Vol. 730
No. 198

Tuesday
4 October 2011

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(HANSARD)

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OFFICIAL REPORT

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House of Lords

Tuesday, 4 October 2011.

2.30 pm

Prayers—read by the Lord Bishop of Oxford.

Health: Animal Testing
Question

2.36 pm

Asked By ***Lord Willis of Knaresborough***

To ask Her Majesty's Government what action they are taking to enable the appropriate use of animals in health-related research.

The Minister of State, Home Office (Lord Henley): My Lords, the coalition Government are committed to work to reduce the use of animals in scientific research through a science-led programme led by the National Centre for the Replacement, Refinement and Reduction of Animals in Research. Stringent safeguards are in place to ensure that animals are used only where there is no other way of achieving the desired results.

Lord Willis of Knaresborough: I thank the Minister for that helpful reply and in so doing declare an interest as the chairman of the Association of Medical Research Charities, whose members contribute over £1 billion a year to UK medical research. I wonder whether my noble friend agrees that if the UK wishes to remain a world leader in health and medical research, it requires its scientists to have access to good animal models that are well regulated and well cared for. If he agrees, what steps will he or the Government take on campaigns such as those led by Animal Aid, which tend to persuade the public that you can go straight to human trials rather than trial new devices and products through using animals? That is quite wrong and could be incredibly dangerous to the health of our research base.

Lord Henley: My Lords, I am grateful to my noble friend for his underlining of the fact that there have been some misleading claims put out by organisations such as those he referred to. We obviously want to avoid using animals wherever possible but I think we all accept that if we want the National Health Service and modern medicine as a whole to function effectively, it is essential that we can test on animals and that we make sure that the availability of medicines and treatments has been developed or validated through research, with the appropriate use of animals where it is right to do so. Again, I am grateful to my noble friend for what he has had to say.

Lord Wills: In the light of inevitable budgetary constraints, can the Minister tell the House what steps his department and the Government generally are taking to ensure that there will be adequate levels of inspection and regulation for animals used in scientific procedures? In answering that question, can he confirm whether his department is already planning an overall reduction in staffing to that end?

Lord Henley: Again, I am grateful to the noble Lord for that question. I am new to the department but in terms of the briefing I have received, I am satisfied that there is appropriate testing and licensing of the place where animal testing goes on, the people who do it and the projects involved. It is important that all three—place, person and project—are tested, examined and licensed appropriately to make sure that there is proper and appropriate use of animals in that case.

Lord Mackay of Clashfern: Does my noble friend consider that the present scope for medical research being undertaken by a single body, as seems to be proposed—I hope that it will ultimately come forward as a proposition—is a suitable occasion for reconsidering the arrangements for embryology involving animal and human embryos?

Lord Henley: My Lords, I would not want to be drawn down into the whole discussion about embryo research at this stage but I note what my noble and learned friend has to say. At the moment, the Home Office licenses research into animals in these matters and it does that job very well. As I made clear in earlier answers, the important thing is that we check up and license the persons, the places and the projects involved.

Lord Sutherland of Houndwood: My Lords, following the direction of questioning from my noble friend Lord Willis, what encouragement are the Government giving to public bodies in receipt of public funds for medical research to engage in educating the public on these matters? That is very important.

Lord Henley: The noble Lord's question says it in itself: the important thing is to get the message over to the public that it is very necessary that we do animal research where it is appropriate and that we make the proper leaps forward as are necessary. The Government will do their bit but we hope that everyone in the world of academe, the universities and elsewhere, will do their bit to make it clear that we will do what is necessary and that necessary research is being done.

Baroness Parminter: The new EU directive controlling animal experimentation sets standards for laboratory animals which are significantly lower than those that we have presently in the UK. Can the Minister confirm that when it is implemented in the UK our high standards for laboratory animals will not be dropped, given the impact that that would have on animal welfare, on science and on public confidence in scientific experimentation?

Lord Henley: I can give an absolute and categorical assurance that we will not be dropping our standards in any way whatever.

Lord Cunningham of Felling: My Lords, is it not clear that if we want to maintain the very highest levels of medical and scientific research in the United Kingdom—levels which are endorsed by the World Health Organisation, among others—we must continue with properly regulated but available animal research? I compliment the noble Lord, Lord Willis, for raising this question. If the National Institute for Medical Research, Cancer Research UK and others are to maintain the very highest level of research to the benefit of everyone, not just in the United Kingdom but internationally, this work must continue.

Lord Henley: My Lords, I think that the noble Lord speaks for the entire House. I endorse what he and my noble friend Lord Willis have said, along with others. We must continue to maintain the highest standards, both in terms of the licensing we do here and in making sure that we continue with research at the level that we do.

Lord Patel: I am sure the Minister is aware that the Academy of Medical Sciences produced a report on research on animals containing human material, which is an important part of research, and asked the Government to consider setting up a national body to regulate research on animals containing human material. Would he like to comment?

Lord Henley: I am grateful to the noble Lord for those remarks. That is something that we will be looking at in due course. I cannot comment at this stage.

Lord Taverne: My Lords, the committee set up by this House some years ago on the use of animals in scientific procedures observed, among other things, that the most bureaucratic controls are not necessarily the best controls of animal procedures, and there was some suggestion that there was too much bureaucratic control. Can the Government assure us that steps have been taken by the Home Office to make their procedures less bureaucratic?

Lord Henley: My Lords, I hope that they are not over-bureaucratic. As I have said, it is important that we look at and license three aspects: one, the place; two, the person; and three, the project. We will continue to do that as is appropriate. Obviously we will make sure that we are not imposing excessive burdens on any project as and when it should happen. We also want to make sure that the proper research continues in the appropriate manner.

Libya

Question

2.44 pm

Asked By ***Lord Empey***

To ask Her Majesty's Government what progress has been made in negotiations with the National Transitional Council in Libya to secure compensation for United Kingdom victims of armaments supplied to the IRA by the Gaddafi Government.

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): My Lords, as my right honourable friend the Prime Minister said on 5 September, we are clear that this will be an important bilateral issue between the United Kingdom and the new Libyan authorities. The National Transitional Council's chairman, Abdul Jalil, and Prime Minister Jibril have assured the Government that they will work with the UK to resolve bilateral issues arising from the wrongs of the Gaddafi regime.

Lord Empey: My Lords, I thank the Minister for that helpful response. The House will be well aware that the Gaddafi regime supplied boatloads of armaments to the IRA, in particular Semtex explosive, which was responsible for the death and injury of thousands of United Kingdom citizens, as well as the destruction of many properties at enormous cost to the taxpayer. I believe that what is required now is a vigorous and determined approach by the Government to ensure that this matter is resolved, and that United Kingdom citizens who have suffered as a direct result of what was nothing short of an act of war by the then Libyan regime can be properly compensated for the suffering they have endured.

Lord Howell of Guildford: The noble Lord is quite right. I am personally well aware of the damage and horror caused. Our top priority at this moment is to ensure that Libya completes its transition to having an inclusive, stable and democratic Government. However, these matters lie just ahead and we will certainly give full support through the FCO-led unit, which was very helpfully set up by the previous Government to support the campaign for reconciliation and compensation in Northern Ireland.

Lord Alderdice: My Lords, I pay tribute to the noble Lord, Lord Brennan, and Mr Jason McCue for their work in pressing the previous Government to establish the unit to which my noble friend referred. May I seek the Minister's reassurance that that unit will continue to operate, and that the benefits that were being negotiated—not only the victims' compensation but benefits for the United Kingdom and its taxpayers more broadly—will continue to be pressed for? Will the current moves by the United States Government to ensure that unfrozen assets from Libya are used to compensate United States citizens mean that those benefits accrue solely on the other side of Atlantic, or will they also be available to the United Kingdom Government and citizens for what they have suffered?

Lord Howell of Guildford: Yes, I can assure my noble friend that all those matters are under close consideration. As he knows, the Government—under the previous Government and in the immediate future—are not negotiating directly with Libya. That reflects the view that the greatest chance of success is for the victims and their families to engage the Libyan

Government directly, with the support of HMG. However, we will certainly take all my noble friend's points into account.

Lord Davies of Coity: My Lords, will the Minister advise the House of the extent to which the National Transitional Council in Libya is influenced by tribalism? To what extent will that impact on the negotiations in respect of Northern Ireland?

Lord Howell of Guildford: It is always difficult to make a precise judgment. However, all the evidence that we have is that the priorities of the National Transitional Council are to complete the liberation, to be even-handed, to avoid any pandering to extremism, and to be highly co-operative with the United Kingdom Government in dealing with these matters. That is all the reassurance that I can really give.

Lord Hamilton of Epsom: My Lords, it was rumoured in the press that the murderer of PC Yvonne Fletcher was killed in the conflict. Can the Minister confirm that?

Lord Howell of Guildford: I am sorry; I did not hear my noble friend's first words.

Lord Hamilton of Epsom: I asked about the murderer of PC Yvonne Fletcher.

Lord Howell of Guildford: I can tell my noble friend that of course we want to see justice for WPC Fletcher, her family, friends and colleagues. The Metropolitan Police are determined to bring this investigation to a close. That is a priority and we regard it as a key element in the UK's future relations with Libya. Prime Minister Jibril has personally assured my right honourable friend the Prime Minister of the new Libyan authority's intention to co-operate fully with this investigation. I hope that answers my noble friend's question.

Lord Browne of Belmont: My Lords, will the Minister apprise the House of the present standing of the memorandum of understanding signed in Benghazi by the NTC representatives? I also take this opportunity to thank the Foreign Office for all the help that it has given the victims' families, their legal representatives and members of the Democratic Unionist Party who took part in the initial negotiations in Libya.

Lord Howell of Guildford: I can advise the noble Lord that all the undertakings and understandings that have been signed with the NTC are the basis of future work. I cannot give him any guarantees on how exactly this is going to work out and at what speed. I can only repeat, as I said at the beginning, that we regard this as a high priority and we are getting full support and co-operation from the NTC in dealing with what might be described as all the legacy issues, two of which, which are of great importance, we have just discussed in the past few minutes.

Lord Swinfen: My Lords, what is the most recent shipment of arms from the Gaddafi regime in Libya to Northern Ireland of which the Government are aware?

Lord Howell of Guildford: I do not know. I will have to find out.

Statues

Question

2.51 pm

Asked By ***Lord Sheldon***

To ask Her Majesty's Government what powers they have with regard to the siting of statues in central London.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): My Lords, proposals to erect statues in central London require planning permission from the local planning authority. Under Section 5 of the Public Statues (Metropolis) Act 1854 the consent of the Secretary of State for Culture, Media and Sport is also necessary. In practice, that consent is given automatically if planning permission has been granted, and the Government intend to repeal that provision of the Act as soon as suitable legislation is available.

Lord Sheldon: My Lords, I thank the noble Baroness for that reply. In Westminster, there are more than 300 statues and monuments and half of them are listed because of special architectural or historic interest. Planning permission is obtained from the Secretary of State for Culture, Media and Sport. There is an increasing number of statues, some of which have little interest. Should there not be a limited acceptance of such statues?

Baroness Hanham: My Lords, I am bound to say that they must have been of interest to somebody. Most statues are erected in the city by virtue of public subscription, when somebody has had a great idea about who should be honoured and who should not. The governance of whether a statue is allowed to be erected falls frankly within the remit of the local authority. If it is not satisfied that a statue is suitable either for the authority or in general, it would be able to refuse it. However, we have very many statues honouring a whole lot of people, and I guess that a lot of people in this House would not know half of them.

Lord Howe of Aberavon: Is my noble friend aware of the importance of the point made in the Question for a wider appraisal of the location of such statues? In particular, does she recall that the statue of the French war leader, de Gaulle, is rather surprisingly but historically well located outside the headquarters of the French resistance movement in Carlton Gardens and that the statue of the Welsh war leader, Lloyd George, is equally well located alongside the other war leader Winston Churchill on a high plinth in this corner of Parliament Square? Is it not therefore rather

[Lord Howe of Aberavon]
sad that the admirable statue of the African leader, Nelson Mandela, is on a very modest plinth in the far corner of Parliament Square when it might be better located on a tall plinth outside South Africa House?

Baroness Hanham: My Lords, frankly, I am not sure how to answer that question, because I imagine the selection of the site was the responsibility either of the people who raised the subscription for the statue or, indeed, was dictated by the local authority. Where these statues are put is not a matter for government. It is something which we would approve, but it is not absolutely a matter in which we would have a direct influence in where they are sited. If that is not the correct answer, I will let my noble and learned friend know.

Lord Lloyd of Berwick: Does the noble Baroness agree that statues or monuments erected in or near Horse Guards Parade should, if possible, be reserved for those who have fought for their country?

Baroness Hanham: My Lords, that would seem to be a very sensible proposal and I shall make sure that it is recorded.

Lord Howarth of Newport: My Lords, has it not been the practice historically to raise money by way of public subscription to pay for statues in central London of our country's great statesmen? Which members of the coalition Cabinet does the Minister think the country will be most enthusiastic in due course to honour in this way?

Baroness Hanham: My Lords, I think we will require an enormous amount of land. I would not want to single out anyone, and I would expect them all to be so honoured.

Baroness Trumpington: My Lords, when will it be possible for the general public to view the already sited statues in Parliament Square, which they cannot do at the moment?

Baroness Hanham: Well, my Lords, I love being able to shift responsibility. Trafalgar Square is entirely the responsibility of the Mayor for London.

Noble Lords: Parliament Square!

Baroness Hanham: Oh, Parliament Square. I cannot shift that responsibility; I fully understand. The works out there are continuing and, as the noble Baroness knows, there has been a lot of discussion about that area. I hope that in the not too distant future, we will be able to see the statues adequately.

