by traders established outside the European Union will be within the scope of the new scheme. These are referred to throughout the legislation as "third country goods fulfilment businesses".

Clause 49 sets out that, following commencement of the scheme, all third country goods fulfilment businesses in the UK will require approval from HMRC as a "fit and proper" person in order to continue operating legally.

Clause 50 outlines that HMRC will maintain a register of all such approved persons. It will publish such details from the register as it deems necessary to allow counterparties, such as those in the express deliveries industry, to check whether they are dealing with a compliant fulfilment business.

9.45 am

Clause 51 enables HMRC to issue regulations outlining the conditions of registration and approval. Clause 52 provides HMRC with a disclosure gateway, which will provide taxpayers information to the fulfilment houses for the purpose of meeting the scheme's obligations. Clause 53 sets out that it is a criminal offence for an unapproved person to carry out a third country goods fulfilment business and sets out significant but proportionate criminal punishments which can be administered against offenders. Clause 54 provides that goods stored on the premises of unapproved fulfilment houses are liable to forfeiture and can be seized by HMRC.

Clause 55 sets out the civil penalty contained within schedule 13, which may be imposed upon an unapproved person carrying on a third country fulfilment business. Clause 55 also allows for regulations to be made imposing civil penalties on all third country fulfilment businesses, whether approved or not, which fail to abide by the requirements of the due diligence scheme. This shall include failure to carry out appropriate due diligence checks or to take appropriate action as a result of those checks.

Clause 56 sets out that an appeals process will be available to persons who have been made liable to a penalty under clause 55 or schedule 13. Clause 57 confirms that regulations which shall be brought forth under the terms of this legislation will be made by statutory instrument. It also sets out that appeals can be made against decisions to revoke a person's approval, or to impose particular conditions and restrictions upon their approval status. Clause 58 contains definitions of the key terms utilised in the legislation.

Clause 59 outlines that for the purpose of passing scheme regulations the legislation will come into force at Royal Assent. Clause 59 also makes provision for HMRC to decide upon appropriate dates from which components of this legislation relating to other purposes will come into force.

Taken together, these changes will make it more difficult for non-compliant overseas businesses to trade in the UK and will enable HMRC to identify and tackle them more easily. It is intended that the scheme registration window will open on 1 April 2018. Existing fulfilment house businesses should apply to register with HMRC by 30 June 2018. The changes made will impact upon all third country goods fulfilment houses in the UK. They will incur a one-off compliance cost for registration and familiarisation with the new scheme.

I welcome the opportunity also to debate new clause 5 tabled by Opposition Members. The new clause proposes HMRC report on the operation of the provisions of the fulfilment house due diligence scheme in relation to each tax year after its commencement, within six months after completion of that tax year. The Government believe that legislating for a review of these matters is unnecessary. The Government have already undertaken extensive consultation on this scheme over the last 18 months and they will continue to monitor the impact of the legislation. The fulfilment house due diligence scheme will disrupt and deter that abuse.

Question put and agreed to.

Clause 48 accordingly ordered to stand part of the Bill.

Clauses 49 to 55 ordered to stand part of the Bill.

Schedule 13 agreed to.

Clauses 56 to 59 ordered to stand part of the Bill.

Clause 60

Digital reporting and record-keeping for income tax etc

Kirsty Blackman: I beg to move amendment 37, in clause 60, page 71, line 16, leave out 'paragraph 2' and insert 'paragraphs 1A and 2.

1A (1) The provisions of this Schedule shall not apply to a person specified in paragraph 1(1) except in accordance with the provisions of this paragraph.

(2) No person shall be subject to the provisions of this Schedule unless they fall within a class of persons specified in regulations made under sub-paragraph (3).

(3) The Commissioners may by regulations specify a class of persons to whom this Schedule applies provided that the relevant conditions in sub-paragraphs (4) to (9) are met.

(4) The condition in this sub-paragraph is that the first regulations may not be made until after the Commissioners have undertaken an assessment of the impact of the implementation of the provisions of this Schedule on—

(a) small businesses that have limited technological connectedness,

(b) businesses in rural areas, and

(c) businesses that are likely to have been affected by the closure of HMRC offices.

(5) The condition in this sub-paragraph is that the first regulations may not apply to more than 25 per cent of persons to whom paragraph 1(1) applies.

(6) The condition in this sub-paragraph is that the Commissioners have prepared an assessment of the likely effects of making regulations in the form of a draft which has been laid before the House of Commons by the Treasury.

(7) The condition in this sub-paragraph is that the House of Commons has resolved that regulations should be made in the form of a draft laid in accordance with sub-paragraph (6).

(8) The condition in this sub-paragraph is that the second regulations may not be made—

(a) until at least twelve months have elapsed since the making of the first regulations,

(b) unless, taken together with the first regulations, they apply to no more than 90 per cent of persons to whom paragraph 1(1) applies.

(9) The condition in this sub-paragraph is that the third set of regulations may not be made until at least twelve months have passed since the making of the second regulations.'

This amendment would provide for a staged implementation of the provisions for making tax digital in relation to income tax, with review of impact on specific groups and provision for each new stage to be subject to approval by resolution of the House of Commons.

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

Amendment 7, in clause 60, page 75, line 7, at end insert—

'(1A) Regulations under sub-paragraph (1) must in particular require a person or partnership to record service charges separately from other income.'

This amendment imposes a duty on HMRC to require separate records to be kept of service charges.

Amendment 8, in clause 60, page 75, line 7, at end insert—

'(1B) Regulations under sub-paragraph (1) must in particular require a person or partnership to maintain separate records in respect of each employee and in respect of any prescribed time period of service charges received and to make those records available in a prescribed manner.

(1C) In sub-paragraph (1B), "prescribed" means prescribed by regulations.'

This amendment imposes a duty on HMRC to require separate records of service charges to be kept in respect of each employee and in respect of prescribed period to be made available in a prescribed manner.

Amendment 39, in clause 60, page 75, line 7, at end insert—

'(1B) Regulations under sub-paragraph (1) must in particular require a person or partnership to maintain separate records in respect of each employee and in respect of any prescribed time period of service charges received and to make those records available to those employees.

(1C) in sub-paragraph (1B), "prescribed" means prescribed by regulations.'

This amendment imposes a duty on HMRC to require separate records of service charges kept in respect of each employee and in respect of prescribed period to be made available to those employees.

Amendment 33, in clause 60, page 78, line 19, after 'day', insert

'no earlier than 1 January 2022'.

This amendment provides that the provisions for digital reporting in Clause 60 may not be brought into force before 2022.

Amendment 40, in clause 60, page 78, line 20, at end insert—

'(4A) No regulations may be made under subsection (4) until after 90 days after the Chancellor of the Exchequer has laid a report before the House of Commons which sets out—

(a) the steps which HMRC has undertaken to establish that suitable software is available;

(b) the results of the testing by HMRC and others of that software; and

(c) the reasons why mandatory use of the software is in the interest of HMRC and taxpayers.'

This amendment would require the Chancellor of the Exchequer to report on software suitability and testing before giving effect to the provisions of Clause 60.

Clause 60 stand part.

Amendment 34, in clause 61, page 78, line 34, after 'day', insert

'no earlier than 1 January 2022'.

This amendment provides that the provisions for digital reporting in Schedule 14 and Clause 61 may not be brought into force before 2022.

Clause 61 stand part.

That schedule 14 be the Fourteenth schedule to the Bill.

Amendment 35, in clause 62, page 79, line 12, at end insert—

'(5A) No regulations may be made under sub-paragraph (5) on a day prior to 1 January 2022."

This amendment provides that the provisions for digital reporting in Clause 62 may not be brought into force before 2022.

Amendment 38, in clause 62, page 79, line 12, at end insert—

'(5A) But no regulations may be made by the Commissioners unless the conditions in sub-paragraphs (5B) to (5D) are met.

(5B) The condition in this sub-paragraph is that the first regulations may not be made until after the Commissioners have undertaken an assessment of the impact of the implementation of the provisions of those regulations on—

(a) small businesses that have limited technological connectedness,

(b) businesses in rural areas, and

(c) businesses that are likely to have been affected by the closure of HMRC offices.

(5C) The condition in this sub-paragraph is that the Commissioners have prepared an assessment of the likely effects of making regulations in the form of a draft which has been laid before the House of Commons by the Treasury.

(5D) The condition in this sub-paragraph is that the House of Commons has resolved that regulations should be made in the form of a draft laid in accordance with sub-paragraph (5C).'

This amendment would provide for implementation of the provisions for making tax digital in relation to VAT to take place only following a review of impact on specific groups and provision for regulations to be subject to approval by resolution of the House of Commons.

Amendment 36, in clause 62, page 79, line 19, at end insert—

'(6A) Regulations under sub-paragraph (5) may not impose mandatory requirements for businesses to generate quarterly updates.'

This amendment provides that any system for quarterly updates to be generated must not be mandatory.

Amendment 10, in clause 62, page 80, line 13, at end insert—

'(12) Before making regulations under sub-paragraph (5) and in any case within three months of the passing of the Finance (No. 2) Act 2017, the Commissioners shall lay before the House of Commons an assessment on the effects on compliance with the requirements of those regulations by small businesses of the United Kingdom's withdrawal from the European Union.'

This amendment requires HMRC to publish an assessment of the effects on electronic VAT records requirements for small business of the UK's withdrawal from the EU.

Clause 62 stand part.

Kirsty Blackman: The Scottish National party has previously raised concerns about the moves to digital reporting. It is not that we do not support the principle of moving towards digital reporting. We have been clear that we think this could be a positive move. The concerns that we have raised previously have been about the timing of the moves and the way in which smaller companies were expected to move to digital reporting first. The Minister, to his credit, has changed the proposed plans and come up with a much more sensible direction and timeline for moving to digital reporting than the Government previously suggested.

Our amendment highlights specific concerns about the move to digital reporting, which, despite the Government's changes and moves, we still feel have not been adequately answered. The amendment deals with the impact on specific groups that we feel might be negatively affected by the move to digital reporting.

The first group is small businesses that have limited technology for connectedness. There are small businesses that do not make that much use of the internet. There are some coming through that are wholly internet-based, and for which it is very important; but some are still starting that are not technologically advanced and do not use the internet much. We are concerned about the impact on them of having to report digitally online, in view of their access to technology. The businesses in question are not only in rural areas; they may just be run by someone who does not make huge use of the internet.

The second group is businesses in rural areas. In those areas in particular, even though commitments have been given by the Scottish and UK Governments about improving access to digital connectivity, at the moment, not everyone has a fast enough internet connection to enable them to access the relevant services. If it is mandatory for businesses to use online digital reporting, that will be a problem for those without access to adequate technology—particularly in rural areas. Areas in England are affected, as well as those in more remote parts of Scotland. I understand that there have been Government commitments to get people on to digital systems, but we are not quite there yet.

Ruth George (High Peak) (Lab): Does the hon. Lady agree that, in areas such as the remoter parts of Scotland, as in areas of my constituency, broadband access can be intermittent? The Government have excluded from the provision those who are completely digitally excluded. However, there are areas with patchy broadband—people have it on some days but not others—and there could be a problem for people who do not fall in the group that the Government have excluded.

Kirsty Blackman: I agree. In Kingswells in my constituency, which is a large suburb of Scotland's third city, there are significant issues about access to fast broadband. There is access to slow broadband, and it is sometimes intermittent, for reasons to do with historical infrastructure. Broadband companies were put on the grid to begin with and they now find it more difficult to upgrade the historical technology. I appreciate the point that the hon. Lady has made; it is important to note that for some people intermittent access can be as difficult as no access.

The third category of businesses we have chosen is those likely to be affected by the closure of HMRC offices. I have needed to do tax returns online only since I became an MP. The problem with some of the questions is that yes or no are the options but my answer has been "maybe" or "kind of". Despite the fact that the online form was fairly clear, I needed to phone someone to get some advice on whether to tick yes or no. If businesses lack advice and information from HMRC about the correct option to choose in some cases, it will be more difficult for them to fill out the forms.