Baroness Randerson: Does my noble friend agree that to overcome the lack of interest to which the noble Lord referred in his Question and to increase the sense of identity that the public feel with their cultural surroundings, including statues, local authorities should always be encouraged to seek the views of the local population before embarking on such projects?

Baroness Hanham: Local authorities' responsibility is to give planning permission. They have a responsibility to consult on any application they receive so, almost without exception, they will have to seek the views of local people as to both the siting and the appropriateness of any statute being erected in their borough.

Lord Rooker: Given the current high level of thefts from public buildings and railway lines of materials and metal for export, can the Minister reassure us that all the statues to which she referred are properly secured—microchipped—so that if anyone tries any tricks to take them away, cut them up and export them, we will know about it before it happens?

Baroness Hanham: No, my Lords, I cannot give that assurance. I have not the slightest idea whether they are all microchipped. I will endeavour to find out. It is a very serious question: theft of copper is now prevalent because it commands a high price. If I can find out what secures the statues, I shall do so, and I will write to the noble Lord.

Lord Brooke of Sutton Mandeville: My Lords, is my noble friend aware that anyone proposing to put up a statue has also to provide a capital dowry to ensure that it is subsequently maintained? Does she not think that that of itself must concentrate the minds of those who propose to put up statues?

Baroness Hanham: I am very grateful to my noble friend for that addition. It is a fact that all statues have to have maintenance and dowry money and that people are responsible for that. It is undoubtedly true that that concentrates minds wonderfully.

Economy: Capital Expenditure

Question

2.58 pm

Asked by ***Lord Barnett***

To ask Her Majesty's Government, following announcements by the Deputy Prime Minister on capital expenditure programmes, what consideration they are giving to increasing capital expenditure beyond the amounts included in the Chancellor's deficit reduction plan.

The Commercial Secretary to the Treasury (Lord Sassoon): My Lords, the Government are sticking to the spending plans set out in the 2010 spending review. Within this, however, we have been able to fund additional, targeted capital expenditure from otherwise unspent funds. This includes £500 million for the Growing Places initiative and £250 million on broadband access and support for world-leading computer technology.

Lord Barnett: I am sure that that will not please Nick too much. My Question asks whether any money has been spent beyond the deficit plan: the answer is clearly no. In any case, the hundreds of millions of pounds which I am happy to see was found in Manchester will surely be overshadowed by the IMF results, which recently forecast that growth of our economy will be not much more than 1 per cent. That in turn will lead to a much higher rather than lower deficit. Indeed, as I am sure the Minister is aware, the *Financial Times* recently forecast, based on OBR methodology, that the deficit will be £12 billion higher than previously thought. In those circumstances, will the Minister tell us the Treasury's estimate of the deficit at the end of the five-year term?

Lord Sassoon: My Lords, as the noble Lord, Lord Barnett, knows very well, we have set up the Office of Budget Responsibility to keep track of all the forecast numbers and we will get its update later in the autumn. The critical point is, as my right honourable friend the Prime Minister said at the weekend, we are spending over £3 trillion of public money in four years and we are not going to wreck what we now have in a very low interest-rate environment for the sake of spending a few more billion. We will stick to our spending plans.

Lord Bilimoria: My Lords, does the Minister agree that although we need to cut public expenditure there is a very strong case for increasing capital expenditure in these austere times to create jobs and, as the noble Lord, Lord Barnett said, to create growth? Furthermore, will the Government explain what they are doing to incentivise and facilitate the private sector to invest in infrastructure once again to create jobs and desperately needed growth?

Lord Sassoon: I very much agree with the noble Lord. That is why in the spending review last autumn we increased the amount of capital spend every year, up to £2.3 billion extra in the final year of the period. That is why we are spending £30 billion on transport—one of the most economically enhancing areas of spend and more than was spent in the previous four years. In the private sector, we are ruthlessly attacking the planning system that is so costly and so time-consuming when people want to put infrastructure in. That is why we are making sure that all the market structures, such as in energy, are conducive to the new infrastructure spend we need. That is why we are looking at the whole area of regulation around infrastructure, because I completely agree with him—70 per cent of the economic infrastructure is going to come from the private sector and we are working to make sure that that money flows.

Lord Forsyth of Drumlean: My Lords, would my noble friend like to think about terminology? Given that the deficit and the debt are two different things, should we not be talking more about the debt and less about the deficit? The deficit is simply the rate at which the debt is growing and I believe many people in the country think when we talk about cutting the deficit that we are reducing the country's indebtedness, whereas all we are doing is reducing the rate at which it is growing. If people understood that, perhaps we would have fewer people arguing for additional public expenditure when we simply cannot afford the commitments we already have.

Lord Sassoon: I am grateful to my noble friend because the second of our two fiscal targets—namely, to put public sector net debt on a falling trajectory by 2015-16—is extremely important. He is quite right that we have to look at the total stock of debt and its trajectory as well as the deficit.

Lord Peston: When will the Government recognise that the present dire state of the economy is attributable overwhelmingly to their own stupid policies?

Noble Lords: Oh!

Lord Peston: Is it not about time that the Government apologised to the British people for what they are doing and accepted responsibility for it?

Lord Sassoon: It will not surprise the noble Lord if I completely disagree with that. The state of the economy today is largely a result of the debt-fuelled boom with its unregulated banks that was allowed to go on for 10 years and more under the previous Government. We have inherited a dire situation and the first thing we have to do is to get the deficit under control. That we are doing but within that, as I have explained, one of things we are prioritising is infrastructure expenditure.

Lord Newby: My Lords, if we are to increase infrastructure expenditure it is clear that a lot of that funding is going to have to come from the private sector, as the noble Lord has already said. Given that, can he confirm reports in the press last week that the Treasury is actively considering new structures that would encourage pension funds and other institutional investors to invest a lot more in infrastructure in the UK than they have in recent decades?

Lord Sassoon: I am happy to assure my noble friend that we are thinking of every avenue to unlock flows of funds, whether they are from institutions in this country or abroad. I was in Canada two weeks ago, where some of the longest-term and largest investors in our infrastructure are based. We talk to investors all the time to see what more, if anything, they need from government to facilitate that flow of investment.

Lord Wigley: My Lords—

Lord Eatwell: My Lords, the other cunning plan that the Government put forward, announced by the Chancellor, was the expenditure of billions—his word—on credit easing for small and medium-sized firms. What is the Treasury's estimate of the impact on the deficit of the inevitable default rate associated with this programme?

Lord Sassoon: I had to look back at the Question for this afternoon, which is about capital expenditure. Although this has nothing directly to do with capital expenditure, it is critical that we make sure that credit flows to the businesses of this country. What my right honourable friend the Chancellor was talking about yesterday was making sure that we examine every avenue possible to ensure that that credit continues to flow.

Armed Forces Bill

Report

3.06 pm

Clause 2 : Armed forces covenant report

Amendment 1

Moved by ***Lord Craig of Radley***

1: Clause 2, page 2, line 3, leave out from "section" to "Armed" in line 4 and insert "340 of AFA 2006 insert—

"PART 14A

Armed Forces Covenant

340A"

Lord Craig of Radley: My Lords, the noble Lord, Lord Wallace of Saltaire—

Baroness Anelay of St Johns: My Lords, I know that the House is interested in hearing from the noble and gallant Lord, Lord Craig of Radley, on an important amendment, and I invite noble Lords to leave the Chamber quietly so that he may begin to move his amendment.

Lord Craig of Radley: My Lords, I thank the government Chief Whip. The noble Lord, Lord Wallace of Saltaire, winding up the Second Reading debate on this Bill and the noble Lord, Lord Astor, in a letter to me during the Summer Recess both agreed that it was inappropriate to insert the new section that appears in Clause 2 of this Bill after Section 359 in the 2006 Act because Section 359 dealt with pardons for servicemen executed for disciplinary offences in World War I. I had suggested at Second Reading that the new section in Clause 2 would be better placed in Part 14, which has the collective title "Enlistment, Terms of service etc", relying on the "etc" to accommodate the new section. Part 14 heads the second group of parts in the 2006 Act.

However, in Committee the noble Lord, Lord Astor of Hever, retracted his acceptance and averred that no relationship is implied by that positioning in the Act. I sensed, and in a letter to me the Minister has confirmed, that government business managers are anxious to avoid returning the Bill to another place. It—or at least Clause 1—has to be given Royal Assent by 8 November, otherwise all three Armed Forces will have to be declared redundant. That will not happen, I am certain.

Bringing the Report and Third Reading dates forward is tacit admission by government business managers that improvements to the Bill, and particularly the issues addressed in the next and other amendments, are called for, and so more time is now available to get the Bill right.

I would hope to avoid further time and argument in favour of my new amendment if the Minister would indicate agreement for tabling the changes that I propose for Third Reading. Need I do more than remind him and the House of the strength of support for incorporating the covenant into legislation expressed by Mr Cameron? For example, quoting from the No. 10 website, he said:

"Our service personnel make an extraordinary contribution to British life … So all of us—the Government, the private sector, and the voluntary organisations—need to go the extra mile for them".

He also said:

"The high esteem we all have for our armed forces will soon be given the recognition it deserves—as part of the law of the land".

That is but one of the many supporting statements made by the Prime Minister and the Secretary of State for Defence about incorporating the covenant into statute. Surely the covenant must be given greater prominence in the revised 2006 Act, as my amendment proposes. It seems both mean and hypocritical to speak so strongly of support for the covenant and then to park the single statutory reference to it at the tail end of the 2006 Act and a group of miscellaneous sections that wind up the end of Part 17 of the second group of parts also entitled "Miscellaneous".

Is not the covenant worthy of more than that, worthy of its own part in the revised 2006 Act? I hope that on reflection, and given the need to improve the wording and thrust of Clause 2, the Minister will agree to table an amendment at Third Reading. If not, I fear that all the Minister's briefs are headed, "Resist" as the Government seek to steamroller this Bill through without having to return it to the Commons. Surely on a Bill of this non-partisan nature, and with the opportunity to review and revise the Armed Forces Act only once every five years, the Government must take note and accept the need for some revision of the Bill as it now stands. To resist every amendment negates all the praise and support that they say they have for the Armed Forces. Are the Government so insensitive to the needs of the forces, whose morale is reputedly shaken thanks to recent cutbacks, enforced redundancies and insensitive handling of personnel issues? The Armed Forces have performed their role with great valour and commitment on long-duration operations. Surely business managers can be less po-faced and will find the very limited time necessary to revise some details of the Bill, and get it right for the next five years. I beg to move.

Lord Touhig: My Lords, much has been said on Second Reading and in Committee about the matters which should be included in the Secretary of State's annual report on the covenant. We have also looked at the question of auditing the operation of the covenant. Amendment 2, in my name, seeks to address these matters.

A great deal has been said about the role of the covenant reference group and I want to build on the responsibilities of the group by ensuring that it is given ample notice of the matters that the Secretary of

State wishes to include in his annual report. I believe that that can be best done by the Secretary of State publishing the list of matters to be included in plenty of time. The covenant reference group should then be given time to consider the list and add to it if it thinks it right to do so. The Secretary of State should then be obliged to report on the additional matters referred to him by the group.

I have no doubt about the good intentions of the Secretary of State in coming forward with a proposal for an annual report but for that report to be credible, there must be an opportunity for matters other than those that the Secretary of State thinks should be included to be put into the report. My proposal is modest and there is a precedent for it. As a former member of the Public Accounts Committee in the other place, I recall that each year the Comptroller and Auditor-General, on behalf of the National Audit Office, would draw up a list of investigations that he intended to carry out in the year. That would then be submitted to the Public Accounts Committee, which would have the opportunity to comment, amend or add to the list of inquiries that the Comptroller and Auditor-General would wish to investigate.

My amendment does not represent a major change to the Bill and I feel sure that if the Government reflect on it, they will see it is a step forward to greater participation and involvement of those most interested and concerned about the welfare of our serving men and women and our veterans.

We also hear a great deal these days about transparency in public life and my amendment underpins that. Involving the covenant reference group in the way that I am suggesting will act as a form of audit for the Government which would benefit us all and certainly answer a number of the concerns that several noble Lords have expressed during Second Reading and in Committee.

3.15 pm

Lord Rosser: My Lords, I have two amendments in this group, Amendments 4 and 11. I thank the Minister for his letter of 15 September 2011 following the last discussion we had on the Armed Forces Bill. However, I would also like to express my concern about the last paragraph on the first page of that letter. It says:

"There is however a significant question over the best way of meeting these objectives. It is, of course, our practice in the House to table amendments in order to ensure that issues are properly debated and addressed. That does not mean that it is always appropriate to resolve those issues through changes to legislation. In this case, in order to avoid legislation which is overly prescriptive and to ensure that the Bill completes its Parliamentary stages in a timely fashion, I think we must look very carefully at whether we can achieve our aims by other means."

This Bill has not been delayed by anyone other than the Government, who were forced to rethink their stance in relation to the Armed Forces covenant and the report in the Bill. The desire of a Government to ensure that a Bill completes its parliamentary stages in accordance with their own hoped-for timetable can hardly be regarded as a good reason for not accepting constructive and appropriate amendments, which is what the Minister's letter, to which I have referred, appears to be seeking to say.

In Committee, I put forward an amendment providing for a more comprehensive list of subjects to be addressed in the annual report than is provided for in the Bill, which refers only to healthcare, education and housing. Whether any other issues are covered in the report is ultimately entirely a matter for the Secretary of State to determine—not just the current Secretary of State, but any future Secretary of State of whatever political colour. Thus an opportunity is provided, which one hopes would not be taken, but could be taken, for any Secretary of State to sideline some other important issues which were proving awkward or contentious. In rejecting the amendment in Committee, the Minister said that even if a longer list captured everything today, it would be out of date tomorrow and that it would be better to stick with the short list of three headings in the Bill, leaving it to the Secretary of State to exercise his discretion on what else to cover.

The Minister also rejected a further amendment I put forward in Committee which would have required the Secretary of State to publish the observations of the reference group. In doing so, he repeated what the Secretary of State had said earlier this year—that he would publish the observations of non-government members of the external reference group alongside the report. The Minister went on to say that given that clear commitment, there was no need to include it in the legislation.

My Amendment 4, which is not dissimilar in its objectives from Amendment 2 in the name of my noble friend Lord Touhig, to which he has just spoken, provides for any comments which the covenant reference group may wish to make on the Armed Forces covenant report to be included in that report. With the Secretary of State being able to decide whether anything else apart from healthcare, accommodation and housing should be included in the report, and the Minister declining to extend that list, a safeguard needs to be written in to the Bill. The matter should not depend on the word of one Secretary of State. The comments, in full and without any editing or summarising, of the covenant reference group on the Secretary of State's report should be made public and thus open to debate and discussion in the same way as the Secretary of State's report. To say that on a matter of this importance, and on an issue that the Government did not initially want to be in the Bill, that an undertaking from one Secretary of State is sufficient is not adequate or appropriate, particularly since the covenant reference group will provide the only form of independent audit of issues relating to the covenant.

The Minister rejected my amendment for a longer list of issues to be covered in the Secretary of State's report on the basis that my additional items, unlike healthcare, education and housing, which the Government are including in the Bill to be covered in the report, would not be "enduring topics". I assume that the Government's intention is that the work of the covenant reference group, including its comments on the annual Armed Forces covenant report, will also be "enduring" and thus ought to be regarded in the same way as healthcare, education and housing, and included in the Bill.

[LORD ROSSER]

Amendment 11 provides that the parliamentary and local government ombudsmen should have a duty to investigate complaints from service personnel, veterans and their families that a public body or local authority has failed to meet commitments outlined in the *Armed Forces Covenant* and in the other document, the *Armed Forces Covenant: Today and Tomorrow*. In his letter of 15 September, the Minister said that the Secretary of State would have regard to the full range of topics identified in the *Armed Forces Covenant*, published in May this year.

I moved an amendment in Committee that was slightly different from the one we are debating today. In rejecting it, the Minister paid tribute to the work of both the parliamentary and local government ombudsmen, acknowledged that they could do much to help members of the Armed Forces community, and said that we should do more to make service personnel aware of how the ombudsmen can help them. I agree. One clear way of making service personnel aware of this is by including in the Bill this aspect of their role in respect of complaints that a public body or local authority has failed to meet its commitments in relation to the covenant. In Committee, the Minister commented that the scope of the amendment was limited to service personnel and excluded family members and veterans. This amendment includes veterans and families and I hope that it will receive a more favourable response from the Minister.

The amendments in this group cover a number of issues that no doubt will be addressed later in the debate, including a requirement for the Secretary of State, when preparing the Armed Forces covenant report, to have regard to the responsibilities that the Armed Forces have towards minors, and also for the Secretary of State to commission research into healthcare issues affecting servicepeople. I understand that it has been agreed through the usual channels that any vote should take place at Third Reading rather than on Report today because of the clash with the Conservative Party conference. However, I hope that that fact will not prevent the Minister giving helpful and supportive responses on the issues raised in my amendments and in the others that are part of the group.

Lord Williams of Elvel: My noble friend has made the extraordinary statement that it has been agreed between the usual channels that votes should be taken not on Report but at Third Reading. There is clear guidance in the *Companion to the Standing Orders* that matters that are decided or fully debated on Report or earlier should not be raised at Third Reading. Perhaps the government Chief Whip, or whoever is in charge of government business, will illuminate us on this extraordinary procedure.

Lord Ramsbotham: My Lords, I have put my name to Amendment 1, tabled by my noble and gallant friend Lord Craig, because it has underneath it the word "trust", which I have mentioned on more than one occasion in connection with this Bill, in particular with what is called the Armed Forces covenant.

When I was serving, the Armed Forces covenant did not exist. The regiment that I joined had an ethos, as I have mentioned before, that was laid down by my ancestor Sir John Moore of Corunna, that there should be a mutual bond of trust and affection between all ranks, which the officers had to earn. That mutual bond of trust was not unique to my regiment or indeed to the Army, but was very much a key element of every single military organisation, because without that trust, from top to bottom and from bottom to top, organisations that are called upon to go to war simply cannot exist. Therefore, whenever the word "trust" comes up in connection with trust having been broken in the military connection, one must be very concerned.

Like many other noble Lords, I am sure, I was extremely concerned when I saw the headline in the *Daily Telegraph* last week,

> "Fox blames Forces chiefs for black hole",

in which it was quoted that he had said that there had been,

> "a 'complete breakdown of trust' between them—

the forces chiefs—

> "and Whitehall, worsening the already fractious relationship between defence chiefs and politicians",

on which a senior military source commented:

> "To say that we are speechless after these comments is a mild understatement. It is quite staggering. What this Government fails to understand is that the military has been running very, very hot fighting the politicians' campaigns in Iraq, Afghanistan and now Libya. If there was no breakdown in trust before, there is now".

He was referring to the Secretary of State's earlier failure to overturn the disgraceful traduction of two senior officers, General Sir Sam Cowan and Air Chief Marshal Sir Malcolm Pledger, for allegedly introducing defence cuts that contributed to the loss of a Nimrod over Afghanistan, whereas the noble Lord, Lord Browne, the previous Defence Secretary, said in this House that it was Ministers who laid down such cuts. Then there was the discussion over the defence review. Then only last week the noble Lord, Lord Lee, raised the question of the sudden cancellation by the Secretary of State of money being spent on housing for both single servicemen and families. Therefore, if the Armed Forces covenant is an expression of the public response to the services putting their lives on the line, it is desperately important that one should have trust that the covenant will be observed.

Therefore, it seems very important that the position of the covenant is enshrined in this Bill and it is very disappointing to find, with regard to Clause 2, that it is not actually the Government or the Ministry of Defence but business managers, allegedly in this House, who are preventing a very small amendment being made to the Bill that could easily be made if there was a will to do it. I suggest, therefore, that on behalf of the people who have to work in defence, the business managers in this House think again when they say that they cannot get this amendment through before 7 November. There is no connection between this and any other clauses, and it would not interrupt the Bill or cause any problems. It is clarification, and would separate the Armed Forces covenant, on which so much stock should be put, from a clause that is to do with those who were executed for cowardice in the Great War. I hope that the Government will accept

that it is desperately important that they do all they can to increase trust in the covenant. This is one way of showing that they regard it as being very important.

3.30 pm

Lord Newton of Braintree: My Lords, I can hardly claim to be an aficionado of this legislation or an expert on military matters, so I had better confess that I am performing my now familiar role as a free radical on the government Benches. I pricked up my ears at the reference made by the noble Lord who spoke to Amendment 11 to the possible role of ombudsmen in relation to servicemen's grievances and the fact that housing is one of the issues which everyone accepts should be in the Bill.

Not only is the Parliamentary Ombudsman subject to a filter—an MP filter; so is the Local Government Ombudsman, who at the moment is subject to a local councillor filter. However, no mention was made of the Housing Ombudsman. There is a proposal in the Localism Bill that the Housing Ombudsman, for which at present there is no filter, should be subject to a combined or joint filter of MPs, councillors and tenants' panels, not a direct right of access. That proposal has been the subject of some protest from us, me included, and is currently under review. I am hopeful that there may be change. However, at the moment, that is the situation. Will the Minister explain the relationship between what is proposed in this Bill, what is proposed in the noble Lord's amendment, and what is proposed in the Localism Bill? Is there any coherence, and does the Localism Bill as it stands affect servicemen's rights in respect of housing complaints?

Baroness Drake: My Lords, I shall speak to Amendment 5 to put the case that the Secretary of State, in preparing the military covenant report, should have regard to the responsibilities the Armed Forces carry towards those who enlist as minors,

"including ensuring their adequate education".

This amendment acknowledges some of the points made by the Minister in response to my noble friend Lord Judd, who made such a persuasive contribution in Committee, but holds to the case for a statement on minors in the covenant report. When nearly 30 per cent of Army recruits are minors, this places on the Armed Forces a duty of care towards those young people and makes a compelling case for the position of minors to be addressed in the covenant report. Thirty per cent is a sizeable figure and reflects a sizeable dependence on young recruits.

The armed services can give young people a tremendous opportunity to make a success of their lives, but adequate attention must be given to their long-term needs. These young people, many of whom are drawn from disadvantaged backgrounds with few prospects, seek an opportunity to improve their lives. It is young people of precisely this profile who the Government are targeting in their strategies to improve social mobility and educational achievement. The Government's response to the Wolf report on vocational education and the Cabinet report on social mobility, *Opening Doors, Breaking Barriers*, recognise the crucial importance of ensuring that all young people achieve minimum standards of education and training. These goals are shared across government and are not controversial, and I am sure that the Ministry of Defence aspires to meet these standards for its young recruits.

The Army Foundation College at Harrogate accounts for 55 per cent of minors enlisting in the armed services. Many knowledgeable noble Lords have confirmed in debate that much good work with young people takes place there, and I hope one day I may get the opportunity to visit. However, the Ministry of Defence has stated quite clearly that it does not at present keep any comprehensive record of the qualifications achieved by minors while in service. The Minister, Andrew Robathan, has confirmed in the other place that that college is non-academic and teenage recruits training at Harrogate do not study for GCSEs or, as I understand it, any accredited trade. Recruits at Harrogate do not study vocational apprenticeships or gain vocational qualifications in, for example, plumbing, mechanics, electronics, carpentry, construction or similar trades.

The young recruits undertake vocational training designed to enable them to prepare for military training and their Armed Forces role. They have the opportunity to attain qualifications in English, numeracy and the European Computer Driving Licence—a skill certificate that, I accept, is intended to be transferable. Numeracy and literacy training is essential for those with very low levels of educational attainment, a position in which many recruits may be in. However, it is important to raise the aspirations and increase the skill levels of all recruits. Many disadvantaged young recruits will not make the successful transition back to civilian employment without accredited vocational or educational qualifications. Specialised military training is of course very important. If I may state the obvious, an army has to be trained, but such training alone is not sufficient to prepare a young person for a lifetime of continued employment. The average length of service for infantry soldiers who enlist as minors is just 10 years, so by the age of 26 or 27, these young men and women will be looking for jobs elsewhere, with some 40 years of working life ahead of them.

While their Armed Forces training will undoubtedly have instilled in them discipline, determination, teamworking and all manner of positive personal attributes, these alone are not enough. Jobseekers need training and qualifications, and ex-soldiers are no exception. This is particularly so when studies reveal that the unemployment rate in the ex-service community can be significantly above national unemployment rates. To be a route to social mobility for young people from disadvantaged backgrounds, in the future the Armed Forces need to keep pace with the accredited educational or vocational standards aspired to for all young people, which they will need when they return to the civilian workforce. A true route for social mobility allows these young people to overcome their disadvantage both while in the Army and in subsequent employment. If they are prepared to fight for us, we owe them that.

While there is a focus on military training, it would benefit both young recruits and the Armed Forces if the career entrance path for minors had an accredited vocational training and educational emphasis until

[Baroness Drake]
they reach 18. I take the point made by my noble friend Lady Dean in Committee that there is a need to be sensitive with young recruits who have little or no experience of someone encouraging them and who have few positive experiences of education. They will not want to feel that they are going back to school, and the noble Baroness is clearly right. However, they, too, should have the opportunity to achieve vocational qualifications.

Most infantry recruits come from areas of high unemployment and inner cities, and when they leave they may well go back to the same environment that they tried to escape by joining the Army. The Ministry of Defence has a responsibility to progress these young people, to train and educate them to an accredited standard and to raise their aspirations and change their horizons for when they leave the Armed Forces.

However, it is not sufficient to make these points in debate. This Bill gives us the opportunity to place on the Minister a responsibility to have regard to meeting responsibilities to minors and to their adequate training when producing the covenant report. In Committee, the noble Lord, Lord De Mauley, referred to the guidance accompanying the Armed Forces covenant, published on 16 May, which states:

"Special account must be taken of the needs of those under 18 years of age".

But that is guidance. There should be an explicit provision in the Bill to the effect that the Secretary of State must have regard to this matter in preparing the report. It should not be subject to discretion.

In Committee, the noble Lord, Lord De Mauley, when responding to the amendment moved by my noble friend Lord Judd, which covered similar ground, commented on the complexity of the amendment in that it would oblige the MoD to treat those who joined under the age of 18 as a separate category throughout their service and perhaps even throughout their lives.

This amendment is much simpler. It gives greater discretion to the Secretary of State and refers more succinctly to Secretary of State having regard to the Armed Forces' additional responsibilities towards those who enlist as minors in producing the covenant report.

The Bill as drafted already provides for the Secretary of State's report to cover education. This amendment would extend that provision to require that part of the report explicitly to cover the delivery of adequate training and education to minors. A covenant report on these matters can provide confidence that additional responsibilities towards young recruits are being met. It is easy to forget that young recruits are none the less children.

My father spent his life working for the MoD on safety systems on fighting ships. I grew up in a home that respected the Armed Forces. Conflicts such as the Falklands were only too real an experience for him, which I saw and could understand.