It is important that businesses should be given the advice, information and support they need to fill in the forms correctly online. I am sure that no businesses will be trying to make errors; they will be looking for advice. My concern, particularly regarding HMRC offices, is the lack of access to advice that people might have.

Mel Stride: The important point is that, for many years, people have not simply been walking into or getting an appointment at their local HMRC office. The fact that we are drawing offices together into 13 beefed-up regional centres is particularly important in the context of telephone advice, which the hon. Lady is alluding to and which will still very much be available for exactly the circumstances she describes.

Kirsty Blackman: I appreciate the Minister's point. In an earlier sitting, he mentioned the positive timelines when people phone HMRC for advice; apparently the phone is answered very quickly. I get that he says the statistics show that, but people are walking into my surgeries and into my constituency office saying that they have tried for hours to phone HMRC and have really struggled to get through. Despite him saying that the statistics show one thing, the lived experience of my constituents is very different. That is why I have these concerns, and even if one person or a handful of people cannot get through on the phone and fill in their form on time because they are not able to answer the question, it is a concern. I implore the Minister to continue working on call times and to ensure that, when people phone, they get through as quickly as possible and that the calls are answered, and that the advice provided is correct so that people can make the correct choice, particularly with online forms.

Labour Members have tabled a number of amendments to the clause. We were clear in the SNP manifesto that we supported a phased move to digital reporting, so what the Minister has proposed is now much more in line with what we were thinking. I ask that Labour Members, in speaking to the amendments, explain why they chose 2022, and I will make a call after that on whether we think supporting them is relevant. One Labour amendment suggests that we should not move towards digital reporting, which would be a concern for us because our manifesto commitment was positive about digital reporting. I look forward to hearing the comments from the Opposition and the Minister.

Stella Creasy (Walthamstow) (Lab/Co-op): As ever, I am eager to serve under your chairmanship, Mr Howarth. I come to the Committee with a series of amendments on what digital reporting might offer us to resolve some of the challenges faced by employers and employees in our country. There are two issues in particular, which I will come to in turn, because as ever with the Finance Bill, they are technical.

First, I will deal with the treatment of the lowest-paid staff in our country—Office for National Statistics data show that, of all low-paid people, waiters and hospitality staff get paid the least—and what we can do to help them with their incomes. Secondly, I will look at how digitisation could help us to address compliance, which is one of the biggest issues for small businesses. To prefigure the Minister's comments, I know he will say that that is for another Bill, but given how important it is for the systems to work together, I think this is an issue for this Bill. I hope he will bear with me.

I turn first to amendments 7 and 8—amendments 8 and 39 are identical—which concern the treatment of waiters and hospitality staff. Many Members may be familiar with campaigns on the treatment of tips, service charges and gratuities and with evidence showing that some employers were using those to top up people's wages and to avoid paying the national minimum wage. Members might therefore be relieved that legislation was brought in to prevent that, but it has become clear that many employers still use tips, service charges and gratuities to avoid paying their staff properly. The amendments go to the heart of how we can address that.

In particular, Members might not be aware that people are supposed to pay tax and national insurance on their tips. If an employee is paid their tips through a tronc, where their employer collects the money usually using an online system, which is what we are debating today, the employer is supposed not only to pool the

[Stella Creasy]

tips and share them out—after all, I think we would all recognise that as well as the person who serves a meal, the people who work in the kitchen deserve recognition of their work—but to check that the employee had paid national insurance and tax.

10 am

I do not know which restaurants Members eat at or which hotels they stay in, but if they were to go to Nando's, Jamie Oliver's or Pizza Express, they would be given the opportunity to pay their tip electronically by credit card, which a tronc scheme would pick up on.

Some employers pass that money on in full to staff, subject to national insurance and tax, while some charge a massive surcharge and, in doing so, dip into that money for their own purposes. A restaurant called Turtle Bay in Walthamstow was charging employees 3% of an evening's total sales on tables and telling them that they would get than money back in tips while using it to fund its recruitment and training charges. Indeed, I supplied the Minister with a copy of the contract specifying that employees had to pay that charge. That is not a unique situation.

There is a particular concern about how tronc schemes are being used not only to lower wages and, therefore, pension obligations, but to scam employees for the money that they have earned through their good service and skills. HMRC guidance E24—I did say this was going to be quite technical—says that where a tronc is run genuinely by the staff rather than by an employer, they do not have to pay national insurance, even if the scheme is run through the payroll. We now have widespread evidence of employers using that to offer lower wages to staff, claiming that they can make the money back in the tronc, or using that money to subsidise the wages of restaurant management, rather than paying them a fair wage and recognising the service charges that staff have collected.

To give one example, a scheme was introduced in two workplaces. The staff were told that a tronc scheme was being introduced and that they would be entitled to a fixed-income share of the service charges as part of that arrangement, as long as they signed up to an agreement saying that their hourly rate of pay would be cut to the basic national living wage. The scheme was sold on the basis that they would get an additional guaranteed income that would not be subject to national insurance. However, that meant most of the staff were forced into taking a pay cut in order to get their tips.

Unite and the GMB have done a lot of work on representing people in the sector and they give the example of a sous chef who was offered a salary of £28,000 per annum and accepted the position on that basis. When he received his contract, he saw that his actual salary was £16,000 and he was told not to worry, because the remaining £12,000 would be guaranteed as a fixed income generated by the tronc scheme. I am glad that the hon. Member for Hitchin and Harpenden looks shocked at that.

Bim Afolami (Hitchin and Harpenden) (Con): On the question whether a scheme is being run by the employer or by employees or staff, is the hon. Lady alleging that employers are acting contrary to existing guidance and legislation? I am not entirely sure.

Stella Creasy: Yes, that is the concern. There is a lot of evidence that the exemption, which lets staff run their own tips scheme—it is like staff in a small café sharing the money in the jar, but across a large restaurant chain—is being used by major employers to avoid paying national insurance and, indeed, pension obligations further down the line, especially given auto-enrolment.

Another issue to which the amendments relate is the variations in charges that employers apply to employees for administering such schemes. Some restaurant chains will pass on 100% of the tips paid to a member of staff, while others will charge up to 20% in administration fees for doing it through an electronic system. Clearly, that is not fair and I warrant that customers have never had a restaurant explain to them how much they will charge the employee to pass on the tip that customers want to give them. The amendments are designed to help us understand what is going on.

I hope that the Minister will have strong words with his colleagues in the Department for Business, Energy and Industrial Strategy, because if, as we fear, a tax take is being avoided and the lowest-paid people in our country are being exploited as a result, surely we all agree that we need to do something about that. That is why I tabled the amendments. Indeed, 18 months ago, many of us took part in a Government consultation on precisely those issues—that is, how to ensure a fair system for administering tips, service charges and gratuities. I have to tell the Minister that, 18 months on, the Government have not even published the results of that consultation, let alone looked at what could be done to make sure that neither the Exchequer nor the employer is being short-changed.

The Bill offers the Minister an opportunity to make progress on an issue that his ministerial colleagues have kicked into the long grass. If we are digitising records, we can ask employers to clarify precisely what is being collected in tips, service charges and gratuities, and what is income. The amendments address exactly that point: they simply propose that an employer should record the different forms of income—with electronic systems that should be a relatively easy thing to do—and an employee would then be able to access that information.

That is important because if someone is self-employed and working in restaurants—my colleagues from north of the border have mentioned people administering their own tax records—they ought to know what their liabilities are. At present, however, someone who is part of a tronc system does not necessarily know what they are being paid in tips, gratuities and service charges. These simple amendments ask the employer to set out precisely the different streams of income, which their computer systems will easily collate for them, so that our tax system acts more efficiently.

If the Minister is not prepared to accept the amendments and acknowledge the need to make progress—we are, after all, talking about the poorest-paid employees in our country—will he commit to asking his ministerial colleagues in BEIS why it is that, 18 months on, when so many people have provided information about how we could solve the problems, nothing has happened? Indeed, I have regularly asked when the consultation results might at least be published, but the answer has always been, "Sometime in the future." I am sure that the Minister would agree that the people who serve him a cup of coffee in a restaurant deserve better service from us in making sure that they are not exploited.

Amendment 10 relates to an issue that has come up very little in this Committee—we should correct that—namely the Japanese knotweed that is Brexit, which has taken up so much of our time. I appreciate that the Minister will say that the amendment is not needed because he has published a White Paper on how customs and VAT should fit together. However, having read that White Paper, I must draw attention to an omission from it.

I am sure that Government Members will judge me because I have become slightly obsessed with things such as the 13th directive on VAT, and I am sure they would all like to do a pub quiz on it too. Normal VAT rules allow that businesses registered in the UK can recover UK VAT. People understand that: for most businesses, VAT compliance is one of their biggest pieces of work. The issue with the 13th directive, which the amendment addresses, is the question of what happens when businesses trade in Europe. After all, Europe is still the primary market for the vast majority of businesses: 63% of members of the Federation of Small Businesses have said that Europe is their priority market. That means that if a salesman goes to Sweden and stays in a hotel, the hotel might charge VAT and there is no way that that business would be able to deduct Swedish VAT on its UK VAT return. At the moment, however, under the single market procedures, there is a process by which foreign VAT can be recovered directly from the country in which it was incurred.

For those Members who are VAT geeks, that provision is in articles 170 and 171 of Council directive 2006/112/EC, the prime VAT directive. I will, of course, pass that detail on to *Hansard*. The detailed rules are in Council directive 2008/9/EC. That is implemented in our own domestic legislation, in section 39 of the Value Added Tax Act 1994 and regulation 20 of the Value Added Tax Regulations 1995. In practice, that means that each European state is obligated to make a VAT refund. Obviously, there are rules on that, but it works pretty straightforwardly through an online electronic system, which is why it is relevant to the charge under discussion. I can see the Whip wondering where I am going with this, but there is a direct connection.

A similar scheme applies across the EU to businesses that are not established in the EU. That is the 13th VAT directive, which is implemented by section 39(2)(b) of the 1994 Act and is a more complicated system. The amendment is simple. When we leave the EU, we will no longer be able to rely on the simplicity of the intra-country VAT collection scheme that has helped businesses in Britain to trade and provide services, particularly in Europe. We will, therefore, need to move to the 13th directive, or we may move to something else. The customs White Paper, for instance, mentions an "innovative" scheme, but I am pretty sure that other countries, for which the intra-country scheme works well, would not be particularly willing to undertake such innovation. I think they would be happy for us to move to the 13th directive.

I am concerned that there is a lot of evidence that the 13th directive and its administration is not very effective for countries outside the EU. In particular, the 13th directive states that member states must refund VAT to foreign traders. It also states:

> "Member states may make the refunds…conditional upon the granting by third states of comparable advantages regarding turnover and taxes."

One could argue that the Bill's introduction of an online electronic system provides a comparable advantage, but my amendment asks the simple question being asked by many businesses, including local businesses in my constituency, which are starting to panic about how they will manage their VAT returns in future. How will the proposed electronic scheme fit in with regard to both the current regulations relating to intra-EU VAT refunds and the 13th directive?

Having looked at the Minister's document, I am concerned that, although it talks a lot about what the UK will do, it does not talk a lot about the 13th directive and what it will mean for British businesses. Page 19 refers to contingency in case there is no deal—of course, we all know that that is a sensitive question for the Cabinet—but what British businesses need to know now is, if they are going to continue to trade in Europe, how they can do that in a cost-effective and red tape-free way?

One of the more bizarre elements of Brexit is that we seem to be arguing about red tape as though the other side wants more of it, and those of us who wanted to stay in the European Union are bad for wanting less of it. This issue is a great example of that challenge, where being part of the European Union had simplified a process for British businesses. A quarter of FSB members have said that the introduction of any tariff or complication with trading with Europe would put them off trading altogether. We need this Bill to match what is going to happen in future, so that businesses using an online system will not have to change it very quickly as a result of the rules of the 13th directive implemented by other countries making it harder for them to use.

If the Minister will not accept my very simple amendment asking him to set out just how this Bill will impact on the 13th directive, will he commit to discussing with British businesses what the directive might mean for them in terms of VAT compliance and recouping their costs, and what the consequences for them will be in terms of administering the scheme? All small businesses in our constituencies that are looking at that future trading relationship will want to know how much additional paperwork they are going to get, and they deserve an answer.