This amendment supports, not undermines, our Armed Forces. It makes sense to nurture and monitor continuously all our young recruits, both in their interest and the national interest.

Lord Judd: My Lords, I support most warmly my noble friend Lady Drake. I am delighted that there is so much agreement on all sides of the House about the importance of the covenant. It seems to me—and the noble Lord, Lord Ramsbotham, underlined it very well—that if we have a covenant, it must be a meaningful one, with muscle. If it comes to be seen over history as simply a formal position with a formal annual report, it will be insulting to our military services.

Our amendment is about minors and the young. I think that all of us must feel very concerned about the implications of entering the services under the age of 18 and what it means for the young person concerned. Therefore, the specific reassurances from the Minister that every youngster would have a serious opportunity at the age of 18 to reconsider their commitment to the services and make quite sure that they wanted to go forward with that service was good to have, and I am sure that he means it. If we could find some way of putting that into black and white so that everybody understands it as a requirement and not just as something that is there, it would be important.

In Committee, concern was expressed by noble Lords on all sides of the House—noble Lords for whom I have great respect—that we should acknowledge the superb work being done by dedicated staff at Harrogate with youngsters under the age of 18. I want to make it perfectly clear that I have nothing but admiration for what is done with the youngsters who are at Harrogate. I have great respect for the sincerity and commitment of those working with them.

Our amendment is therefore not in any way to criticise that work, but to say that we must build on it. What motivates both my noble friend Lady Drake and me is that it serves the young extremely badly if they are encouraged to take a career in the services and then find when they leave them that they are at a growing disadvantage compared to other young people in seeking employment and following a career.

There is now great concern on all sides of the House about the vocational educational opportunities with recognised qualifications that should be available for all young people. All young people should be encouraged to get some sort of vocational qualification. What is wrong with the present system at Harrogate is no fault of the dedicated staff, but the provision is not there. We have no such arrangements to ensure that young people who join the services under 18 will be able to leave holding their heads high, with professional qualifications—vocational or whatever—every bit as good as anybody who has not undertaken service in the Army.

3.45 pm

Specialised educational training alone is not sufficient to prepare a young person for a lifetime of continued employment. This lack of transferable qualifications would not matter if young soldiers never left the armed services, but that is not the case. Every young recruit will eventually retire from the Armed Forces, and most will be of an age when they need to seek further civilian employment. In fact, the average length of service for infantry soldiers who enlisted as minors is just 10 years. For many, it is significantly less. This

means that by the age of 26 or 27 these young men and women will be looking for jobs with some 40 years of working life ahead of them. While their Armed Forces training will usually have instilled in them discipline, determination and all manner of personal and positive attributes, these on their own are not enough.

All jobseekers need education and qualifications, and ex-soldiers are no exception. Indeed, in 2008 the Committee of Public Accounts found that 11 per cent of service personnel left the Armed Forces with no qualifications at all. Exactly the same number, 11 per cent, had joined with no qualifications. Some 18 per cent of service leavers have stated that their military service had not helped them in gaining substitute employment. Indeed, an investigation by the British Legion found that the unemployment rate in 18 to 49 year-olds in the ex-service community was twice the national unemployment rate for the same age group. This demonstrates a serious failing to consider the long-term needs of service personnel and to prepare them adequately for life after discharge.

Many have argued that the Armed Forces are a vehicle for social mobility for young people from disadvantaged backgrounds. This will palpably not be the case if in future the Armed Forces fail to keep pace with the rising educational standards expected of all young people. The Armed Forces should surely be leaders in the fields of education and training. If this does not happen, young Armed Forces recruits could increasingly become an educational underclass. This is not what our soldiers deserve.

To conclude, the educational standards for minors in the Armed Forces are essential, but this is not the only concern. As I said in Committee on 6 September, there are also serious and long-standing concerns regarding the general welfare and mental health of soldiers who enlist while still very young. Over the past decade, male soldiers aged 19 and below had a suicide rate almost 50 per cent higher than among equivalent males in the general population. That should not be brushed under the carpet and ignored. If the Ministry of Defence is serious about the welfare of Armed Forces personnel—I believe that it is—then it must examine such issues directly and take all necessary steps to rectify them. To do so, it is essential that minors are examined as a specific category in the Armed Forces covenant report.

Joining the Armed Forces may well provide potential benefits and opportunities to young people. However, that does not change the fact that young people have different psychological, emotional and educational needs from adults, and government has different obligations toward them. For as long as the British Armed Forces continue to recruit minors, we need to ensure that they are treated with the highest possible standards of care. Although for the purposes of reporting on the Armed Forces covenant the definition of service personnel will naturally include recruits who enlisted as minors, do we really believe that this is enough?

The specific needs of minors and the Ministry's specific responsibilities towards them must not be subsumed within an undifferentiated overall category of service personnel. The needs and obligations are not the same, and the reporting requirements cannot be the same. In other areas of public policy, would we expect to find the needs of minors considered alongside those of adults without differentiation? This amendment would ensure that the needs and welfare of recruits enlisting as minors are given the specific attention that they deserve under the Armed Forces covenant, which is altogether to be welcomed.

Lord Kakkar: My Lords, I rise to move Amendment 8, which is in my name and that of the noble Lord, Lord Patel. This amendment deals with the question of the covenant, but as it relates to the covenant report, which will be the obligation of the Secretary of State for Defence, with relation to matters of health and healthcare. First, as I think all noble Lords do, I very much welcome the fact that the covenant is to be included in this Bill because it provides so many important opportunities—none more so than when considering the important question of the consequences of current or former membership of the Armed Forces on an individual's health. Equally well, it provides the important opportunity for us as a society to understand the ongoing requirements for access to specific and specialist healthcare facilities for those who have served our nation.

In Committee, I moved two amendments and I was very grateful for the response of Her Majesty's Government to them. They relate to the same issues: the need to enshrine in the legislation an obligation for the Secretary of State for Defence to commission prospective research to inform that part of the covenant report relating to questions of healthcare, health and the utilisation of health resources. If I understood it correctly, the response recognised the importance of this prospective research in providing authoritative evidence to answer specific questions around healthcare and the future need to dedicate specific healthcare resources, particularly to those who have served our country and who have been discharged from the services. The simple reason for this is that once a veteran has been discharged from the services, responsibility for their healthcare is transferred from Defence Medical Services to their own general practitioner. Under those circumstances, it is difficult to track health outcomes or the utilisation of and appropriate access to healthcare resources, because those individuals are no longer under the direct supervision of the service in which they served for matters of their health.

The need to commission prospective research is therefore to ensure that the objective of reporting on the question of health and healthcare in the covenant is met, because if there is not prospective research we will not be in a position to understand what the consequences of membership of the services are, in terms of long-term healthcare needs. What we read is that those consequences may present many years or decades after active service. Often, those individuals are lost in terms of understanding what their healthcare needs are and, as a result, the provision of services is inadequate until they present with very serious illness. If they had been tracked prospectively—in cohorts informing a proper, authoritative report as part of the covenant report made to Parliament annually—then if there were detrimental issues and features associated with former membership of the Armed Forces, those

[LORD KAKKAR]
would be picked up early. Appropriate action might then be taken either to assist those individuals prospectively identified or, indeed, to ensure that we designed healthcare services which could meet their needs more appropriately. Without an obligation to commission on a prospective basis this type of evaluation to inform a covenant report, we run the risk that the very purpose of a proper evaluation and reporting of health outcomes, access to healthcare facilities, and the health consequences of current or former membership of the Armed Forces is going to be lost, along with the tremendous benefits that would attend it.

In Committee the noble Lord, Lord Patel, and I proposed two amendments. The first was very similar in nature to Amendment 8, which your Lordships are considering now. The second was more prescriptive, and concerned an obligation to collect the NHS numbers of all those who were being discharged from the armed services so that we would have a database to use for prospective research. I accept that the answer provided in the Committee debate means that that second amendment was unnecessary. However, with regard to the obligation to commission prospective research, my fear is that in the years to come the quality of information that will be provided with specific reference to matters of healthcare and provision of facilities will be eroded. As a result, it will be impossible to use this important opportunity to drive the provision of resources, and so we will be neglecting those who have served our country so well. For the many decades henceforth, when they will potentially be patients suffering the consequences of having served their country, we will not be in a position to use the important opportunities provided by the inclusion of the covenant in this Bill and in the annual reporting mechanisms to Parliament to ensure we achieve the very best for them in healthcare.

Our amendment would ensure that, when directing resources and our national effort to the healthcare of active members of the armed services and veterans, we do so on the basis of appropriate, well-informed prospective research, using the high standards and methodology both of public health research and more specific medical research, to answer questions, identify opportunities, and direct our funding accordingly.

The Deputy Speaker (The Countess of Mar): My Lords, on a procedural matter, I remind noble Lords that with grouped amendments it is only the first speaker who moves his amendment; the remaining Members speak to their amendments and then move them when they are called by the Lord Speaker.

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever): My Lords, this grouping contains a large number of amendments relating to the Armed Forces covenant. I shall respond to each in turn, but I should first like to make some general comments which have a bearing on several of the amendments, so I ask for your Lordships' patience.

In the light of points made by noble Lords during this and previous debates on Clause 2, I should like to place on record the Government's commitment to taking a number of specific actions in preparing the annual report on the Armed Forces covenant. We recognise the concern that the Bill that does not include a provision that will oblige the Secretary of State to cover any matters relating to the Armed Forces covenant beyond the fields of healthcare, education and housing, and that it does not oblige him or her to engage with any other parties in exercising his or her judgment in what issues to cover. Our intention is for the report to be wide ranging, based on consultation and drawing on the input of an objective and expert group, the Covenant Reference Group. However, noble Lords have sought strong guarantees that key issues of interest to the Armed Forces community will indeed be covered.

4 pm

I can inform your Lordships' House today that the Government will commit themselves to going beyond the specific provisions of the Bill in two ways. The first relates to covering the effects of service beyond the fields of healthcare, education and housing. The Secretary of State must remain responsible for the final decision on what the report should address, although he or she will draw on the results of consultation in this respect. Nevertheless, I confirm that the Secretary of State, when considering what will be covered, will have regard to the full range of topics that were identified as being within the scope of the Armed Forces covenant when we published it on 16 May.

Secondly, the Secretary of State has already stated in another place that he will publish alongside the annual report any observations that external members of the external reference group—now the covenant reference group—wish to make on that report. I can confirm today that, in addition, we undertake to consult the external members of the covenant reference group at an earlier stage on the issues that the Secretary of State should address. The Secretary of State will confirm in the annual report that he or she has done this.

The external members of the covenant reference group will accordingly play a vital role in the preparation of the annual report, and the chairman must ensure that these processes work effectively. This is a pivotal role. I am aware that several noble Lords hold the view that the chairman should be independent of government, rather than a senior Cabinet Office official. However, the chairman has other tasks as well. Membership of the covenant reference group includes advocates from government departments with a major role in delivering services. The authority that Cabinet Office leadership can bring in pressing departments to make progress helps to get things done. That ability to focus the work of other government departments and bring them together with external stakeholders is one of the keys to the success of the covenant reference group. It was set up by the previous Government as part of the service personnel Command Paper, which was a valuable precursor to our work on the covenant. We believe that the previous Government got the balance of the covenant reference group right.

However, the Government do not wish to impose arrangements on the covenant reference group. Following this debate, I will ensure that the members of that group are made aware of the exchanges in your Lordships' House. The Government will then consult them on

what they believe is the most effective way to deliver their new responsibilities for the annual report, including the chairmanship. Whatever the outcome, I am confident that the major service and ex-service charities and the service families' federations will continue to use their membership of the covenant reference group effectively to draw matters to Ministers' attention.

I should like to add a third commitment. Several noble Lords have argued that because the Defence Secretary is not directly responsible for delivering many of the services that are likely to be discussed in the annual report, there is a danger of accountability becoming confused. Your Lordships wish to be absolutely clear as to which parts of the Government have participated in the process of preparing the report and what position they have taken. My ministerial colleagues and I have already indicated that the Secretary of State will consult widely and will identify the source of the evidence and opinions that we include in the report.

We have also noted that the annual report will be laid before Parliament on behalf of and with the approval of the whole of government. I can nevertheless go further by giving an undertaking that the Secretary of State will consult all UK government departments with a significant role in the delivery of services to serving personnel, veterans and their families, and the three devolved Administrations. In the annual report he or she will confirm that they have consulted other government departments and the devolved Administrations and will identify the contributions which they have made in the published report. This Government cannot commit their successors but I have described the processes which will be followed during the period in which we expect the annual report on the Armed Forces covenant to establish itself as a key instrument for holding the Government to account.

I would now like to respond to the individual amendments. Amendment 1, tabled by the noble and gallant Lord, Lord Craig, seeks to address a concern that he first raised during the Bill's Second Reading in July. He referred to an "unfortunate juxtaposition" that would result from the Armed Forces covenant report clause being inserted into the Armed Forces Act 2006 directly after Section 359, which deals with pardons for soldiers executed during the First World War. His amendment would move the clause away from Section 359 and create a new Part 14A in the Act as the future location of the covenant clause. I have listened carefully and I am aware of the very strong feelings on this matter on the part of many noble Lords. Indeed, we are not trying to steamroller anything through. I can tell the noble and gallant Lord that our current thinking is that we will reflect over the next day or two with ministerial colleagues. Further, I have asked my officials to do the same right across government. I can also assure the noble and gallant Lord that we will again return to the Public Bill Office. In the mean time, I am most grateful to the noble and gallant Lord for his helpful and constructive approach and I hope that he will withdraw his amendment.