Peter Dowd: I will to speak to clauses 60 and 61, schedule 14 and clause 62 together, as they represent a package of measures that would introduce powers and regulations surrounding digital reporting and record keeping for both VAT and income tax.

The Opposition's concerns about the Government's plans for making tax digital are well-versed. We raised them on Second Reading of the March Finance Bill, before they were dropped, and raised them again in the debate on the Ways and Means resolution for this Bill, as well as on its Second Reading. We fully support digitalised tax reporting, which we can all agree has the potential to drastically reduce the amount of time individuals and business owners will have to spend filling out long and complicated tax returns. We could also free up some of HMRC's time, so that it is better spent clamping down on tax avoidance.

10.15 am

The benefits of the technological tax-reporting revolution that will happen in the UK in the next decade are not in dispute. What we are debating is the question of when it will be rolled out and under what circumstances. The Government have already shown that they are willing to listen to the Opposition and others on this important issue. It is clear that the concerns we expressed throughout the general election campaign were heard, and they perhaps helped lead to the Treasury's announcement over the summer that it would delay the introduction of digital reporting of VAT until 2019.

The Minister also announced the delay in when businesses would have to provide quarterly digital records until at least 2020. However, while such things are acknowledged and welcomed, they represent only a short pause in the Government's plans and they do not address the wider problems with the timetable, which many consider to be a little rushed. All the stakeholders to whom we have spoken in the business sector and the tax community over the past few months continue to raise deep concerns about their ability to be ready for digital reporting of VAT, particularly as it will come when Britain will be leaving the European Union.

Owners of small and medium-sized businesses are already worried about the stark changes that they are faced with making in 2019 to prepare for Brexit. They are concerned about the possibility of a no-deal scenario and the overnight effect that would have on costs and supply chains. There is also the potential introduction of tariffs and the impact on staff who are EU citizens. It is not unfair to say that the Government have continuously failed to provide any certainty on those points, so it is little wonder that business confidence is pretty low, notwithstanding the Minister's performance and attempts to push that up.

To further burden businesses with the cost of digital reporting will only make matters worse for many struggling businesses. What is more, few people inside or outside the Government believe that HMRC is actually ready. It feels like the Government believe that making tax digital is some holy grail that will allow HMRC to operate with less funding and fewer resources. In fact, we have seen little to no evidence of how much it will cost to train HMRC staff on the new software. We have yet to receive any reports of the pilots that have been run. To the best of my knowledge, HMRC has the same problems as many of the businesses that will be required to begin digital reporting in 2019. It is a distraction and depletion of the resources that are having to be focused on Brexit.

Those concerns are echoed by tax professionals, such as the Institute of Chartered Accountants in England and Wales and the Chartered Institute of Taxation, which both believe that the current timetable is unrealistic and unworkable for HMRC and the business community. That is why the Opposition propose delaying digital reporting for VAT and income tax to the end of the Parliament in 2022. Hope springs eternal in relation to the date of the next election, I suspect. The delay to digital reporting would give HMRC and small and medium-sized businesses the time they need to prepare adequately and to properly implement new software in their businesses.

If the Government are to stick to their 2019 timetable and ignore our very reasonable request for a delay in the implementation of digital reporting until the end of the Parliament, there must be adequate time to properly test and pilot the software, because that is a key element. So far there is little evidence to suggest that the Government will meet their target to have the software fully tested and ready to be implemented by 2019, but the Minister may be able to reassure us on that point. He has said that the Treasury aims for a pilot programme to be tested in spring 2018, but if that timetable comes to fruition, it will not give businesses enough time for a full cycle of four quarterly VAT updates to be submitted before April 2019.

I am also aware that HMRC began a small-scale income tax pilot on 3 April 2017. My understanding is that the intention was gradually to increase the number of businesses admitted into the pilot, so that eventually several hundred thousand businesses would be involved. However, that has not happened and the income tax pilot is still operating on an extremely small scale, with fewer than 50 businesses taking part, as I understand it.

The question of whether the software will be properly piloted and available to businesses before the implementation date is at the heart of the Opposition's concerns. That is a legitimate operational concern, which is why amendment 40 would require the Chancellor to report on software suitability and testing before giving effect to making tax digital provisions.

Our greatest difference with the Government on digital reporting is the defined need for quarterly reporting. In our manifesto, we made it clear that we would permanently exempt small businesses that were below the VAT threshold from quarterly reporting. We recognise the huge administrative burden that quarterly reporting would place on them, as well as the added cost.

While quarterly reporting may benefit some types of businesses—no one suggests it would not—overall, it is unnecessary and we see no reason why it should be mandatory. That is why amendment 36 would ensure that it remains optional.

Digital reporting, if handled in the correct manner and implemented gradually, has the ability to free up the time of business owners and HMRC. It would change the way people report taxation for decades to come. However, the Government's current timetable risks bringing with it chaos and confusion, unless the concerns of the business community are fully addressed.

It feels as though the Treasury is rushing through these changes because it has already pocketed the revenue that it believes these measures would raise. I hope the Minister takes this point in the spirit it is intended: he would rather invite further burdens, in my view, and add strain to small and medium-sized businesses than acknowledge that delaying making tax digital would add to the growing black hole in public spending. We are not quite sure where that stands at the moment.

Genuinely, and point scoring apart, the Minister needs to recognise that few people believe that the Government's timetable is realistic. Even fewer businesses, both large and small, want the extra and unnecessary burden of quarterly reporting. There has been little in the way of evidence so far that the pilot programmes and software will actually be ready.

Mel Stride: These clauses introduce the requirements for making tax digital for businesses. That is major step in our journey towards a system in which technology makes it easier for businesses to get their tax right. The majority of businesses, as we have heard, want to get their taxes right but, none the less, make honest and avoidable mistakes in fulfilling their tax obligations. Not only does that cause them concern and frustration when HMRC intervenes to put it right, but taxpayer error and failure to take reasonable care cost the Exchequer £8 billion a year.

VAT has been online since 2010 and more than 98% of registered businesses already send VAT returns to HMRC in this way; many do it themselves, some use agents to do it for them. Making tax digital will be voluntary for income tax and national insurance contributions for those who fall below the VAT threshold, even if they are registered for VAT. Hon. Members will note that provisions in the Bill relating to income tax—that is, clauses 60 and 61—cannot enter into force until an appointed day order is made by the Treasury. The Government have committed that that will not happen before 2020.

The hon. Member for Bootle very generously welcomed, as did other Members, the timetable changes that I announced in July. The hon. Gentleman suggested that we have not gone far enough. I would point him to the remarks of Mike Cherry, the FSB chairman, who welcomed the delay that I announced in July. He said that it makes

> "the roll-out of the changes far more manageable for all of the nation's small firms".

Many similar comments were made by businesses and organisations representing businesses at that time.

Let me set out in detail a few aspects of the legislation for making tax digital and we can pick up some of the points made by hon. Members. Clause 60 provides the framework for a future extension of making tax digital to income tax and class 4 national insurance. It sets out to whom the rules would apply—broadly, any unincorporated trading business or landlord with turnover of more than £10,000 a year. Clause 60 provides that the regulations made using these powers cannot mandate the provision of information more frequently than once a quarter, so we can be very clear on the frequency issue in the legislation. That output will be generated automatically by software and sent at the press of a button to HMRC. There will be no requirement for businesses to pay income tax or national insurance alongside their final year update.

Clause 61 introduces schedule 14, which makes consequential amendments to the existing income tax administration rules. Clause 62 amends the powers in the VAT Act 1994, enabling HMRC to amend the existing VAT regulations to provide for digital record keeping and information reporting.

The hon. Member for Bootle has suggested a number of amendments to clauses 60 to 62. He also asked several questions relating to those clauses in Committee last week, which I hope to address today. Amendments 33 to 35 would have the effect of delaying making tax digital implementation until 2022 at the earliest. Having consulted widely and received feedback both from external stakeholders and Members, the clear message was that, although digitising tax was a positive step, some had concerns about the scope and pace of change.

As many Members have reflected today, on 13 July we announced significant changes to the scope and timetable for making tax digital, giving 3.5 million businesses more time in which to prepare. Businesses will not now be mandated to join making tax digital until April 2019, and then only to meet the VAT obligations. Businesses with a turnover below the VAT threshold will be exempt from making tax digital altogether. That change was widely welcomed—as I pointed out, it seems a realistic path to implementation. Trade representative bodies and other stakeholders who previously expressed concerns are now engaging with HMRC to ensure a successful roll-out of the programme. HMRC has already started piloting the changes for income tax, allowing for at least three years of testing on a voluntary basis before mandation.

Changing the timetable further would create uncertainty for businesses and undermine our ability to pilot the changes properly. Digital software is increasingly part of the way that businesses operate; further delay to making tax digital would result in increased divergence between the way that businesses run themselves and the way they do their tax. Making tax digital is about ensuring that businesses get their tax right and helping HMRC to address the £8.7 billion tax gap. We need to balance ensuring that businesses and agents have time to prepare with ensuring that everyone can experience the benefits of doing tax digitally at the earliest opportunity. I am confident that the current timetable strikes the right balance.

The hon. Member for Bootle also tabled an amendment to stipulate that there should be no requirement under MTD for mandatory quarterly updates for VAT. Under our current plans for MTD for VAT, no business will be required to provide updates to HMRC more frequently than they do now. Most already submit VAT returns quarterly and they will provide the same information with the same frequency. The difference is that the updates will be sent to HMRC from digital records.

The hon. Gentleman's final amendment would require my right hon. Friend the Chancellor to lay a report relating to the software used for MTD before the House. HMRC has begun piloting MTD services and intends to test the system extensively. That pilot will be used to test the range of software products available to businesses. HMRC is working with the software developer industry and others to ensure that products are available to businesses and agents at a range of different price points. As it emerges from the pilots, HMRC will publish information about available software products on gov.uk to enable businesses to choose appropriate products.

The hon. Member for Walthamstow has tabled three amendments to clause 60—I would expect no less than three; it is very modest of her, on this occasion, though I think one amendment was submitted twice—which seek to ensure that businesses record service charges separately for each employee. As the hon. Lady knows and has pointed out, the Department for Business, Energy and Industrial Strategy has consulted on service charges on these matters. The issue is of course very important: I know that she has pursued it for a long time and given an eloquent and lengthy discourse on many of its byways and alleyways. As perhaps was demonstrated by the intervention of my hon. friend the Member for Hitchin and Harpenden, these particular matters are complex. It is the Government's contention that this is not the right forum in which to start trying to address, tempting though it is, through making tax digital, some of what I accept may be iniquities in the operation of companies' tips and service charge systems. We have to wait for the results of the BEIS consultation.

10.30 am

Stella Creasy: I am a little surprised, given that we have presented evidence today that tax may be being avoided by using HMRC's E24 guidelines, that the Minister says that we have to wait. We have been waiting 18 months for the consultation even to be published. If he will not accept the amendments today, can he just tell us how long he is prepared to wait and how many people he is prepared to see exploited by the regulations before the Government act?

Mel Stride: I thank the hon. Lady for what is a slightly loaded question, if I may say so. I am certainly not prepared to wait for abuses of any kind, but I am prepared to wait, and it is right to wait, for a deep and considered consultation, as opposed to a short debate in the context of the Finance Bill. That is the critical point to bear in mind on this matter.

The clauses before us provide for making tax digital for business. That concerns the way in which businesses record and report their tax liabilities. The hon. Lady made some powerful points about the treatment of service charges, but I believe that they would be better pursued through the Department for Business, Energy and Industrial Strategy. It has responsibility for this area and is best placed to ensure that tips, gratuities and service charges are treated in line with the principles of clarity and transparency set out in its recent consultation. Dealing with the matter through legislation on digital taxation would risk missing crucial elements for employees or businesses that have been captured in the submissions to the consultation.