In Amendment 2 the noble Lord, Lord Touhig, has outlined a mechanism which a Secretary of State would be obliged to follow in deciding what issues to cover in the annual report on the Armed Forces covenant. I believe your Lordships will recognise that the mechanism proposed by the noble Lord has much in common with the one I have just outlined. The Government will, indeed, consult the external members of the covenant reference group on the issues which the Secretary of State should address at a very early stage in the preparation of the annual report. It has always been our intention to consult widely and the new commitment I have made today converts that intention into something on which your Lordships can rely. The amendment would, however, turn this into a rather inflexible process. It requires the Secretary of State to publish the list of headings and then present it to the group. This could lead to considerable confusion. We want to consult the covenant reference group but we will be open to other contributions as well; for example, through the chain of command. Further issues may emerge as the report is prepared. Too much emphasis on a list published at the start of the process may therefore not be helpful. The wording of the amendment suggests that the annual report may have to include all comments on that list, even though discussions on the report may have moved on. There is also a danger that a process designed to get the valuable input of independent experts and ensure that we cover the right subjects will be portrayed as the covenant reference group forcing the Government to address subjects they were hoping to avoid. That would be very far from the truth. A further difficulty with the amendment is that it gives an existence in statute to the covenant reference group.

I next come to Amendment 4, proposed by the noble Lords, Lord Rosser and Lord Tunnicliffe. I am sure that the amendment is intended to be helpful, because it reflects what the Government already propose to do. As my right honourable friend the Defence Secretary said in another place, and as I have confirmed to your Lordships, we are committed to publishing, alongside the annual report, the observations which external members of the covenant reference group choose to make on the report. There is no doubt that that will happen; the issue before us is whether it is appropriate to reflect the commitment in Clause 2. I recognise the concern of some noble Lords that a future Government might place less importance than we do on the contribution which the covenant reference group can make to the report, but I do not believe that the best way to address that concern is to be prescriptive and tie down the procedure in statute. A number of amendments before us today refer directly to the covenant reference group. Such references, if incorporated in statute, would oblige us to be specific and prescriptive about the functions, membership and powers of the group. They could therefore prevent it evolving over time to meet new circumstances.

The next amendment in the group is Amendment 5, tabled by the noble Baroness, Lady Drake, and the noble Lord, Lord Judd, which concerns the position of minors. The Armed Forces are mindful of the responsibilities they have towards the care, welfare and support of young people who enlist. That awareness underpins our commitment to support young people so that they can continue to participate and gain recognised skills and qualifications through work-based learning and training both now and in future. That is very much part of the Armed Forces covenant.

[LORD ASTOR OF HEVER]

All those who join the Armed Forces, irrespective of their age, have to undertake both general military training and trade or specialist training. During training, attention is paid to supporting recruits and trainees to undertake apprenticeships and other nationally recognised qualifications. During 2009 and last year, more than 2,000 recruits and trainees aged under 18 were registered for an apprenticeship. More than 11,000 apprenticeships were completed by members of the Armed Forces. That is a striking record. The Armed Forces are acknowledged as a major contributor to the national skills agenda and are the largest public sector deliverer of apprenticeships.

As noble Lords will recall from my Statement on 12 September, Ofsted, which is entirely independent of the Armed Forces, recently published its annual report on welfare and care in Armed Forces initial training, with particular regard to the provision in place to support young people aged under 18. The report was positive. All the establishments inspected were judged by Ofsted to be satisfactory or better. On this occasion, Ofsted inspections routinely support the continued improvement and development of care and welfare provision in initial training.

The amendment requires that the Armed Forces covenant report should be prepared with regard to the additional responsibilities that the Armed Forces have towards those who enlist as minors, including their adequate education. I should point out that the field of education is already mentioned in the Bill as one of the three enduring topics to be addressed in every report. The amendment proposed by the noble Baroness is already taken into account in the reporting arrangements as they stand in the Bill. In addition, I hope that I have reassured noble Lords that we are fully seized of our responsibilities towards all who joined the Armed Forces, whether they are over or under the age of 18. Ofsted's findings provide a valuable source of information in that respect.

The noble Lord, Lord Judd, asked about under-18s being adequately made aware of their right to resign. There is a rigorous regime of interviewing recruits under training by responsible training staff, who are obliged, if a recruit is unhappy, to point out the right to resign up to the age of 18.

4.15 pm

Amendment 8 brings us back to the question of healthcare. In proposing this amendment again, the noble Lord, Lord Kakkar, has correctly identified the key role that research needs to play in ensuring that the healthcare needs of the Armed Forces community are properly met. Your Lordships may recall that the Government's position is that healthcare research is of paramount importance. A firm evidence base must underpin our efforts to ensure the best healthcare of our service personnel. It is important that we have proper evidence of what is happening on the ground and what interventions work best. We therefore continue to support research into healthcare issues both in-house and through external funding. In Grand Committee, I pointed out that much valuable research has already been commissioned and I referred to the excellent work undertaken by Professor Simon Wessely and the King's Centre for Military Health Research over the past 15 years.

Noble Lords may be familiar with the plans for the National Institute for Health Research Centre for Surgical Reconstruction and Microbiology currently being established in Birmingham. The Ministry of Defence together with University Hospitals Birmingham Foundation Trust and the University of Birmingham will spend £20 million over the next 10 years, with the Ministry of Defence contributing £10 million. This research will initially focus on the most urgent challenges in trauma including effective resuscitation techniques and surgical care after multiple injuries. It will further medical and surgical practice both within the Defence Medical Services and in the wider National Health Service. The MoD is spending more than £5 million this financial year on medical research. We have work under way with Imperial College on blast injury as well as the large cohort study with King's College to monitor the health of veterans of Iraq and Afghanistan over the long term.

The question today is not whether research will be required but whether it will be helpful to impose a statutory requirement to inform the annual covenant report. We believe that would not be helpful. In the Government's view, how the Secretary of State assembles the data to produce his or her report is best left as a matter for his or her discretion—needs will vary from year to year as the effects of service covered in the report vary. Furthermore, the main driver of our research should not be the requirement for an annual report but the direct healthcare needs of the Armed Forces. Where details of research undertaken are relevant to the annual report they will be included in it, but the production of the report should retain its flexibility so that it can react to the important issues of the day.

The final amendment in this group—again tabled by the noble Lords, Lord Rosser and Lord Tunnicliffe—concerns the duties of ombudsmen. In Grand Committee we debated a very similar amendment and I paid tribute then to the work of the Parliamentary Ombudsman and Local Government Ombudsman and the important role they can play in helping members of the Armed Forces community. The amendment we are considering today is an improvement on its predecessor—it now refers to family members and to veterans rather than solely to serving personnel. It is right that we recognise that former members of the Armed Forces and their families are included within the Armed Forces covenant and the measures taken to support it. However, the amendment remains unclear about what it wants the ombudsmen to do, about what exactly they would investigate and about whether it is intended to represent an extension of their powers. It still takes as its point of reference documents which will eventually be replaced by new steps to meet new circumstances. I do not believe that this amendment offers anything to the ombudsmen in carrying out their vital role, nor to serving personnel, families and veterans.

In response to my noble friend Lord Newton, I say that the Localism Bill does not affect the rights of service men or women. The noble Lord, Lord Williams of Elvel, is of course right regarding the *Companion*'s

rules on the admissibility of amendments at Third Reading. The usual channels have however agreed that, on this occasion only, Divisions at Third Reading will be facilitated where appropriate. I assure the noble Lord that this is not intended to set a general precedent.

Lord Newton of Braintree: Would the Minister consider a very brief question as being in order at this stage? I note what he says about the Localism Bill and will reflect on it. However, is he aware that the Parliamentary Ombudsman cannot consider complaints from servicemen or families because the ombudsman is subject to what is called the MP filter? He or she will take references only from an MP.

Lord Astor of Hever: My Lords, I was not aware of that. I think that the best way for me to handle my noble friend's question is to write to him on this issue, and I will make sure that all noble Lords who have spoken in this debate are copied in on it.

Lord Stoddart of Swindon: I am sorry to intervene on the Bill and thank the noble Lord for giving way. He made a statement in reply to the point raised by the noble Lord, Lord Williams of Elvel. He said that the usual channels had come to an agreement that there should be voting at Third Reading but that that would not set a precedent. If there is voting at Third Reading, surely that must set a precedent. How will he and other people prevent reference being made to what will be a precedent?

Lord Astor of Hever: My Lords, as I understand it, this is a one-off arrangement that will not be repeated.

Lord Reid of Cardowan: My Lords, I am grateful to the Minister for giving way. I want to follow up on the point raised by the noble Lord, Lord Newton, a couple of moments ago. When the Minister confirms that representations to the Parliamentary Ombudsman must come via an MP, will he recognise that, although it would create a special category for the Armed Forces, members of those forces already give up their right to lobby and to act politically in a public fashion pursuing such a case, as is the natural right of all British citizens? That does not necessarily disengage them from party-political membership but it does disengage them from party-political or public-political activity. They are therefore caught between a demand that they go via a route that could be interpreted as lobbying an MP and, on the other hand, the necessity for representations to the Parliamentary Ombudsman to be via that very route. Will the Minister bear that in mind and keep an open mind on it so that, if he finds that they are thus disadvantaged, a special category can be made available for members of the Armed Forces to go directly to the Parliamentary Ombudsman?

Lord Astor of Hever: The noble Lord, and indeed my noble friend, raise a very important point. I assure the noble Lord that the letter that my noble friend receives will be a very thorough and well thought-out response.

I have spoken at length both to set out the Government's new commitments and to respond carefully to a wide variety of amendments. I hope that I have indicated our determination that the annual report on the Armed Forces covenant should be comprehensive yet flexible, based on consultation but with ultimate responsibility left where it belongs with Ministers. On this basis, I ask the noble and gallant Lord to withdraw the amendment.

Lord Stoddart of Swindon: I am sorry to persist in this but the *Companion to the Standing Orders*, as I understand it, states that there should be no votes on matters that have been discussed at Report. I cannot understand why the usual channels can be allowed to override what is already in the *Companion.* It is the *Companion* and it does not matter what the usual channels say about what they want or see as convenient. They cannot be allowed to override the *Companion to the Standing Orders.* We are progressing along a dangerous road. If it can be done in this instance, surely it can be done in any instance as the precedent will be set. The Government ought to take the advice of the Clerks and others before they pursue this.

Lord Wallace of Saltaire: My Lords, I am sure that the noble Lord is familiar with the often-used phrase, "It may be for the convenience of the House". This was an arrangement agreed for the convenience of the House as we were meeting in a week in which one of the parties is holding its conference. This was of course discussed not just by the usual channels but with the Clerks.

Lord Stoddart of Swindon: It is for the convenience of the annual conference, not for the convenience of this House.

Lord Craig of Radley: My Lords, I thank all those who spoke to my amendment. I note that the Minister has moved from the heading "Resist" to that of "Consider further". I hope that the consideration will prove amicable to us both. I beg leave to withdraw the amendment.

Amendment 1 withdrawn.

Amendment 2 not moved.

Amendment 3

Moved by ***Baroness Finlay of Llandaff***

3: Clause 2, page 2, line 11, after "housing" insert—
"( ) in the operation of inquests;"

Baroness Finlay of Llandaff: My Lords, I am grateful to the House for allowing me to de-group this amendment, and I listened carefully to the Minister's comments in response to the previous grouping. For the avoidance of doubt I shall state publicly that I will not attempt to divide the House at this stage and I am respecting the agreement made through the usual channels. That is not to underestimate the strength of feeling over inquests and their operation.

[Baroness Finlay of Llandaff]

My amendment would cover those currently serving who have died in action or on other aspects of active service; those who have died in training, who sadly constitute a significant number each year; and previous serving personnel who have now left the services but whose death for whatever reason is referred to a coroner. The Minister spoke of the relevance of the report to the issues of the day, and indeed about year-to-year variation in what may be a priority. I suggest that death is always relevant and will always remain a priority with those who have been bereaved, however small or large the numbers are. The amendment will never—one scarcely uses the word "never"—fall from being pertinent year on year.

My amendment does not incur additional expenditure, because the data are being collected and collated anyway and will be brought together in the annual report. There are data on the epidemiology of the pattern of deaths and on post-mortem findings. There are variations in verdicts, particularly narrative verdicts, and there would be much merit in pooling all those together. I am not asking for new and additional work, other than the work that is being collected. However, by putting it all together in one place, there will be an annual report which I suggest year on year could become quite an important historic document for monitoring trends and patterns, and for making sure that vigilance does not drop back over time.

I suggest that, in the absence of a chief coroner, this is particularly needed. It has strong support from the Royal British Legion, which, as the House knows, has felt very strongly about the conduct of inquests.

4.30 pm

The health report aspects certainly will capture much of the research that is going on, and will capture the psychological and psychiatric sequelae where those data are collected as well as physical problems. The importance of research has already been alluded to by the noble Lord, Lord Kakkar, but it will not capture those who fall outside such monitoring. The one thing that will be caught is their deaths, because death is a universal end-point.

The amendment is about the "operation of inquests", not the "conduct of inquests". Therefore, it is very broad and allows that freedom to which the Minister referred in needing to report on the pertinent issues of the day. Currently, the quarterly ministerial statements on military inquests are produced and are providing very important data. They are extremely interesting and are especially interesting if read one after another. However, I suggest that they will not always be produced. When we are no longer in the current theatres of war, it is much more than likely—I would have thought it is inevitable—that they will no longer be produced. There will be a decision that they are no longer needed. It would be very sad if they were to fall altogether, whereas an annual report could be incorporated into the report we are discussing today.