Ruth George: Bearing in mind that national minimum wage legislation can be implemented by BEIS only on an individual basis, when an individual complains, and such cases can be settled only on an individual basis, does the Minister not agree that a wider remit than that of BEIS will be required to tackle substantive abuses that go across whole workforces, as described by my hon. Friend the Member for Walthamstow?

Mel Stride: The hon. Lady raises an extremely important matter, which is those employers who do not adhere to the requirements of the national minimum wage. HMRC and the Treasury take that extremely seriously, and we have mechanisms in place, as she may know, for reporting instances of that where they occur. I can assure her that the Treasury is the Ministry directly responsible for strategic oversight of HMRC and that HMRC takes any abuse of the national minimum wage requirements and regulations in this country extremely seriously, and pursues and brings to book those who commit abuses.

Stella Creasy: Will the Minister therefore commit today to investigating the use of the E24 guidelines and the tronc schemes, to which we have referred? He may not accept our wider point about protecting people and the tips that they have rightly earned, but HMRC's E24 guidelines fall directly within his remit, and it is precisely that scheme that we are worried employers are abusing, so will he commit today, given that he has just explained to my hon. Friend the Member for High Peak that he cares very much about this matter, to an investigation and to publishing the results, so that we can all be confident that no one is being exploited in that way?

Mel Stride: HMRC can already investigate when it suspects the kind of abuse to which the hon. Lady alludes. To be specific, if HMRC opens an inquiry into whether PAYE or NICs are being operated correctly, it will be able to ask the employer or the troncmaster how they have recorded service charges and tips and how those have been allocated, and trace them back even to which customers paid for them. The tools are there, the willingness is there and the evidence is there that HMRC is doing precisely what the hon. Lady would expect it to do in pursuing this matter.

Stella Creasy: Just so that we are all clear, because I can see that Government Members are also concerned that there may be abuse of the E24 guidelines—this is not about individual companies—will the Minister commit today to his officials doing an investigation on whether the E24 guidelines are being abused in the way that has been described and to reporting back to all of us in the House?

Mel Stride: As I just said to the hon. Lady, we can say in relation to any aspect of HMRC's operation or any of the rules that it is there to clamp down on that we want regular reporting and all the rest of it. The point is that as a Ministry, the Treasury is there to have strategic oversight of HMRC and to ensure that it is behaving in an appropriate way and chasing down tax avoidance, evasion and non-compliance in whatever form they may appear, including the forms that she has raised. We will continue to do just that.

Ruth George: Bearing in mind that individuals have to raise a complaint in order to secure an investigation by HMRC compliance, and that the workers we are talking about are some of the most vulnerable and most susceptible to exploitation, immediate dismissal or changes to their terms and conditions because they are often not in the workplace for a substantial length of time, does the Minister agree that it would be helpful if HMRC were able proactively to investigate these schemes, rather than having to wait for individual vulnerable employees to put themselves at risk by raising a complaint?

Mel Stride: The hon. Lady overlooks the fact that it is often possible for those who wish to complain to do so anonymously through their trade union or other representatives. That is what happens in many cases. HMRC does not have to rely on a specific complaint to conduct an investigation. It may have suspicions of its own for a variety of reasons. I do not think that we are in a position where people are unable to come forward, as she suggests.

The hon. Member for Aberdeen North has tabled two amendments that seek to review the impact of MTD on specific groups. I recognise her concerns, but the Government have been clear from the outset that businesses that are unable to go digital will not be required to do so.

If you will indulge me, Mr Howarth, it is worth looking at some of the detail of the Bill at this point. The hon. Lady has raised a very important point about potential digital exclusion. Clause 60 covers exemptions, as I am sure she is aware. New sub-paragraph (4) of paragraph 14 of schedule A1 states:

"The digital exclusion condition is met"—

for those who would not be required to put in their returns digitally—

"in relation to a person or partner if…for any reason (including age, disability or location)"—

the hon. Lady rightly raised rural localities—

"it is not reasonably practicable"—

that is not the same as completely impossible—

"for the person or partner to use electronic communications or to keep electronic records".

I think that is a well-crafted clause to catch the kind of circumstances about which the hon. Lady and I are concerned.

Kirsty Blackman: The concern raised by the hon. Member for High Peak was about intermittency. The issue is not about people who do not have access to the internet at all, but those who have only intermittent access. The clause may not be lenient enough for them to make a case for not having digital access. Does the Minister have a view on that?

Mel Stride: I thank the hon. Lady for her further point. I guess it comes down to interpretation. It seems to me that if it is not reasonably practical for a person or company to use electronic communications, the reliability of the service—another way of describing the point she raised—would be an important part of the judgment that would be made.

The clause continues with "Further exemptions". Proposed new paragraph 15(1) states:

"The Commissioners may by regulations make provision for further exemptions."

New paragraph 15(1) states:

"The exemptions for which provision may be made include exemptions based on income or other financial criteria."

There is therefore a recognition in the Bill that not only do we need to get it right for the current circumstances, but we need the flexibility to be ready for any circumstances that might present themselves and which we have not considered at this stage. Those would need to be addressed further down the line.

For those who can go digital but require additional assistance, HMRC will continue to provide a diverse range of digital support, including webinars, helplines and YouTube videos, to help them meet the requirements of Making Tax Digital.

The hon. Member for Aberdeen North also seeks to provide for a phased implementation period, with the commencement of each new stage requiring approval by the House. We have already revised the implementation to start with businesses that report quarterly, and stakeholders are operating on the basis of the new timeline. We are phasing in the implementation by piloting the changes and by starting with mandation only for VAT and those above the VAT threshold. The secondary legislation required to lay out the detailed operation of MTD will be laid before the House in due course, offering Members a further opportunity to scrutinise our plans and consider our proposals.

The hon. Member for Walthamstow has tabled an amendment to require HMRC to publish an assessment of the effect of our exit from the European Union on MTD for VAT for small businesses. HMRC wants to give businesses plenty of time to adapt to MTD and is allowing for a full year of piloting the changes before mandation applies and before the UK leaves the European Union. If businesses wish to begin keeping their records digitally before we leave the EU, they will be able to do so.

The hon. Lady raised specific issues in respect of VAT and the 13th directive. The Government do not consider there to be an MTD issue here. MTD is about how records are kept and reported, rather than the nature of the VAT regime itself. The regulations will be consistent with the requirements of the 13th VAT directive, but if she has specific concerns, HMRC will be happy to look into them.

Stella Creasy: I am happy to clarify. At the moment, the intra-country VAT scheme is administered online, which makes it relatively simple for people in the UK to reclaim VAT they have incurred in other countries. As we know, the 13th directive requires every single other country to come up with its own VAT scheme, so there is a question about the compliance of different schemes with our scheme. If we have a digitised system, it needs to be able to interact with 27 other countries' VAT schemes, rather than one EU-wide scheme. Has the Minister's Department done any work on how the other 27 schemes will interact with our online scheme, so that businesses can be assured of the frictionless transfer that his Government so often promise on these issues?

Mel Stride: The hon. Lady raises a very specific point within what is a large set of negotiations on all the issues of customs, excise and VAT. She will be aware that a customs and excise Bill will be presented to Parliament fairly shortly.

Stella Creasy: I have looked at the Minister's White Paper, and it does not mention the 13th directive at all. If he could clarify that a second White Paper will address this issue with the 13th directive, I am sure that many small businesses would be relieved.

Mel Stride: As I am sure the hon. Lady knows, the White Paper sets out that the Bill will be a framework Bill. The purpose of the Bill will be to ensure we can enact through legislation—largely secondary legislation—whatever arrangements we arrive at as a consequence of the negotiations we are in the middle of. It is not my position here today to prejudge exactly where we will end up on VAT, but I can reassure the hon. Lady that all the preparations and legislation will be in place to accommodate in as frictionless a manner as possible—as she rightly says—the exercise of VAT between ourselves and our former European partners, as well as customs at the borders and all the other important issues that will arise once we leave the European Union.

Stella Creasy: The Minister is being incredibly generous. I hope he will forgive me; sometimes I must feel like a bear of very little brain on these issues. The 13th directive is the manner by which EU countries deal with non-EU countries' VAT claims. It is an immovable part of the post-Brexit landscape, as I am sure the Minister agrees. Can he clarify that it is the 13th directive that his Department is engaging with? He said that the White Paper was a framework document. Will the customs union legislation deal with the 13th directive, or does he

[Stella Creasy]

think there will somehow be a completely different scheme? I know that the White Paper talks about innovation, but it seems a bit pie in the sky to suggest that the 13th directive will not be part of this. Why is he not talking about it?

10.45 am

Mel Stride: I refer the hon. Lady to my last reply: the customs Bill is not there to map out every single eventuality as to how VAT will be handled, what rules and regulations we may or may not operate with under World Trade Organisation rules or what agreement we will have with the EU on all the issues, including those she has raised, or otherwise. It will be a framework Bill that will ensure that we are in a position promptly and effectively to bring in whatever measures we need to move forward in the orderly manner she referred to. On that note, I think we have given her amendments a thorough examination.

The Government's ambition is for the UK to be the best place in the world to start and grow a business, and for HMRC to be one of the most digitally advanced tax administrations in the world. Making tax digital will be a major step forward in the way that businesses conduct their record keeping and interact with HMRC. I commend the clauses to the Committee.

Question put, That the amendment be made.

The Committee divided: Ayes 2, Noes 10.

Division No. 8]

AYES

Blackman, Kirsty
Linden, David

NOES

Afolami, Bim
Burghart, Alex
Cleverly, James
Fernandes, Suella
Ghani, Ms Nusrat
Hughes, Eddie
Maclean, Rachel
O'Brien, Neil
Stride, rh Mel
Stuart, Graham

Question accordingly negatived.

Amendment proposed: 8, in clause 60, page 75, line 7, at end insert—

"(1B) Regulations under sub-paragraph (1) must in particular require a person or partnership to maintain separate records in respect of each employee and in respect of any prescribed time period of service charges received and to make those records available in a prescribed manner.

(1C) In sub-paragraph (1B), 'prescribed' means prescribed by regulations."—*(Stella Creasy.)*

This amendment imposes a duty on HMRC to require separate records of service charges to be kept in respect of each employee and in respect of prescribed period to be made available in a prescribed manner.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 9]

AYES

Blackman, Kirsty
Creasy, Stella
Dodds, Anneliese
Dowd, Peter
George, Ruth
Hopkins, Kelvin
Lee, Ms Karen
Linden, David
Smith, Jeff

NOES

Afolami, Bim
Burghart, Alex
Cleverly, James
Fernandes, Suella
Ghani, Ms Nusrat
Hughes, Eddie
Maclean, Rachel
O'Brien, Neil
Stride, rh Mel
Stuart, Graham

Question accordingly negatived.

Amendment proposed: 33, in clause 60, page 78, line 19, after "day", insert

"no earlier than 1 January 2022".—*(Peter Dowd.)*

This amendment provides that the provisions for digital reporting in Clause 60 may not be brought into force before 2022.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 10]

AYES

Blackman, Kirsty
Creasy, Stella
Dodds, Anneliese
Dowd, Peter
George, Ruth
Hopkins, Kelvin
Lee, Ms Karen
Linden, David
Smith, Jeff

NOES

Afolami, Bim
Burghart, Alex
Cleverly, James
Fernandes, Suella
Ghani, Ms Nusrat
Hughes, Eddie
Maclean, Rachel
O'Brien, Neil
Stride, rh Mel
Stuart, Graham

Question accordingly negatived.

Amendment proposed: 40, in clause 60, page 78, line 20, at end insert—

"(4A) No regulations may be made under subsection (4) until after 90 days after the Chancellor of the Exchequer has laid a report before the House of Commons which sets out—

(a) the steps which HMRC has undertaken to establish that suitable software is available;

(b) the results of the testing by HMRC and others of that software; and

(c) the reasons why mandatory use of the software is in the interest of HMRC and taxpayers."—*(Peter Dowd.)*

This amendment would require the Chancellor of the Exchequer to report on software suitability and testing before giving effect to the provisions of Clause 60.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 11]

AYES

Blackman, Kirsty
Creasy, Stella
Dodds, Anneliese
Dowd, Peter
George, Ruth
Hopkins, Kelvin
Lee, Ms Karen
Linden, David
Smith, Jeff

NOES

Afolami, Bim
Burghart, Alex
Cleverly, James
Fernandes, Suella
Ghani, Ms Nusrat
Hughes, Eddie
Maclean, Rachel
O'Brien, Neil
Stride, rh Mel
Stuart, Graham

Question accordingly negatived.

Clause 60 ordered to stand part of the Bill.

Clause 61 ordered to stand part of the Bill.

Schedule 14 agreed to.

Clause 62

DIGITAL REPORTING AND RECORD-KEEPING FOR VAT

Amendment proposed: 36, in clause 62, page 79, line 19, at end insert—

"(6A) Regulations under sub-paragraph (5) may not impose mandatory requirements for businesses to generate quarterly updates.".—*(Peter Dowd.)*

This amendment provides that any system for quarterly updates to be generated must not be mandatory.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 10.

Division No. 12]

AYES

Creasy, Stella
Dodds, Anneliese
Dowd, Peter
George, Ruth
Hopkins, Kelvin
Lee, Ms Karen
Smith, Jeff

NOES

Afolami, Bim
Burghart, Alex
Cleverly, James
Fernandes, Suella
Ghani, Ms Nusrat
Hughes, Eddie
Maclean, Rachel
O'Brien, Neil
Stride, rh Mel
Stuart, Graham

Question accordingly negatived.

Amendment proposed: 10, in clause 62, page 80, line 13, at end insert—

"(12) Before making regulations under sub-paragraph (5) and in any case within three months of the passing of the Finance (No. 2) Act 2017, the Commissioners shall lay before the House of Commons an assessment on the effects on compliance with the requirements of those regulations by small businesses of the United Kingdom's withdrawal from the European Union."—*(Stella Creasy.)*

This amendment requires HMRC to publish an assessment of the effects on electronic VAT records requirements for small business of the UK's withdrawal from the EU.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 13]

AYES

Blackman, Kirsty
Creasy, Stella
Dodds, Anneliese
Dowd, Peter
George, Ruth
Hopkins, Kelvin
Lee, Ms Karen
Linden, David
Smith, Jeff

NOES

Afolami, Bim
Burghart, Alex
Cleverly, James
Fernandes, Suella
Ghani, Ms Nusrat
Hughes, Eddie
Maclean, Rachel
O'Brien, Neil
Stride, rh Mel
Stuart, Graham

Question accordingly negatived.

Clause 62 ordered to stand part of the Bill.

Clause 63 ordered to stand part of the Bill.

Schedule 15 agreed to.

Clause 64 ordered to stand part of the Bill.

Clause 65

PENALTIES FOR ENABLERS OF DEFEATED TAX AVOIDANCE

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

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

Amendment 41, in schedule 16, page 609, line 4, leave out "may" and insert "must".

This amendment would remove HMRC's discretion over whether to publish information on people have incurred a penalty and the conditions of paragraph 46 have been met.

Amendment 42, in schedule 16, page 611, line 27, at end insert—

"Duty to publish information on operation of penalty regime

51A (1) The Commissioners must publish information about the operation of the penalty scheme in relation to each tax year within six months of the completion of that tax year.

(2) Such information shall cover in particular—

(a) the nature of the abusive tax arrangements giving rise to penalties,

(b) the extent to which such arrangements relate to offshore income, assets and activities,

(c) the extent to which people who would otherwise have been liable for a penalty under these provisions were not liable due to being convicted of a criminal offence in accordance with paragraph 52."

This amendment would broaden the requirement for HMRC to publish information on penalties to cover the nature of the abusive tax arrangements, the extent to which they involve offshoring and the instances where successful criminal prosecution is used instead.

That schedule 16 be the Sixteenth schedule to the Bill.

Mel Stride: Clause 65 and schedule 16 introduce a new penalty for any person who enables the use of tax avoidance arrangements that are later defeated by HMRC. Currently, tax avoiders face significant financial costs when HMRC defeats them, but those who enable them bear little risk; they gain financially while their clients foot the bill. The purpose of the penalty is to deter people from enabling tax avoidance arrangements, reducing the number of schemes on the market.

Enablers of tax avoidance arrangements will now face penalties of 100% of the fees that they earned from the failed avoidance. The measures ensure that there are powers to tackle the full supply chain of avoidance arrangements. The penalty is designed to have a behavioural impact on the minority who continue to supply abusive avoidance arrangements, while ensuring that the vast majority of professionals who advise on genuine commercial arrangements are not affected. The measures are targeted carefully to capture abusive arrangements that no reasonable person could consider to be a reasonable course of action, and only those enablers who knowingly enable such arrangements that are later defeated.

The measure was developed after extensive consultation last year with representative bodies and large accountancy and law firms. Following the publication of draft legislation in December 2016, HMRC held a significant number of meetings with stakeholders to help refine the technical detail of the legislation. That engagement has been constructive, and stakeholders have welcomed HMRC's collaborative approach, acknowledging that many of their concerns have been addressed.

[Mel Stride]

For too long, those who enable tax avoiders have been able to gain financially from schemes, knowing that they face little sanction when their scheme is defeated. It is time that that is put right.

11 am

Anneliese Dodds: As the Minister has helpfully set out, the measures will introduce new penalties for tax avoidance enablers. Specifically, penalties charged will be equal to the amount of consideration received or receivable by the enabler for their role in enabling the tax avoidance arrangements that were defeated.

Our amendments 41 and 42 would require the publication of information about how the new scheme will operate. Specifically, we think it is necessary for lawmakers, the public and others to be aware of who is being penalised through these new tax measures; the nature of the abusive tax arrangements that have been uncovered and dealt with; the extent to which they apply to offshore income, assets and activities; and the extent to which successful criminal prosecution is used rather than this penalty.

We think that that information is necessary because we are concerned that, although it is a welcome step, this measure is potentially insufficient. We are concerned that the Minister's aspirations for this measure to have a behavioural impact might not be realised, and that concern relates specifically to the extent of the penalty.

As I have said, the penalties charged will be equal to the amount of consideration received or receivable by the enabler for their role in enabling the tax avoidance. Therefore, in effect, they will be required to pay back merely the payment they received for the inappropriate arrangement in the first place. That payment might not even cover HMRC's costs of investigation and recovery.

As I understand it, penalties have been reduced after consultation, which is regrettable. Given that this is the Finance Bill, we cannot suggest that those penalties should be restored to a level that would cover HMRC's costs—that would be inadmissible. None the less, we can ask for the information that we will require to assess whether this regime is watertight and driving the behavioural change suggested by the Minister.

Ruth George: Does my hon. Friend think that the clause provides HMRC with any impetus to investigate such schemes at an early stage? At that point, very little tax may be recoverable, resulting in a smaller penalty. That would create a perverse incentive to delay investigations until greater charges can be levied in order to cover HMRC's costs. I would hope that the Minister would want to incentivise the early investigation of such schemes.

Anneliese Dodds: My hon. Friend makes a good point about the potential perverse incentives created by focusing uniquely on HMRC receiving payment from the client for the creation of such schemes and the enrolling of individuals and firms on to them, rather than on the activity of creating those schemes in the first place and, above all, on HMRC's costs as a result of investigating them.

All of us, as Members of Parliament, are well aware of the kinds of schemes under discussion. It was interesting to hear the Minister mention the principle of eliminating those schemes that no reasonable person would think should be followed by taxpayers. We have voluminous evidence that that is not currently the case. We need only look at some of the flow charts produced and revealed during the Lux and Panama leaks to be aware that there clearly is an industry in creating such tax avoidance schemes.

We need very tough measures against those schemes. Given that they could be costing the Exchequer dearly, we feel it is appropriate to have a greater amount of information about the measures and, in particular, to compel HMRC and the Government to publish that information in full so that we can assess their efficacy.

Mel Stride: I make clear the Government's total commitment to clamping down on tax avoidance. We have brought in £160 billion since 2010 by clamping down on avoidance, evasion and non-compliance. We have already introduced legislation that clamps down on those who generate abusive schemes, and the Bill seeks to catch up with those who have benefited or who expect to benefit from such schemes. That leaves us to deal with the enablers in the centre of the equation.

The hon. Member for Oxford East raised the issue of naming. The Bill will allow the flexibility to name those who have been enabling these schemes. We believe that a proportionality test should be applied to take account of how significant and widespread the abuse has been, but if a very serious level of abuse has occurred, there is provision for the individuals, partnership or company concerned to be named in the way she described.

The hon. Member for High Peak is entirely correct that HMRC should be encouraged to address these cases early, rather than letting them run on. The clause seeks not only to ensure that we can catch up with these things quickly, but to prevent them from happening in the first place. It is about behavioural change, which is so important. We have seen a lot of evidence that many of these schemes are beginning to close down because we are sending the right signals and getting tough and serious about it.

Anneliese Dodds: I am concerned about incentives. HMRC is not being given specific additional resources, and some of the investigations may be quite detailed. As my hon. Friend the Member for High Peak asks, where is the incentive to crack down on the schemes early? The funds receivable may be very small because the schemes are unlikely to be used by a large number of taxpayers. I am concerned that we may be making it difficult for HMRC to take action, because the Bill does not include a requirement to cover its costs.

Mel Stride: The incentive for HMRC and for the Government is to squeeze the tax gap and minimise the number of people avoiding tax. If we do not get on with clamping down on those individuals and companies in a timely fashion, we will make things worse right across the piece and generate less tax as a consequence. We have a clear incentive to ensure that these measures bite at the earliest opportunity. It is about changing behaviour. The very best approach to tax avoidance is to ensure that it does not happen in the first place.

Question put and agreed to.

Clause 65 accordingly ordered to stand part of the Bill.

Schedule 16

Penalties for enablers of defeated tax avoidance

Amendment proposed: 41, in schedule 16, page 609, line 4, leave out "may" and insert "must".—*(Anneliese Dodds.)*

This amendment would remove HMRC's discretion over whether to publish information on people have incurred a penalty and the conditions of paragraph 46 have been met.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 14]

AYES

Blackman, Kirsty
Creasy, Stella
Dodds, Anneliese
Dowd, Peter
George, Ruth
Hopkins, Kelvin
Lee, Ms Karen
Linden, David
Smith, Jeff

NOES

Afolami, Bim
Burghart, Alex
Cleverly, James
Fernandes, Suella
Ghani, Ms Nusrat
Hughes, Eddie
Maclean, Rachel
O'Brien, Neil
Stride, rh Mel
Stuart, Graham

Question accordingly negatived.

Amendment proposed: 42, in schedule 16, page 611, line 27, at end insert—

"Duty to publish information on operation of penalty regime

51A (1) The Commissioners must publish information about the operation of the penalty scheme in relation to each tax year within six months of the completion of that tax year.

(2) Such information shall cover in particular—

(a) the nature of the abusive tax arrangements giving rise to penalties,

(b) the extent to which such arrangements relate to offshore income, assets and activities,

(c) the extent to which people who would otherwise have been liable for a penalty under these provisions were not liable due to being convicted of a criminal offence in accordance with paragraph 52."—*(Anneliese Dodds.)*

This amendment would broaden the requirement for HMRC to publish information on penalties to cover the nature of the abusive tax arrangements, the extent to which they involve offshoring and the instances where successful criminal prosecution is used instead.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 15]

AYES

Blackman, Kirsty
Creasy, Stella
Dodds, Anneliese
Dowd, Peter
George, Ruth
Hopkins, Kelvin
Lee, Ms Karen
Linden, David
Smith, Jeff

NOES

Afolami, Bim
Burghart, Alex
Cleverly, James
Fernandes, Suella
Ghani, Ms Nusrat
Hughes, Eddie
Maclean, Rachel
O'Brien, Neil
Stride, rh Mel
Stuart, Graham

Question accordingly negatived.

Schedule 16 agreed to.

Clause 66 ordered to stand part of the Bill.

Schedule 17 agreed to.

Clause 67 ordered to stand part of the Bill.

Schedule 18 agreed to.

Clause 68 ordered to stand part of the Bill.