The Defence Inquest Unit of the Ministry of Defence provides coroners in the civilian world with a summary of incidents where people have died on active service, and suggests who to call as witnesses, but respects the independence of the coroners. It is there to try to demystify military inquests and I understand that it is now going to be working with the procurator fiscal in Scotland. There has been an improvement in the conduct of inquests: there was a waiting time of 17 months before 2005, but that has fallen to 11 months in 2009 and there is an aim to get it down to nine months. The problem, however, has only just improved and we need to ensure that it does not slip back, that the pressure that has been mounted does not ease up when the current theatres of war are no longer in play and that ex-service personnel are respected just as current service personnel are.

Why is it important to look at the operation of inquests? It is because there is wide variation in coroners. We know that there are some excellent coroners but there are a series of complaints against some coroners. Post-mortems on servicemen are all done in Oxford, but that is not where ex-servicemen's post-mortems are done. Much has been learned from the post-mortems in Oxford: they have actually altered the way acute trauma is dealt with—on the battlefield, and now in civilian life by our accident and emergency and first-response teams. The information is invaluable.

There has been talk about coroners attending training, but sadly not all coroners do because it is not mandatory for them. I know there have been two-day training events put on in Salisbury Plain—the first attended by 35 coroners, the second by 40 coroners. Sadly, that is not all the coroners who could have gone and benefited from it.

The experience of relatives when a person dies after service can be lamentable. I described that in Committee, so I will not go back over that ground as we are now on Report. The Armed Forces covenant has been said to cover this issue, but it says:

> "Bereaved families should receive assistance commensurate with the loss that they have suffered, including help during the vital but difficult inquest process".

That refers to the help and support for the families, not to the other issues around the way that an inquest occurs and is conducted. When the Minister responded in Committee, he recognised that inquests were an important element of the Armed Forces covenant. However, the wording in the covenant is inadequate to deal with the issues that I have tried to highlight; it does not deal adequately with all aspects of inquests. That is why I feel strongly that the matter must be covered in the Bill.

The noble Lord, Lord Rosser, has already dealt in detail with a lot of the criticisms of the current process, so I will not reiterate them. However, we must remember the long-term sequelae suffered by those who have been in a theatre of war and who have been injured. They may have a long-term disability, they may have been exposed to toxic substances, or they may have other co-morbidities that are fatal because the original wounds have weakened them. There are deaths among those who are deeply traumatised and who develop mental health problems later in life—sometimes very much later.

Ex-service personnel in civilian life go to their GP like everybody else. The problem is that many GPs will see only one severely wounded or traumatised ex-serviceperson in their whole working life. The Royal

College of General Practitioners has established a veterans training pack. Of course, it is taken up by GPs who have a particular interest in the field and who work in areas where there is a high number of military personnel—but it does not capture everybody. The problem often is that the service personnel who are at highest risk are those who are emotionally isolated and who present to clinical services that do not understand the long-term sequelae of what has happened previously. The final time to pick up the fact that they were serving their country is at the time of their death. This would be at the time an inquest is held.

It is very important that, just as we do not forget our servicemen's health, education and welfare, neither should we forget them in death. Nor should we forget the information that their death will provide both to future serving personnel and to the rest of the population. I beg to move.

Lord Rosser: My Lords, I certainly will not repeat the powerful arguments advanced by the noble Baroness, Lady Finlay of Llandaff, when she moved her amendment. However, when the issue was debated in Committee, the Minister said in reply that the Government recognised that inquests were an important element of the Armed Forces covenant. He referred to the substantial number of casualties in Afghanistan and said that he fully expected the matter to be covered in the annual report. He went on to say that he could also imagine a happier time when the operation of the inquest system would be of less concern to the Armed Forces community because we might not be involved in deployed operations or suffering fatalities. In other words, the issue of inquests was not likely to be another "enduring topic", to use a government phrase, on a par with healthcare, housing and education.

I do not share the view that the Government can reject the amendment in quite the way that they did when it was discussed in Committee. We are likely to be involved in Afghanistan for a few more years and, sadly, the issue of inquests will continue to be high on the agenda for some time. In addition, numbers of serving personnel die on active service but not overseas, so it may be optimistic to believe that a time will come when inquests need not be covered in the annual Armed Forces covenant report. However, since we have an Armed Forces Bill every five years, if it was felt that the operation of inquests was no longer an issue of concern in five years' time or at some later date, this perfectly reasonable amendment could be removed in the next or a subsequent Armed Forces Bill. I hope that the Minister will feel able to give a more sympathetic response to the amendment than was the case in Committee.

Lord Astor of Hever: My Lords, in Grand Committee and again today, the noble Baroness, Lady Finlay, has given a detailed and moving account of the problems that have been encountered by bereaved service families in the course of a coroner's inquest. It is very sad that any family should feel at the end of an inquest that their burdens have been made even heavier, but this is particularly regrettable for the family of someone who has given their life for their country.

We are focusing on the Bill today and time does not permit me to detail the progress that has been made. As the noble Baroness knows, Parliament is kept well informed through quarterly ministerial Statements. However, I can understand her wish to ensure that this subject is not allowed to drift away from public attention. I hope that my remarks on the first group of amendments have offered her reassurance, in two ways.

First, the commitment that the Secretary of State would have regard to the whole range of subjects included within the scope of the Armed Forces covenant, as set out in the guidance document published on 16 May, includes the operation of the inquest system for bereaved service families. Secondly, I draw the noble Baroness's attention to the membership of the covenant reference group, which will now be consulted on the subjects to be covered in the annual report. It includes both the Royal British Legion, which has campaigned strongly on this issue, as the noble Baroness said, and the War Widows' Association of Great Britain, which brings together many of those who unfortunately have first-hand knowledge of inquests. I am therefore confident that the Secretary of State will receive very clear advice on this aspect of the covenant.

I recognise that the noble Baroness is not just concerned about inquests for serving personnel. She also envisages drawing together information from any inquests into the deaths of former service men and women that might perhaps show a common thread. I can understand how data of this kind could be valuable, and we are always interested in developing our knowledge of the health outcomes of veterans, where this is practical. However, I would point out to the noble Baroness that the field of healthcare is already mentioned in the clause. Beyond that, I would not wish to commit to any more detailed provision in relation to inquests without a much clearer idea of what is feasible.

Viscount Slim: Perhaps I could respectfully make two remarks. First, the noble Baroness was quite right to say that the time for investigation into these matters has passed. I made gentle inquiries through discussions here and there and there is actually no plan for increased casualties and therefore this timetable will naturally go on. I hope the noble Lord and his officials have considered this awful business if casualties were to increase at a faster rate and therefore all the timings would not be kept up.

Secondly, to those who wish—as we all wish and hope—that there is no requirement for inquests one day in our lives, I would merely say that history shows that since the end of World War II there has only been one year that a British serviceman has not been killed in action.

Lord Astor of Hever: The noble Viscount, Lord Slim, makes an important point. We have no plans for increased casualties, and indeed the aspiration is to be out of Afghanistan in a combat role by the end of 2014. If, unfortunately, there are increased casualties, we will respond to that as best we can.

Baroness Finlay of Llandaff: I am most grateful to the Minister for his reply, and I want to put on record my thanks to him for the time he spent with me before

[Baroness Finlay of Llandaff]
the debate today and for the freely available contact I have had with his officials. They have gone to great lengths to answer my questions. However, I reiterate that I believe that this provision should be in the Bill. I urge the Government to pick up the suggestion of the noble Lord, Lord Rosser, that in the unlikely event of it being surplus to requirements, it could subsequently be removed. But, at this stage, I will withdraw the amendment.

Amendment 3 withdrawn.

Amendments 4 and 5 not moved.

4.45 pm

Amendment 6

Moved by ***Lord Craig of Radley***

6: Clause 2, page 2, line 22, at end insert—

"( ) An armed forces covenant report must include a statement from—

(a) the Secretary of State for Health,

(b) the Secretary of State for Education,

(c) the Secretary of State for Communities and Local Government,

(d) the Secretary of State for Work and Pensions, and

(e) the relevant comparable ministers in the devolved assemblies,

in respect of progress in fulfilling obligations to serving military personnel and their families, and to veterans."

Lord Craig of Radley: My Lords, it will not have escaped the notice of the Minister that this amendment has the support of all sides of the House. It is a practical and workable attempt to bring together the various strands and ideas put forward in the excellent debate on this aspect of Clause 2 in Committee. The nub of the argument is that there are two principal constituencies of service personnel and their families. There are those who have left the Armed Forces and others who are still serving who, with their families, may need different consideration. I shall leave it to other noble Lords who have added their names to the amendment to expand on those points in their contributions.

I understand that there is in the Ministry of Defence not inconsiderable support for the concept of a commissioner to assist the Defence Secretary. Indeed, would the Minister be prepared to go so far as to confirm that this idea is favoured by Dr Fox and others in the MoD, so it could be acceptable in principle? If so, the debate and the arguments can concentrate on the best ways in which to bring the necessary assistance to the Defence Secretary in fulfilling his remit. If Amendment 6 is not yet to the Government's liking, would the Minister consider one that captures the essence of the assurances about how the Government intend to handle the requirements of Clause 2, because that might well be a way forward?

The Minister made the valid point that this Government cannot commit their successors by mere words in a debate in your Lordships' House; one looks for an Act of Parliament to do that. So I hope that we can still find a way to put into the Bill an amendment along these lines. However, should the Minister find that unacceptable, would he consider a clause that would allow for the creation of a new appointment—in shorthand let me call it the "commissioner", but another title might be more appropriate—by secondary legislation, as experience in preparing the statutory annual reports expected from the Defence Secretary is gained? The Minister may argue that there is no need for secondary legislation as such a post could be set up without statutory authority, but my point is that it would be much better, and an indication of the importance attached to the way that the covenant is to be handled, if this potential need were to be covered in statute.

It is generally agreed that the covenant is a moral construct that does not lend itself to prescriptive or detailed rules and requirements, but if it is to be given the benefit of statutory recognition, as the Bill will achieve, it is worth making the importance of all aspects of the reports and their preparation clear, and in particular to make possible provision for further steps as experience is gained. The opportunity to do so arises only once in five years, so it seems sensible to take the opportunity now. There is wide agreement that the annual report is going to be a serious and important piece of work. I hope, having listened to the arguments from noble Lords, that the Minister will be prepared to agree with this amendment, but if not, will agree that a provision for the revision of the current proposals by means of secondary legislation would be acceptable. I beg to move.

Lord Lee of Trafford: My Lords, I rise briefly to support the noble and gallant Lord and to speak to Amendment 6. I think that we in this House are all aware of the low morale that exists today, sadly, in our Armed Forces. According to the Armed Forces continuous attitude survey of all service personnel, only 18 per cent regard morale as high, whereas 44 per cent regard it as low. In the RAF, only 9 per cent regard it as high and 62 per cent regard it as low; in the Navy, 9 per cent regard it as high and 56 per cent regard it as low. I think that it is obvious to us all why morale is so low, given the cancellations, the cuts and the recent unfortunate redundancies. So anything that we can sensibly do to add certainty and clarity to the Armed Forces covenant must be beneficial to Armed Forces morale.

Amendment 6 builds on the earlier amendment that I and other noble Lords moved in Committee. I am happy to acknowledge the movement in the Government's position as a result of the contributions from noble Lords during the passage of the Bill. However, I still ask my noble friend and the Government to go just one step further and include in the covenant report specific statements from the respective Secretaries of State, thereby giving them part ownership of and direct responsibility for the report.

Baroness Taylor of Bolton: My Lords, I, too, would like to say a few words in support of Amendment 6, which I spoke to in Committee, as did many other noble Lords. Indeed, some of the arguments put forward were echoed in the debate on the first grouping of

amendments. I think that this does go very wide, and a lot of people are concerned to make sure that we do not lose an opportunity to maximise the impact that we can have in showing our commitment to the military covenant and ensuring that the provisions—that I think we all agree should be there—materialise in reality.

Rather than repeat the arguments that were used before, I want to reinforce certain points. I also acknowledge the work that the Minister has done in trying to reassure us that he understands the concerns that are there and why there is pressure to move in the direction in which we are pushing. I said in Committee that this amendment is designed genuinely to be helpful. I think that it will be helpful to any Minister in the Ministry of Defence to have other Ministers underwrite the statements that have specific responsibility from their departments, so that when the Secretary of State for Defence or whichever Minister signs off that document, they will be dealing with things that are the direct responsibility of the MoD. Other people will be taking responsibility where they should in the other areas mentioned, such as education and health. We also have to think of the devolved Assemblies. So I think that it is helpful to Ministers in the home department.

There is another very important reason for writing into the Bill the responsibilities of Ministers in other departments. Unless their names are on the face of the Bill, we will not get the maximum buy-in, commitment and drive from those departments to meet the obligations that we know Ministers in the MoD want to see and, I think, the rest of us want to see as well.

We have heard on other occasions that other Ministers are very happy to co-operate—as we found when we were considering the armed services White Paper a couple of years ago—but we have to make sure that the momentum does not diminish and that everybody maximises their level of commitment. It is important that we do not lose this opportunity to drive home that very necessary message.

The amendment serves a further useful purpose by making it clear that the covenant applies not only to military personnel but also to their families and to veterans. In our earlier discussions, it was felt that it would be helpful to specify very clearly that that was the case, not because the Ministry of Defence or other departments did not feel that it was but to show that those people could have the expectation that they would be cared for in a way that was appropriate.

I hope that the Minister will look favourably on Amendment 6; I think that it is technically in order. As was said earlier, Ministers are always under pressure not to accept amendments in legislation, but I think that there would be considerable support in both Houses for action along the lines that we have discussed.