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

11.13 am

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE BILL

(Except clauses 5, 15 and 25 and certain new clauses and new schedules)

Sixth Sitting

Tuesday 24 October 2017

(Afternoon)

CONTENTS

PBC (Bill 102) 2017 - 2019

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

not later than

Saturday 28 October 2017

The Committee consisted of the following Members:

Chairs: MR GEORGE HOWARTH, †MR CHARLES WALKER

† Afolami, Bim *(Hitchin and Harpenden)* (Con)
† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Burghart, Alex *(Brentwood and Ongar)* (Con)
† Cleverly, James *(Braintree)* (Con)
† Creasy, Stella *(Walthamstow)* (Lab/Co-op)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Dowd, Peter *(Bootle)* (Lab)
† Fernandes, Suella *(Fareham)* (Con)
† George, Ruth *(High Peak)* (Lab)
† Ghani, Ms Nusrat *(Wealden)* (Con)
† Hopkins, Kelvin *(Luton North)* (Lab)
† Hughes, Eddie *(Walsall North)* (Con)
† Lee, Ms Karen *(Lincoln)* (Lab)
† Linden, David *(Glasgow East)* (SNP)
† Maclean, Rachel *(Redditch)* (Con)
† O'Brien, Neil *(Harborough)* (Con)
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Stride, Mel *(Financial Secretary to the Treasury)*
† Stuart, Graham *(Beverley and Holderness)* (Con)

Colin Lee, Jyoti Chandola, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 24 October 2017

(Afternoon)

[MR CHARLES WALKER *in the Chair*]

Finance Bill

(Except clauses 5, 15 and 25 and certain new clauses and new schedules)

Clause 69

DATA-GATHERING FROM MONEY SERVICE BUSINESSES

2 pm

The Chair: We come to the dénouement of the Finance Bill in Committee. I hope the Government Whip liked my use of English—very evocative. I call Peter Dowd to move amendment 43.

Peter Dowd (Bootle) (Lab): I beg to move amendment 43, in clause 69, page 91, line 16, at end insert—

"(1A) In Schedule 23 to FA 2011, after paragraph 65, insert—

'66 (1) No later than 30 September 2020, the Commissioner shall undertake a review of the exercise of the powers under this Schedule in relation to relevant data holders specified in paragraph 13D.

(2) The review shall consider in particular the number of appeals in relation to Data-holder Notices.

(3) The Chancellor of the Exchequer shall lay a report of a review under this paragraph before the House of Commons within one month of its completion.'"

This amendment would require HMRC to review the exercise of its data-gathering powers in relation to money service businesses.

The Chair: With this it will be convenient to discuss clause 69 stand part.

Peter Dowd: It is a pleasure to serve under your stewardship, Mr Walker, notwithstanding the fact that you have just stolen my joke. I asked my daughter, who studied French, what the French for "dénouement" and "ambience" was, but she did not find that very amusing.

Clause 69 extends bulk data-gathering powers, which were given to HMRC in the Finance Act 2011, to money service businesses such as Western Union. The clause continues the Government's plans to rapidly expand HMRC's powers to collect bulk data from third parties. In the Finance Acts of 2011, 2013 and 2016, the powers were extended to merchant acquirers and in 2016, to collect bulk data from providers of electronic stored-value payment services, also known as digital wallet transactions.

The powers are part of the Government's strategy to tackle the hidden economy and reduce the tax gap. All Members agree that people operating within the hidden economy evade tax and gain an unfair competitive advantage over law-abiding, tax-paying individuals and businesses. Under anti-money laundering legislation, money service businesses are already required to conduct due diligence checks on customers, in certain circumstances at least. HMRC supervises the majority of money service businesses for compliance with that legislation, so it can request limited information from them as part of its supervision for anti-money laundering purposes. It can also use any information obtained for tax compliance purposes but cannot currently request that information with the original intention of checking the tax position of their customers. This clause would change that by requiring money service businesses to become data holders, to collect data from their users, and to pass that data on to HMRC when requested.

It is important to be clear about how a money service business would hand over a customer's data to HMRC. First, HMRC would issue a notice to the data holder requiring it to provide HMRC with information. The data holder can respond and, if it rejects the notice, can appeal to the tribunal. The tribunal then makes its ruling. Under these provisions, any money service business that does not comply will be issued with a financial penalty. Similarly, HMRC has the power under this measure to apply directly to a tribunal for approval at a hearing without notice being given to the data holder—effectively going over its head.

At no point in the process is the individual or the business who used the money service business and whose information is being passed to HMRC notified, as I understand it. It seems that the clause is not open to individual appeal at any point in the judicial process. In fact, it rests solely on the shoulders of the money service business to appeal when necessary.

The Opposition fully support measures to clamp down on the hidden economy—on individuals and on businesses using unsavoury and slippery practices to avoid paying their fair share of tax—but we are talking about third parties collecting massive amounts of data to hand over to HMRC. Money service businesses are effectively being asked to pick up the slack for HMRC, which, in our view, is increasingly underfunded and under-resourced. I have said it before, and I will say it again: Government statistics show that since 2010, there has been a 17% reduction in HMRC staffing levels. The Minister needs to address the resources available to HMRC to crack down on the hidden economy. It appears that once again the Government are ambitious in the powers they wish to give themselves—through the back door, some would say—but not so enthusiastic about funding and resourcing their commitments.

The Minister will be aware that although most money service businesses keep records of due diligence checks on customers, they do not have the time—or, I suspect, the inclination—for the pretty onerous task of sifting through the data to provide HMRC with individual records. I therefore find it unlikely that they would refuse or appeal a notice, which is the supposed judicial check on this broad, sweeping power. What does the Minister think is a reasonable notice period for a money service business to process and respond to HMRC? Does he accept that there may be hidden costs for money service businesses that have to comply with these measures?

In the Government's consultation, there was much debate about the substance of the information that would be transferred between money service businesses and HMRC. According to the Information Commissioner's Office, "it is clear that some of the information that may be provided to HMRC for the purposes of extending data gathering powers to money service businesses will constitute personal data in instances where the customer is an individual, a sole trader or a partnership… It will therefore be an important data protection obligation for the MSBs under the scope of the proposed legislation to provide their customers with privacy notices… The minimisation of the collection of personal data of individual consumers is an important privacy protection principle in financial transactions."

I suspect the Minister will need to consider those concerns as part of a wider discussion about the scope of HMRC's powers.

The privacy group Liberty has raised concerns that the practice of bulk data surveillance is suspicionless surveillance and constitutes a disproportionate interference with article 8 of the European convention on human rights, as enshrined in the Human Rights Act 1998: the right to respect for private and family life. Liberty's concern is that bulk data surveillance inverts the traditional relationship between suspicion and surveillance that exists in UK law, because suspicion comes first to justify subsequent surveillance.

In the light of these concerns, our amendment calls for a review of the exercise of schedule 23 powers, with a particular emphasis on how they relate to data protection. The Government have the right to ensure that HMRC has the necessary powers to tackle the hidden economy, but they are also obliged to ensure proper judicial oversight and the protection of people's rights.

I am reaching my dénouement. The Minister's case for new bulk data-gathering powers rests on the need for third parties to help HMRC to catch customers who participate in the hidden economy, which costs the Treasury £6.2 billion a year, as I recall. However, he has rejected our attempts to introduce a register for offshore trusts, our calls to crack down on tax avoidance by removing the exemption for offshore trusts in the Government's deemed domicile proposals, and any meaningful attempt to bring transparency and accountability to non-doms who abuse the UK tax system. I will not call it a double standard; that is not a fair assessment.

However, the Government are demanding all this information from money service businesses customers to ensure that they are not participating in the hidden economy—yet at the same time rejecting any sort of information being held on offshore trusts, which are used to shelter hundreds of billions from the UK Exchequer. As I said last week, there needs to be careful consideration of the balance between individual liberty and the powers of the state. Over the past few years, we have seen multiple Finance Bills whereby Government give HMRC sweeping data-gathering powers, from merchant banking to digital wallets. I believe there is a rational concern that though these powers can tackle criminality, they can also impede an individual's right to privacy. Any Government need to ensure that the balance is struck fairly and proportionately—and we are not convinced that this does so. Otherwise, there is a real fear that, increasingly, only those who can afford to secure their financial privacy, or to shelter and shield their wealth and financial transactions from the state, will have any privacy. The Government should give more thought to that.

The Financial Secretary to the Treasury (Mel Stride): It is a pleasure to serve again under your chairmanship, Mr Walker.

Clause 69 will extend HMRC's data-gathering powers to money service businesses, allowing it to better identify and take action against businesses and individuals operating in the hidden economy. Money service businesses, or MSBs, are entities that provide money transmission, cheque cashing, or currency exchange services. They provide valuable financial services that are relied upon by many tax-compliant customers. However, these services are vulnerable to exploitation by those who want to disguise their income. Under the clause, data provided by MSBs to HMRC will allow HMRC to better identify non-compliant customers who are exploiting MSB services to hide their income and operate in the hidden economy.

The hidden economy is made up of those businesses that fail to register for tax, and individuals who fail to declare a source of income that should be taxed. By hiding their activity from HMRC, those operating in the hidden economy deprive the Government of vital funds to run public services. That places an unfair burden on the vast majority of people and businesses who pay their fair share of tax. Hidden economic activity also disadvantages compliant businesses. HMRC's operational experience shows that non-compliant businesses and individuals can exploit the services offered by MSBs to disguise or dispose of undeclared income. They can do this, for example, by cashing a cheque for undeclared work. HMRC's data-gathering powers allow it to collect data from certain third parties. Following public consultation and a Government response in 2016, the clause extends those powers to MSBs. It does that by introducing MSBs as a new category of data holder from whom HMRC may require data. MSBs are defined under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

"Credit institutions", or, practically, banks and building societies, are excluded. The term MSB is generally taken to mean a business that provides money transmission, cheque cashing or currency exchange services without transacting through a bank account or providing general banking services. The clause is intended to cover those businesses. Supporting regulations will be made at Royal Assent, using an existing power to make regulations contained in schedule 23 of the Finance Act 2011. Those will provide detail of the types of data that can be requested. A draft of the regulations was published for consultation last year and regulations will subsequently be laid before the House, subject to the negative resolution procedure. The clause does not impose any additional record-keeping requirements on MSBs. HMRC cannot request data that an MSB does not hold. That is an important point and relates to the concern raised by the hon. Member for Bootle.

HMRC will work collaboratively with MSBs to minimise the administrative burden of complying with the new law. MSBs can appeal against a data notice issued by HMRC on the grounds that it is unduly onerous, or if they consider that the notice asks for data that is outside the scope of relevant regulations. HMRC can request data necessary to detect and quantify hidden economy tax risks. That includes information needed to identify an MSB's customers and records that the MSB is required to keep under money-laundering regulations. It also includes data about aggregate customer transactions. HMRC will not request data on individual transactions.

[Mel Stride]

The hon. Member for Bootle raised an important point—what data can HMRC request under these provisions? The answer is aggregated data, which will not include data on the value of individual transactions made by customers.

2.15 pm

The hon. Gentleman also raised the important issue of privacy, and the proportionality of these measures. The measure is not an invasion of privacy; the clause is carefully drafted to minimise any impact on the privacy of individuals and businesses, and HMRC will not be able to monitor the value of individual transactions made by customers through an MSB. It is already a requirement for MSBs to collect the data under many circumstances for anti-money laundering supervision purposes, so these new powers will allow HMRC to gather the data for tax compliance purposes. They do not allow for the collection of any data that MSBs do not already hold.

The hon. Member for Bootle also raised the issue of data safety, and whether we could handle this amount of information. HMRC takes its responsibilities to safeguard the security of customers' information and commercial data provided by third parties extremely seriously. HMRC's data-handling processes and the Government's arrangements are constantly reviewed and updated to minimise the risk of shared data becoming corrupted, misused or lost. Receiving and using data is fundamental to the way that HMRC collects tax and tackles non-compliance, and it already possesses large amounts of sensitive data and keeps that safe.