The Lord Bishop of St Edmundsbury and Ipswich: My Lords, my colleague the right reverend Prelate the Bishop of Wakefield has been involved in the efforts to add strength to this part of the Bill, and his name appears on the amendment paper as supporting this amendment. Unfortunately, he is unable to be present today because of duties within his diocese. I am here to speak on his behalf from these Benches.

Having heard what other noble Lords have said, I think that there is little that I can add, so I shall restrict myself to saying that the amendment will help to ensure that any report to Parliament is authoritative and extends both across all government departments as well as across the whole United Kingdom, including the devolved Assemblies.

While I warmly welcome the undertaking given earlier by the Minister about other ministries being consulted, naming them in this way gives a degree of future-proofing to make sure that it happens. The amendment would enhance transparency by ensuring that all the relevant bodies and departments other than the Ministry of Defence really were part of any report laid before Parliament.

There appears to be considerable consensus as to the objective that the amendment seeks to achieve; the division comes over the appropriate means and whether achieving those means is possible within a tight timeframe. I do not think that the amendment is overly prescriptive, and I hope that it is not so complicated or contentious a proposal as to cause undue delay to Parliament's handling of the Bill.

If it is possible to be assured that the objectives of the amendment could be achieved by other means, I, the right reverend Prelate the Bishop of Wakefield and others would of course be very prepared to listen to what those means might be. However they are achieved, the ultimate test will be the quality of the first report on the covenant that is made by the Secretary of State. The aim of this amendment is to help ensure that the report is both of a high standard and effective.

Lord Newton of Braintree: My Lords, I rise in this case not to seek solidarity with the episcopate, though I would be very happy to have that, but in a spirit of camaraderie with my noble friend—as I think I shall call her on this occasion—another former Leader of another place. She made some very important points, building on what the noble and gallant Lord had said, about the effect of the amendment, or something like it, on the activities of government, and in particular the desirable aim of promoting joined-up government. The amendment would make sure that everybody in government departments throughout Whitehall and Westminster paid attention to the covenant, which is between not just the Ministry of Defence and the services, but the Government—and, in a sense, the people—and the armed services. That should be reflected throughout.

I support the general thrust of this. In slightly more tendentious mode, in light of the earlier exchanges about the ombudsman, it might be wise to include the Ministry of Justice, which is responsible for administrative justice policy, and the Cabinet Office, which is responsible for ombudsman policy, because it appears that intelligence has not filtered through from either to the Ministry of Defence, which wrote the Minister's brief.

5 pm

Lord Empey: My Lords, I speak to Amendment 7 in my own name and comment on Amendment 6 in this group. There is an obvious similarity between the two amendments. I worded mine slightly differently because

[LORD EMPEY]
the particular Secretary of State who may be required to provide information from time to time will vary. That is why in Amendment 7 I used the term "relevant". Similarly, it may be that in some reports specific requirements are made of one devolved administration and not another.

There is a second reason why Amendment 7 differs from Amendment 6. I detected in conversations with the Government a sensitivity over any interference with the devolution settlement. I phrased my amendment so that it goes to the Administration rather than to the individual Minister in the Administration. I personally have no difficulty with the requirement going to the individual Minister in the devolved Administrations but, with personal experience in dealing with this for many years, I can assure the House that there will certainly be difficulties, particularly if that applies in Northern Ireland.

I made the point at Second Reading and in Committee that we have cast-iron experience that there is a loose end in the Bill. At Second Reading, the noble Baroness, Lady Taylor, expressed the views of many Members in this House that there was broad support for the covenant and that we were glad to see it coming before the House in the amendments. But the noble Baroness made the point that there were loose ends and that those would have to be tidied up as the process continued. We now have an opportunity to do just that.

The wording of either of these amendments may not be perfect. Indeed, there may be technicalities here or there that need to be improved, but there is time for that to be done. I join with the noble and gallant Lord, Lord Craig, in the comments he made when introducing his amendment. Mine merely gives the Minister a different way of doing that, another option to achieve exactly the same thing. We want buy-in.

An important point has been made by the noble Baroness, Lady Taylor, and the noble Lord, Lord Newton. If there is a statutory requirement on a department to do something, somebody in that department is plugged in to do it. All legislation and legislative requirements in a department are written down every year and a path is created in the department for that particular legislative requirement to be fulfilled. Otherwise, it is left to the whim of the relevant Minister, or to a correspondence between two private offices, or to whatever particular interest any given Minister may take in the subject. Making a requirement on a department ensures that the legislative section takes it on board and it is put into the programme of that department for a year ahead, so we know that the thing will be done right.

I can well understand Government resisting amendments. I have done it myself and we all know it. My anxiety is over the fact that this is a unique piece of legislation. The speeches delivered by the noble and gallant Lord, Lord Craig, and the noble Lord, Lord Ramsbotham, would have got the message across that we are dealing with something unique, and I welcome that. If one sees the privations and dangers that our service personnel are going through, and if we read, hear and see in our own areas the consequences of the actions that they are being required to take—far-reaching consequences that will grow in significance over time, because people are coming back from these wars with terrible injuries from which in other times they would have perished on the battlefield and facing 40, 50 or 60 years of life with them—they are going to put a major requirement on the delivery of service in the years ahead.

It is not unreasonable in those circumstances to say to given departments, which I expect will vary from year to year, and to the devolved Administrations, that they have to be plugged into this process. I know there are sensitivities over interference with devolution settlements and I suppose that there may be some people who do not want to annoy Mr Salmond, or whoever, but the fact of the matter is that service personnel and former service personnel are a national responsibility. They are the responsibility of Parliament; they are employed as soldiers, service men, airmen and naval personnel on behalf of the United Kingdom, not on behalf of Scotland, Wales, Northern Ireland or England. It is therefore up to Parliament, irrespective of devolution settlements, to ensure that there is not a postcode lottery as far as the provision of services is concerned throughout this country.

As I said, I know this from personal experience because last year, in the Northern Ireland Assembly, a Bill was introduced entitled the Armed Forces and Veterans Bill. It was a Private Member's Bill and it went through all its stages. I provided the Minister with copies of the debate from the Committee and all the rest of it. Yet when push came to shove in February of this year, that Bill was vetoed and not allowed to proceed. That was done under the special provisions that we have, because some people objected to special provision being made for service personnel or former service personnel. I wrote to the Minister—he has kindly replied to me—that in Northern Ireland we have Section 75 of the Northern Ireland Act, which is designed to prevent discrimination. I was concerned that people would hide behind the idea that if they were giving something special to service personnel, it would be discriminating in favour of a particular group, but I am happy to say that the Minister assured me that that was not the case.

Nevertheless, I believe that there has to be some means of ensuring that Parliament is aware of what the input is and that if there is a special requirement which the Secretary of State should deem appropriate, it can be delivered. I believe that on two points: first, that of ensuring that departments actually deliver on this and, secondly, that there is no political interference at a devolved level with the delivery of service. This is a national provision. It will remain the responsibility of Parliament, which is the way it should be because defence is an excepted matter. Yet while that provision is never going to be the responsibility of the devolved Administrations, the delivery of the necessary services is—so Parliament has to prioritise and be clear. I have no problem whatever with whether that is done by means of Amendment 6, my own amendment or another amendment which we could deal with between now and next week. To ensure that it is done is the key and I therefore look forward very much to the Minister's response to this group of amendments.

Baroness Wall of New Barnet: My Lords, I too support these amendments, in particular Amendment 6. I would like to reinforce the argument made by my noble friend Lady Taylor, which was reinforced by the contribution of the noble Lord, Lord Empey, that the responsibility to reinforce the commitment that each of the departments has is crucial. We have some evidence now, as we regrettably have a number of members of our Armed Forces either being made redundant or leaving the service early. The evidence is that in terms of education and skills there are great gaps in the opportunities that they have had in the Armed Forces and that they are having to catch up very quickly. The Bill refers to the opportunity of not discriminating in that way. It would be extremely interesting for all of us to see what the Secretary of State for Education—and perhaps even the Secretary of State for Business, Innovation and Skills, in terms of their responsibility for skills—would have to report about that. That would be reassuring for all us. More importantly, all the arguments have been made about how much it will mean in the department if it has to report back, but that would be absolutely enforceable. In that context, I support Amendments 6 and 7.

Lord Ramsbotham: My Lords, I make no apologies for returning to the word "trust", which I used earlier. I must say that I exclude the Minister from my remarks, as I am sure we all have absolute trust that he will do precisely what he has said in his comments. I should add that I am enormously grateful to him for the way that he has taken so much trouble to brief us on this Bill, and to write to us, which has been hugely appreciated.

I pick up on two things that the noble Baroness, Lady Taylor, mentioned—first, the importance of the quality of the first report and, secondly, the expectations that people will have of it. By "people", I refer to the two constituencies mentioned by my noble and gallant friend Lord Craig; that is, the veterans, and the servicemen and their families. My concern is over the presentation of the report. The Minister will remember that when he was in Opposition he and I both regretted the fact that the Government had cancelled the position of the chief of public relations for each service. Those three officers had the responsibility of projecting and protecting the image of their particular service, and of protecting the image of their own chief of staff. As a result of the removal of those people, the PR from the Ministry of Defence became much more concerned with protecting and projecting the image of the Minister, which is not the same thing at all. Instead of having the chiefs of staff protected and not going out and saying things that might damage their very important relationships with Ministers, chiefs of staff were speaking out. My noble friend Lord Dannatt will remember this himself: the situation must have been uncomfortable for him, and in earlier days he would not have needed to say the things he did because they would have been said by others.

People in the two constituencies mentioned will have huge expectations on the publication of the first report of the covenant. I put it to the Minister that it is therefore very important that the way in which this is presented is thought through. I use the word "trust" because, although guarantees are given that there is a momentum at the present in the first covenant that the ministries concerned will say things—I am very glad that the noble Lord, Lord Newton, mentioned the Ministry of Justice as well because of the issue of veterans who fall into the hands of that service—we cannot be absolutely certain that that immense momentum will be maintained. This is where the word "trust" comes in. People will have trust if they see in the Bill the fact that each and every year all the people who have an impact on them and their lives will have to give an account of what they are doing to look after them. This may seem like micromanagement, but when we are considering something as important and fragile as morale and trust in our Armed Forces, I do commend that this is thought through with great care.

5.15 pm

Lord Lyell: I hope that I am not too late or out of order; I do not know if the noble Lord who has just spoken was the prime mover of the amendment.

I was listening to the comments of the noble Lord, Lord Empey, as well as comments made earlier in the proposition of Amendment 6, and became interested in the devolved Administrations and the noble Lord's comments about the First Minister of Scotland. Today's proceedings would be of enormous interest to relevant Ministers, let alone the First Minister and other Ministers in Scotland. I hope that any measures added to the Bill, or which come to the devolved Assemblies and Parliament, will be relevant and brief, and are able to branch out, year by year, as per the thoughts and experience of the noble Lord, Lord Empey.

I would be worried if what we are discussing today about the devolved Administrations were unnecessarily burdensome in outlook and discussion. I get a trifle worried about the financial implications and arguments on expenditure for servicemen, their families and others, but particularly for veterans. I broke my leg as a young conscript 50 years ago and other servicemen who served with me might have had injuries. The thought of them being able to use the measures, let alone the finances, we have discussed this afternoon to come back now to receive compensation or bring up a problem worries me mildly.

What my noble friend has indicated and the points raised by the noble Lord, Lord Empey, are very helpful. I hope that a form of words can be found that will achieve everything that he wants from the devolved Administrations and can be knitted on to the funds that come from what I call this Parliament.

Lord Dannatt: My Lords, I contribute at this stage of our proceedings because Amendments 6 and 7 are critical to this whole debate. They encompass our concern about incorporating the responsibilities of all government departments, and our desire to make sure that the serving and veteran communities are both looked after adequately and properly, within all the constituent parts of the United Kingdom. These two amendments really get at the substance of what this debate and this stage of the Bill is about.

That said, I would be quite happy if the second issue to which I draw attention—how these things are implemented—was attended to in a way that I, at

[LORD DANNATT]
least, was comfortable with. There has been discussion this afternoon of the possibility of looking at the position of chairman of the covenant reference group. I am firmly of the view that, as distinguished and expert as that person might be, a three-star civil servant in the Cabinet Office is not the right person, either by experience or position, to be the chairman of the covenant reference group. I do not believe that a person like that can inspire the confidence and trust to which the noble Lord, Lord Ramsbotham, has referred twice this afternoon.

The noble and gallant Lord, Lord Craig, made some reference in speaking to his amendment to the idea of a commissioner having more favour that we had perhaps originally thought. If there is an absolute desire in the Government not to accept any changes to the Bill—I personally regret that, given the amount of energy, time and enthusiasm that has got us here so far—and it is their determined position not to accept any amendments, and if there is the possibility of going down a secondary legislation route, then, if a chairman of the covenant reference group of a thoroughly senior and independent standing were put in place, I, for one, would have confidence that the substance was going to be delivered and that I would be comfortable with that process.

I have been talking about the military covenant—now the Armed Forces covenant—fairly volubly for the past five years. I am delighted by where we have reached. Let us not fall at the last fence. Let us really bang this one home. The soldiers, sailors, marines, their families and veterans want to see this absolutely nailed for all time so that they know they will be looked after now and in the future. All Members of this House and all political parties would wish to support that. Let us not pass this up by being parsimonious against a tight parliamentary timescale. Please, find a way to do it—it can be done.