I welcome the opportunity to debate amendment 43, which proposes a review of the exercise of HMRC's data-governing powers in relation to MSBs no later than September 2020, with a particular focus on the number of appeals in relation to data holder notices. As I have said, MSBs can appeal against a data notice issued by HMRC if it is unduly onerous, or if it asks for data that are outside the scope of the relevant regulations. Therefore, there is already a mechanism in place for independent scrutiny through a tribunal, whose records are already available to the public. In addition, this measure has already involved consultation and engagement with the relevant sector. Proportionality has been a key consideration, and HMRC will work closely with MSBs to ensure that requirements are reasonable and to minimise the burden and the cost, so there are already adequate safeguards in place, and a review is not necessary. I therefore ask the Opposition to withdraw amendment 43.

Kelvin Hopkins (Luton North) (Lab): I want to respond briefly to what the Minister said. It is a pleasure to serve under your chairmanship yet again, Mr Walker, possibly for the last time during this Committee.

I have always had a concern about the money service industry, particularly since many of my constituents send money to family members overseas. There are large immigrant minorities from every part of the world in my constituency. Some of the transactions have been insecure—we have seen companies where money has been lost, and I have long thought that there ought to be a much higher degree of regulation of that industry.

There is obviously an issue around charges. I suspect that charges vary widely and are often very high. It seems to me that what we really want is at least a state company doing this business, either instead of or alongside these organisations, which would be properly regulated, have fair charges, and be open and transparent, apart from personal secure information about transactions, which my hon. Friend the Member for Bootle talked about. Bringing the state actively into that area would be a great advance. Perhaps I speak from a left position that might not find favour with the Government, but we ought to look forward to a much more regulated industry with a strong state sector in the future.

Mel Stride: To reply briefly to the hon. Gentleman's point: the issue of MSB ownership and state involvement is probably slightly beyond the scope of this Bill, but his points are noted. If he continues to work very hard, who knows what might happen? Much to our horror and dread, the state may end up owning just about everything in this country, if he and his merry men and women have their way.

Peter Dowd: I have accepted previous assurances provided by the Minister and we have withdrawn amendments appropriately, in good faith and good spirit. The issue under discussion goes beyond the technicalities and reaches into the very nature of a state that does not interfere in people's affairs where it has no business to do so. That is not to say that the state has no business interfering; it does so with tax collection, which helps maintain the balance of society. It would not be appropriate for me to withdraw the amendment, because I think that many members of the Committee would like to err on the side of caution and accept it, even though they will not do so. We will therefore leave it hanging and I have no doubt that we will return to the issue of privacy at a future date.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 16]

AYES

Blackman, Kirsty
Creasy, Stella
Dodds, Anneliese
Dowd, Peter
George, Ruth
Hopkins, Kelvin
Lee, Ms Karen
Linden, David
Smith, Jeff

NOES

Afolami, Bim
Burghart, Alex
Cleverly, James
Fernandes, Suella
Ghani, Ms Nusrat
Hughes, Eddie
Maclean, Rachel
O'Brien, Neil
Stride, rh Mel
Stuart, Graham

Question accordingly negatived.

Clause 69 ordered to stand part of the Bill.

Clauses 70 to 72 ordered to stand part of the Bill.

New Clause 1

REVIEW OF RELIEF FROM CORPORATION TAX RELIEF FOR PFI COMPANIES

"(1) Within three months of the passing of this Act, the Commissioners for Her Majesty's Revenue and Customs shall complete a review about how corporation tax relief is given for losses, deficits, expenses and other amounts of PFI companies.

(2) For the purposes of this section, 'a PFI company' means a company which has entered into a contract with a public sector body under the Private Finance Initiative or the PF2 initiative.

(3) The Chancellor of the Exchequer shall lay a report of the review under this section before the House of Commons within three months of its completion."—*(Stella Creasy.)*

This new clause requires a review to be undertaken of the corporation tax reliefs available to PFI companies.

Brought up, and read the First time.

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

The Committee divided: Ayes 9, Noes 10.

Division No. 17]

AYES

Blackman, Kirsty
Creasy, Stella
Dodds, Anneliese
Dowd, Peter
George, Ruth
Hopkins, Kelvin
Lee, Ms Karen
Linden, David
Smith, Jeff

NOES

Afolami, Bim
Burghart, Alex
Cleverly, James
Fernandes, Suella
Ghani, Ms Nusrat
Hughes, Eddie
Maclean, Rachel
O'Brien, Neil
Stride, rh Mel
Stuart, Graham

Question accordingly negatived.

New Clause 2

Taxation of chargeable gains: review of treatment of commercial property held by persons with foreign domicile

"(1) The Taxation of Chargeable Gains Act 1992 is amended as follows.

(2) After section 14 (non-resident groups of companies), insert—

'Review of treatment of commercial property held by persons with foreign domicile

(1) Within three months of the passing of the Finance (No. 2) Act 2017, the Commissioners for Her Majesty's Revenue and Customs shall complete a review about the taxation of chargeable gains held by persons with foreign domicile.

(2) The review shall consider in particular the implications if the treatment of commercial property were to be the same as the treatment of residential property under section 4BB(2).

(3) The Chancellor of the Exchequer shall lay a report of the review under this section before the House of Commons within three months of its completion.'." —*(Stella Creasy.)*

This new clause requires a review to be undertaken of the treatment of capital gains on commercial property disposed of by UK taxpayers with a foreign domicile.

Brought up, and read the First time.

Stella Creasy (Walthamstow) (Lab/Co-op): I beg to move, That the clause be read a Second time.

It is a pleasure to serve under your chairmanship, Mr Walker. I am conscious that several members of the Committee may wish to take part in the emergency debate on universal credit—a subject close to many of our hearts—so I do not intend to speak for a long time. However, we ought to get value for money out of these Committee sittings and, indeed, this Bill, so I hope that my new clause gives the Government some ideas about how we can solve the pressing problem of the public finances and the lack of funding.

Government Members often argue that Labour only wants to spend money, but my proposals very much seek to save money for the country. Indeed, they present a way to protect UK taxpayers and British businesses, generate potentially billions for the Exchequer, and address the pressures on the housing market. I am sure that none of us would want to lay claim to the magic money tree, but I believe that my new clause would provide for a concrete cash cow in which the Government could invest, and I hope to convince Ministers and Government Back Benchers to support it.

The new clause relates to a proposal by the previous Chancellor of the Exchequer—I am not sure how many jobs he has now, but he is currently the editor of the *Evening Standard*—about the way in which capital gains tax was applied to property sales.

Kelvin Hopkins: I am interested in the former Chancellor and how many jobs he has. It is particularly interesting to learn how much he is being paid for those jobs.

Stella Creasy: I am afraid that I do not have that figure to hand, but I do have figures relating to the amount of money that the new clause could raise for the public Exchequer. I hope that my hon. Friend will be as pleased with and as interested in those numbers as I am.

Historically, only UK residents or those with a permanent UK base have been subject to capital gains tax. In April 2013 that was changed to include the disposals of UK dwellings owned by non-resident companies, partnerships and collective investment schemes, which were subject to an annual tax on enveloped dwellings. In April 2015 that was extended to all non-UK residents disposing of UK residential property, and the critical point is that that was about residential property. The argument that non-doms should be paying capital gains tax on the disposal of property was put forward by the previous, and indeed current, Government. The question is: why did they make it apply only to residential properties? As I hope to prove, that has created a loophole through which some people have chosen to put their properties.

We are talking about a rate of tax that is between 18% and 28%, or 20% for corporates. The standard OECD double tax treaty expressly preserves the right of countries to tax non-residents on capital gains from the disposal of local real estate. Many of us will have seen at first hand in our communities the impact of this country's over-inflated housing market and the connection between the residential and the commercial property market. The Adam Smith Institute reckons that there are 1 million non-doms in the UK, although only 110,000 are declared. Those people are part of our communities, but they are benefitting from an advantageous tax position because of this loophole.

The Bill tries to address issues relating to inheritance tax and holding property through UK companies, so the Government are interested in where people might be using companies to avoid paying tax. Indeed, that is one of the debates that we have been having. The new clause addresses another issue, which is the ability to designate a property as a commercial property to avoid paying the residential charge that this Government introduced in 2015. We know that that is hitting UK companies competing with non-UK companies. In tabling this new

[Stella Creasy]

clause, I am making a plea to the Minister to be on the side of British businesses that are being unfairly treated in our tax system. We know that people set up property holding companies to avoid those charges. By changing the loophole, we would be able to apply the charge fairly across the board. Indeed, it has to be asked why anybody would hold UK real estate through a foreign company except for tax purposes.

The Minister might say that this about a competitive tax advantage for the UK. Let me reassure him that almost nowhere else in the world exempts foreigners from tax on selling real estate. By closing the loophole, we would simply bring ourselves into line with Canada, Australia and indeed the rest of Europe. The Minister may claim that there are anti-avoidance rules that would take precedence, but if a non-resident company operates in the UK through a UK permanent establishment, the disposal will be subject to UK capital gains tax. That is not the requirement we are talking about; we are talking about organisations that hold property in the UK through offshore companies and designate that property as commercial property. It is the difference between the residential and the commercial that we need to deal with in terms of this loophole.

2.30 pm

In 2015, the Chancellor predicted that the changes to the non-dom rules that included residential properties would bring forward £1.5 billion in the lifetime of the then Parliament, so we are not talking about an insubstantial sum, but if we properly closed the loophole and treated UK and non-UK businesses fairly in the sale of commercial property, I would wager there is a lot of money to be made. I have done my own sums, but the new clause is about getting the Government to do their sums to see how much tax is being avoided through the loophole.

I will give the Committee an example that I hope my hon. Friend the Member for Luton North will be interested in. There is £600 billion of commercial real estate in the UK. About one fifth of that commercial real estate is sold every single year. In 2015, £115 billion of sales was registered. Almost a quarter of all commercial real estate in the UK is held through offshore companies. Typically those companies are in tax havens or structured so that they pay no tax on the capital gain anywhere else in the world.

If we assume average real estate growth of around 8% a year, we are potentially missing out on £8 billion of tax revenue. The Minister may tell me that number is over-inflated, and that the real number is closer to £1 billion. I would be happy for him to prove me wrong, but the only way he can do that is by publishing the data on that quarter of properties. Through that we can understand how many are sold and how much capital gains tax this country is missing out on because we do not give British businesses the fair treatment they deserve when they are competing against non-dom companies.

Ruth George (High Peak) (Lab): Does my hon. Friend think that the definition of commercial properties would include properties that were previously residential, such as those in my constituency in the Peak district? They were residential homes, but they were sold to owners who live outside the area and are now used primarily as second homes, although they are rented for a very small number of weeks during the year. That has turned them into commercial properties, severely depleting the number of homes available to local people, particularly in rural areas of outstanding natural beauty.

Stella Creasy: My hon. Friend has shown how simple it is to evade the tax by avoiding the loophole—the previous Chancellor tried to close it by ensuring that non-doms paid capital gains tax on the sale of residential property—simply by repurposing a building as commercial property. Even given the rules on closed companies in existing legislation, people can get around the charge. I am suggesting that the figure could be as much as £8 billion. I certainly think that at least £1 billion of public revenue could come from closing the loophole and simplifying the way we treat non-doms with capital gains tax. The Minister may have a different number, but the point of the new clause is to get the number.

The Bill is about how we manage public finances. Giving this tax loophole to non-doms means that our British businesses are unfairly treated and our property market faces artificial pressure. We are missing out on vital funds that could go into our public services. The new clause is not a magic money tree; it is a concrete cash cow. If the Minister will not agree to publishing the data, will he commit to looking at how we can close the loophole?

Mel Stride: New clause 2—I think it is now known as the concrete cash cow clause—provides us with an opportunity to discuss the rules surrounding UK commercial property and those who are foreign-domiciled. As the hon. Member for Walthamstow explained, her new clause would require HMRC to review the taxation of capital gains on commercial property disposal by UK taxpayers with a foreign domicile.

There is no question but that all UK residents, whether UK-based or non-domiciled, are chargeable for tax on profits from selling UK land. That includes non-domiciles who are taxed on a remittance basis, where foreign income and gains are taxed only when they are brought into the UK. Our tax base is predominantly those who are resident in the United Kingdom. As the hon. Lady has drawn to our attention, recent changes removed non-residents into the UK tax base for the sale of UK residential property. The new clause raises the fact that that treatment does not extend to non-residents for the sale of commercial property in this country. While I understand why she suggests that extending the laws would raise revenue, I should point out that this is a very complex area, which needs to be carefully considered.

The 2015 rules were designed to catch individuals and ways in which a person may hold title over a dwelling such as via trusts and closely held companies. They do not apply to companies with lots of shareholders. The structures that are used to own commercial property are different from residential property, often more complex and involving corporates, joint ventures and specialist property vehicles. We would need rules that address such structures and get to the heart of the ultimate owner.

Will the hon. Lady consider this illustration? I might live in Canada and own 50% of a home in Walthamstow. I might easily conceive, if I did not know for sure, that selling my part of the house in the UK would mean paying some UK tax. However, imagine instead that I own a handful of shares in a fund of some kind, which in turn owns half an office block in Walthamstow. Being such a minor shareholder, I may not even know how my money is invested. To send the tax man chasing round overseas for the little shareholder in a commercial building would hardly be cost-effective. We would need to design balanced rules that look at how the market works and what would yield the Exchequer the best return.

Extending the current rules to include any UK property is not a simple matter of striking through "residential property" and inserting "all UK property" into the current provisions, as this would not take into account the intrinsic differences in the way that commercial properties are owned and dealt with.

Ruth George: Does the Minister agree that now that we are seeing residential property increasingly acquired by such complex structures, and that by eradicating the omission for commercial properties, it would simplify the legislation? HMRC would not have to establish whether a property was commercial or residential because there are so many grey areas, as my hon. Friend the Member for Walthamstow pointed out.

Mel Stride: The point I was trying to make was not so much whether one classified a property as residential or commercial. My point was that where it is commercial, the ownership arrangements can be so complicated that this kind of approach is far from simple.

Stella Creasy: I think the Minister is making a strong case for the new clause and providing the data. He may want to update his colleagues on the fact that the closed company model is five or fewer participants. Were there to be six participants, that would extend the limitations he is talking about. I also want to ask him, now that we have the residential rules in place, whether he will commit to publishing how many properties that were previously cast as residential are now categorised as commercial use, since that legislation came in. We might begin to get an understanding of whether people are using this loophole to evade the capital gains tax to which we are entitled.

Mel Stride: I am certainly happy to look into the issue of what data are available that might reasonably be released for those properties that might have changed from residential to commercial. My point is that the existing rules for residential property involve, for example, consultation with external experts over a period of two years. They are arguably, for reasons that we have been discussing, more simple and straightforward than the arrangements that would need to be in place for a commercial property situation. To ensure that legislation works effectively, HMRC would be able to collect taxes from overseas taxpayers.

The UK commercial property market is even more complex and inextricably linked to many other markets and investments both in the UK and overseas. Bringing non-resident companies into these rules brings with them a whole tax code for corporates, which would need to be considered and applied consistently in the context of someone who may have no other UK tax footprint.

Of course, there are existing exemptions and reliefs for the UK investor that would need to be considered to see whether and how they might apply to an overseas equivalent and whether such exemptions could be used to undermine the idea as a whole. Any change to further broaden our base would require consultation with the public, tax experts and affected sectors, particularly those involved with funds and pensions, to ensure they were clear, enforceable, robust to avoidance, and achieved their intention. I assure the hon. Member for Walthamstow that we keep all taxes under careful and continuous review to ensure that the tax system works effectively for the taxpayers of this country.

Stella Creasy: Again, the Minister makes a compelling case for the new clause, which would enable exactly such an information-gathering exercise. As he points out, this may be a complex area. I note, however, that the Bill deals with overseas companies and their inheritance tax positions. I fail to understand why Ministers accept that we need to address the use of commercial entities to avoid inheritance tax but do not accept that we need to address their use to avoid capital gains tax. Will he say a little about that?

Mel Stride: As I have said, I assure the hon. Lady that we keep all taxes under careful review to ensure that the tax system works effectively for the taxpayers of this country. I favour that, rather than requiring HMRC by statute to conduct reviews, as the best way to develop tax policy. I heard what she had to say about those taxes, and I will certainly consider the questions that she raised, but I urge the Committee to reject the new clause.

Stella Creasy: I am afraid that I am not satisfied that the Minister has made a strong enough argument against his own argument that this is a complicated area in which we need information. The new clause would not commit the Government to closing the loophole; it would simply start the process of asking how much the loophole costs us and recognising that, where we create a category for one type of property and people can apply it to another, that may generate a loophole that is exploited to the detriment of the UK taxpayer. With that in mind, and in full support of the British businesses that are being penalised as a result of the Government's failure to address that loophole, I wish to test the will of the Committee on this matter.

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

The Committee divided: Ayes 9, Noes 10.

Division No. 18]

AYES

Blackman, Kirsty	Hopkins, Kelvin
Creasy, Stella	Lee, Ms Karen
Dodds, Anneliese	Linden, David
Dowd, Peter	Smith, Jeff
George, Ruth	

NOES

Afolami, Bim	Hughes, Eddie
Burghart, Alex	Maclean, Rachel
Cleverly, James	O'Brien, Neil
Fernandes, Suella	Stride, rh Mel
Ghani, Ms Nusrat	Stuart, Graham

Question accordingly negatived.

New Clause 3

Deemed domicile: review of protection of overseas trusts

"(1) Within fifteen months of the passing of this Act, the Commissioners for Her Majesty's Revenue and Customs shall complete a review about the operation of the provisions for the protection of overseas trusts in relation to deemed domicile.

(2) The review shall in particular consider—

(a) the effects of those provisions on the Exchequer,

(b) the behavioural effects of those provisions, and

(c) the effects on the matters specified in paragraphs (a) and (b) if those provisions were repealed.

(3) For the purposes of this section, "the provisions for the protection of overseas trusts" means the provisions inserted by paragraphs 18 to 38 and 40 of Schedule 8 to this Act.

(4) The Chancellor of the Exchequer shall lay a report of the review under this section before the House of Commons within three months of its completion."—*(Peter Dowd.)*

This new clause requires a review to be undertaken of the effects of the provisions for protecting overseas trusts from the new provisions in relation to deemed domicile.

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. 19]

AYES

Blackman, Kirsty
Creasy, Stella
Dodds, Anneliese
Dowd, Peter
George, Ruth
Hopkins, Kelvin
Lee, Ms Karen
Linden, David
Smith, Jeff

NOES

Afolami, Bim
Burghart, Alex
Cleverly, James
Fernandes, Suella
Ghani, Ms Nusrat
Hughes, Eddie
Maclean, Rachel
O'Brien, Neil
Stride, rh Mel
Stuart, Graham

Question accordingly negatived.

New Clause 5

Annual report on powers in relation to third country goods fulfilment businesses

"(1) The Commissioners must prepare a report on the operation of the provisions of Part 3 of this Act in relation to each tax year after their commencement within six months after the completion of that tax year.

(2) The Chancellor of the Exchequer shall lay a report under subsection (1) before the House of Commons.

(3) Each report under subsection (1) shall cover in particular—

(a) prosecutions for an offence under section 53,

(b) penalties imposed under Schedule 13,

(c) the effects on the operation of Part 3 of the United Kingdom's withdrawal from the European Union or (as the case may be) preparations for that withdrawal,

(d) implications of the matters specified in sub-paragraph (c) for the activities and resource requirements of HMRC in connection with the provisions of this Part,

(e) implications of the matters specified in sub-paragraph (c) for the exercise of the powers to make regulations under Part 3, and

(f) HMRC's assessment of the extent to which the operation of, or changes to the operation of, comparable provisions in other countries affect businesses in the United Kingdom."—*(Peter Dowd.)*

This new clause requires HMRC to produce an annual report on the operation of Part 3 relating to third party goods fulfilment businesses and specifies some of the information to be included in that annual report.

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. 20]

AYES

Blackman, Kirsty
Creasy, Stella
Dodds, Anneliese
Dowd, Peter
George, Ruth
Hopkins, Kelvin
Lee, Ms Karen
Linden, David
Smith, Jeff

NOES

Afolami, Bim
Burghart, Alex
Cleverly, James
Fernandes, Suella
Ghani, Ms Nusrat
Hughes, Eddie
Maclean, Rachel
O'Brien, Neil
Stride, rh Mel
Stuart, Graham

Question accordingly negatived.

2.45 pm

Question proposed, That the Chair do report the Bill, as amended, to the House.

Mel Stride: Mr Walker, having rocketed through this Bill, efficiently and I think in near-record time, it is only right that I say "thank you" to all those who have made our rapid progress possible. I start with yourself, Mr Walker. I thank you for your patience, good humour and of course for teaching us the right pronunciation of "schedule". I also thank your co-Chair, Mr Howarth, for his sagacity, which is unrivalled on the Panel of Chairs, with perhaps the exception of yourself, Mr Walker.

I thank all members of the Committee. I thank Opposition Members for their pursuit of their duty of scrutiny of the Bill, although ultimately they were, rather pleasingly, unsuccessful in all the Divisions that we have had. However, we will not hold that against them; they did their job very thoroughly and very effectively indeed. I want to particularly and personally thank the hon. Members for Bootle, for Oxford East and for Aberdeen North for the very good-natured and decent way in which they have dealt with me personally and all the Government Members of the Committee; and, yes, I want to thank the hon. Member for Walthamstow as well, from the bottom of my heart. I genuinely respect her eloquence and determination, and I have enjoyed the mental contortions that she has put me through during the Committee.

I thank the Government Members of the Committee. Their contributions were slightly limited, but when they came they were of a quality that was unrivalled and unparalleled in the history of Committees. I thank the Whips on both sides: my hon. Friend the Member for Beverley and Holderness and the hon. Member for Manchester, Withington. As a former Whip, I know that often they are in the background but what they do really matters and they have ensured that this Committee has run in a very efficient and effective manner.

I thank those who gave evidence to the Committee, the Clerks, *Hansard* and the Doorkeepers. Most especially, I thank my own officials at the Treasury and HMRC, who in the short time that I have been a Minister have impressed me immensely with their knowledge, guidance and overall their patience and kindness towards me, in many, many hours of trying to explain what has been an extremely technical Bill.

Finally, on a personal note, if I might be indulged, I thank my two young daughters, Ophelia and Evelyn, who, in the last couple of weeks, while their father grappled in his dreams with this highly technical Bill, managed to stay out of their mother and father's bed and to give them some sleep.

I look forward to Report. Of course, as someone has already mentioned, we have the delights of a further Finance Bill after the Budget, which I know we can hardly wait for.

Peter Dowd: May I completely concur with the sentiments of the Minister? I thank all my colleagues and Government Members for their patience and forbearance. I will just leave on this note because I am quite stunned: I have visions of the Minister grappling in bed. *[Laughter.]* Best to leave it on that note.

Mel Stride: On that, we can all agree.

The Chair: I am afraid that we cannot. I call Kirsty Blackman.

Kirsty Blackman: I thank you, Mr Walker, and Mr Howarth for your chairmanship of this Committee. It has been excellent, as ever. I also thank all hon. Members—in particular, my hon. Friend the Member for Glasgow East, who has sat through his first Finance Bill. It will possibly be the first of many. I think he hopes not, but we shall see. I would like to give special thanks to Miriam Brett, our researcher, who provided me and my hon. Friend with a huge amount of useful information, which we used during the Committee.

Question put and agreed to.

Bill, as amended, accordingly to be reported.

2.50 pm

Committee rose.

Written evidence reported to the House

FB 21 Chartered Institute of Taxation further submission (clauses 63, 64, 65 and 67)

FB 22 Low Incomes Tax Reform Group further submission (clause 64)

FB 23 Low Incomes Tax Reform Group further submission (clause 63 and schedule 15)

FB 24 Low Incomes Tax Reform Group further submission (clauses 60 to 62)

FB 25 Unite

FB 26 An individual who wishes to remain anonymous