Lord Astor of Hever: My Lords, noble Lords have made some very important points on both amendments this afternoon. I have listened very carefully. I repeat what I said earlier on the first group. Noble Lords wish to be absolutely clear as to which parts of government participated in the process of preparing the report and what position they have taken. My ministerial colleagues and I have already indicated that the Secretary of State will consult widely and will identify the source of the evidence and opinions that we include in the report. We have also noted that the annual report will be laid before Parliament on behalf of and with the approval of the whole Government. Nevertheless, I can go further by giving an undertaking that the Secretary of State will consult all UK government departments with a significant role in the delivery of services to serving personnel, veterans and their families and the three devolved Administrations. In the annual report he or she will confirm that he or she has consulted other government departments and the devolved Administrations, and will identify their contributions in the published report.

Having said all this, I will reflect again over the next day or two with my ministerial colleagues. I have asked my officials to do the same across government as a matter of urgency. I will be in touch with the noble and gallant Lord as soon as possible.

Lord Craig of Radley: My Lords, I thank all noble Lords who have spoken to this amendment, which is clearly one of the most important in this part of the Bill. The Minister read out yet again the assurances that he wished to have on the record. I recognise that they are. However, he failed to repeat that this Government cannot commit their successors. We all know that. I feel very strongly that the only way in which successor Governments may be committed is by an Act of Parliament. They often overturn them but that is the right way to go. Therefore, I urge the Minister to continue in the way in which he has been moving, towards finding an acceptable compromise on which we can all come together. This is a non-partisan point and a very important Bill. We have only one year in five in which we can do something about it. I beg leave to withdraw the amendment.

Amendment 6 withdrawn.

Amendments 7 and 8 not moved.

Amendment 9

Moved by ***Lord Empey***

9: Clause 2, page 2, line 39, at end insert—

"( ) Where an armed forces covenant report states that special provision for service people or particular descriptions of service people is justified, it must also state how the Secretary of State will seek to ensure that the special provision made is broadly the same in England, Northern Ireland, Scotland and Wales."

Lord Empey: My Lords, this is almost a consequential amendment. I said in my previous remarks that the one thing that I want to prevent is a postcode lottery in the delivery of services to members of the Armed Forces and veterans. Given that we have a national commitment and defence is a national issue, but the delivery of many of these services is within the remit of neither the Secretary of State for Defence nor other Whitehall departments, there is a long-term danger of divergence. We all know that there are already differences between regions of the country in the delivery of healthcare, for instance. That is not specific to the Armed Forces; it is true in general. There are also variations in standards in education, and variations from one local authority to another in the standard of housing provided. Therefore, because of the diversity of our nation, one is not going to get absolutely the same level of service in every corner. However, we have an obligation to ensure that, in so far as it is possible, we have broadly the same level of service provision where that is required for members of the Armed Forces or veterans.

Lest the noble Lord, Lord Lyell, thinks that I would like to see people who had an accident 50 years ago coming forward for compensation, I stress that that is not what I am getting at. I do not think that is what anybody here is getting at. What we are getting at is to ensure that those people who put themselves in harm's way on our behalf are provided for. The noble Viscount, Lord Slim, who is not in his place, pointed

out that in only one of the past 40 or 50 years have no personnel died in action. Given all the complexities and the growing number of multiple amputees and seriously injured young people who are coming back from conflicts, we know that there will be a long-term burden.

The Secretary of State has the power to indicate in the covenant if he feels that special provision has to be made. However, the Secretary of State for Defence is not the person in charge of the delivery of that special provision. He may have considerable influence in Whitehall due to the fact that you generally have a one-party Government or at least a coalition, as we now have, but in the devolved Administrations you could have anything but. You could have parties that are poles apart. It is highly likely that the special provision will cost money. Where will the money come from? The devolved regions are given block grants and it is up to their relevant Ministers to disburse them. The Secretary of State could say, "I believe provision X should be provided to the service personnel and veterans", but he cannot deliver it because a devolved Minister can tell him to take a running jump. I assure the Secretary of State that I know for certain that some of them would do that—and he knows that only too well—so how is he to deliver on the covenant without running the risk of instituting a postcode lottery? The only way that I can think of—other noble Lords have said the same thing—is by having a statutory requirement because, if the requirement is placed on a devolved Administration as opposed to an individual Minister, the Administration take on the responsibility, just as a Whitehall department takes on a responsibility.

If the Secretary of State for Defence decides that provision needs to be made which would have implications for health spending, what will his colleague in the health department say? Will he say, "Do you realise that this will cost me another £70 million a year? Where is the money to come from? Are you giving it to me?"? How will the Secretary of State provide the wherewithal to deliver the special provision which, sadly and regrettably, I have no doubt will be required? The amendment seeks merely to nail down the covenant so that it has a practical implication and outcome for those who need it most. I return to the point made by the noble Lord, Lord Newton, and the noble Baroness, Lady Taylor, about departments and how the system works. A department has a mechanism whereby all its statutory requirements are listed and the obligations are brought through year on year and there is a process for doing that. If it is merely a case of having a chat with the relevant Minister, I assure noble Lords that that will not deliver. As the noble Baroness, Lady Taylor, said, we need to tidy up the loose ends.

This matter follows on from Amendments 6 and 7 and the consensus that we have had throughout the passage of the Bill. I join the noble Lord, Lord Ramsbotham, in thanking the Minister for making himself available for briefings. I regret that I could not attend the one this morning because I could not get here in time but I thank him for what he is doing. I sincerely hope that the period of reflection that he and his colleagues will undertake will be highly productive. I beg to move.

5.30 pm

Lord Ramsbotham: Briefly, I support my noble friend Lord Empey. Just today, I had a briefing on the impact of the commissioners who will come in under the Health and Social Care Bill. On the Floor of this House, I have already raised the question that the National Health Service is without sufficient skilled technicians to look after the high-tech artificial limbs with which some of our injured are being fitted. That is exactly the sort of thing that we do not want to have postcode lotteries for around the country. We need to put those two matters together in the reflection which I know that the Minister will carry out.

Lord Lyell: I apologise to the noble Lord, Lord Empey. I hope that I was not flippant in my comment about my military career, which ended in 1959. I agreed with the points that he raised, especially about Northern Ireland, and the two wonderful words that he used: running jump. Of all people, I appreciate what he was getting at. As for my devolved Administration in Scotland, I see enormous enthusiasm among relevant Ministers in Scotland to do everything possible for injured servicemen and those who have suffered, but, as a very humble member of the Institute of Chartered Accountants of Scotland, I am sure that, with its skills, it could consider the budgetary and financial implications of the measures we are discussing today on either a case-by-case or a category-by-category basis.

The noble Lord, Lord Empey, has raised the point and has been wonderfully supported by the noble Lord, Lord Ramsbotham. As far as is humanly possible, every case and category that we have been discussing this afternoon should be considered on a United Kingdom basis. The funds should be found to boost support, as described by the noble Lord, Lord Empey. I hope that that will be the case in Scotland. I do not know if we have heard anything about Wales; perhaps I had better not delve into that.

I am very grateful for the support and comments made by the noble Lord, Lord Empey.

Baroness Finlay of Llandaff: I intervene very briefly to support the spirit of the amendment and the comments made by the noble Lord, Lord Ramsbotham. We must remember that we now have people surviving injuries who previously would have died. They are therefore surviving with much higher needs for prosthetic fitting for artificial limbs, and so on, than previously. Unless the budgeting is looked at carefully, in a central format, we will have people whose needs cannot be met locally because some of them are literally unique in surviving in their situation. The budgetary implications must be addressed in the reflection.

Lord Rosser: My Lords, the Minister had the support of the whole House in his response to the previous amendment, and I hope that he will also give a helpful response to this one.

As has been said, our Armed Forces are United Kingdom forces. For that reason alone, it would surely be undesirable not to try to ensure that special provision

[Lord Rosser]
for service people is broadly the same across the United Kingdom. The amendment does not require the Secretary of State to do the impossible and ensure that special provisions made are broadly the same, but simply provides for the covenant report to state how the Secretary of State will seek to ensure that such provisions are broadly the same. This is an eminently reasonable and constructive amendment, and I hope that the Minister will give an equally constructive response.

Lord Astor of Hever: My Lords, noble Lords who have spoken in support of Amendment 9 have voiced their disquiet at the prospect of variation between the different countries of the United Kingdom in the way that special provision or special treatment is applied. I have previously said to your Lordships that the Government are sympathetic to the principle of consistency. As noble Lords have pointed out, members of the Armed Forces serve the Crown and the whole of the United Kingdom, not a local council or the devolved Administrations. The Armed Forces covenant is with the nation, not with one part of it. All parts of government across the UK share the moral obligation to honour it.

Nevertheless, we must keep this in perspective. The terminology of a postcode lottery is emotive and sometimes used unfairly to describe the legitimate scope for local decisions about local services. There are many examples where that scope for local decision has led to better outcomes for members of the Armed Forces community, rather than allowing councils or Administrations to escape their obligations. The Government have no wish to stifle that local initiative or control everything from Whitehall by regulation.

One alternative to regulation is successful dialogue. Again, I have referred in the past to what dialogue has achieved across a range of different domains, such as the introduction of the new arrangements for scholarships for bereaved service children. Another example I gave was the new transition protocol for transferring the care of injured personnel from military to civilian services across all the countries of the United Kingdom. So I am not as pessimistic about the future as the noble Lord, Lord Empey. The noble Lord knows that the particular terms of the amendment, which would require the Government to include in the report a statement on how we would ensure that the provision is broadly the same across the UK, causes difficulty. That goes some way beyond what we envisage as the content of the annual report. Even if we accepted the underlying assumption that the UK Government should act in the way suggested, we would not necessarily have the answers available when the report was published.

In Grand Committee, the noble Lord invited the Government to reflect further on those matters, and we have. He used a very good phrase when he referred to his desire to connect every part of the UK to the report process. In that debate, I gave the noble Lord the assurance that, where the Secretary of State reaches the conclusion that special provision is justified, the annual report will attempt to take into account the position across the United Kingdom. We would take a wide view. I trust that that assurance, together with the further statements which I had made today about the report process, will give the noble Lord the assurance he seeks. I therefore ask him to withdraw his amendment.

Lord Empey: I thank the Minister for his response. I understand that "postcode lottery" can be an emotive phrase, but he knows that neither I nor anyone else who has used it has done so with any sense of flippancy. It was used to convey the point that servicepeople serve all of us and that services that they need in unfortunate circumstances should be broadly equivalent or equal throughout the United Kingdom. I think that that is the general view.

I support the concept of dialogue. That is excellent and, so far, it is going fine. However, I can tell the Minister, because I know—I do not have to imagine it, we have it in black and white in *Hansard* in Stormont—that there can and could well be a difficulty. The reason why it is going so well at the moment is purely because of the individual personnel who happen to be in post at this time, but that will change from Administration to Administration.

I am trying to ensure, as other noble Lords are, that we avoid difficulty in the future. However, we accept, and I think everybody accepts, that one wants to do this with the minimum of regulation. However, the Minister needs to take it on board that if the Secretary of State for Defence decides that special provision has to be made, which is perfectly natural, the quid pro quo is that the Secretary of State has to be in a position to tell Parliament how it is going to be delivered. The Secretary of State for Defence is not the Minister who can deliver. That is a fact. It might be an inconvenient fact but it is nevertheless a fact.

All I am interested in is avoiding a problem in the future. I have no desire to create difficulties for the Minister or for the Government but I wish to ensure that difficulties are not created down the line and that an unseemly row starts over something that we would want to keep above that sort of level. I beg leave to withdraw the amendment.

Amendment 9 withdrawn.

Amendment 10

Moved by ***Lord Rosser***

10: After Clause 2, insert the following new Clause—

"Armed forces advocates

After section 359 of AFA 2006 insert—

"359 Armed forces advocates

(1) The existing network of armed forces advocates will be extended through the nomination of supporting advocates at regional and local level to ensure that local authorities work together to identify and resolve issues in local policy or the delivery of services that may affect service people.

(2) In this section "armed forces advocate" means a public servant nominated to monitor and resolve policy or legislative issues that arise for service people.""

Lord Rosser: My Lords, this amendment refers to the position of Armed Forces advocates and provides for the existing network to be extended at regional and local level to ensure that local authorities work together

to identify and resolve issues in local policy or the delivery of services which may affect servicepeople. I moved a similar amendment in Committee.

In rejecting the amendment in Committee, the Minister said that he regarded Armed Forces advocates as an excellent idea, but in effect argued that the role of government was to ensure that best practice was promoted around the country by drawing attention to successful uses of the advocate system but did not extend beyond that. It was for example a matter for local authorities to decide whether or not they wished to appoint Armed Forces advocates. Armed Forces advocates, among other things, help to ensure that services provided at the local level appropriately recognise the specific needs of Armed Forces personnel, veterans and their families.

The previous Government piloted an Armed Forces welfare pathway which led to the appointment of some Armed Forces advocates. The Minister argued in Committee that since this had been done without legislation, the same should continue. The previous Government, however, was getting the system off the ground. We have now seen what can be achieved and there appears to be a general recognition of the merits of Armed Forces advocates. We also now have the Armed Forces covenant and a situation in which many authorities are under considerable pressure as well.

My noble friend Lord Davies of Stamford, who is not in his place, said in Committee that it was those local authorities least inclined to establish the post of Armed Forces advocate where it was most likely that the Armed Forces would need such an advocate, and vice versa. In response the Minister said that that was a very good point and that he would certainly look at it. I hope that having done that, the Minister, even if he is not prepared to accept this amendment, will at least be able to spell out some much more specific action that the Government intend to take to ensure that best practice is actually introduced and implemented in those places where it is most needed—mainly where there are no Armed Forces advocates or their equivalents at present.

5.45 pm

Lord Astor of Hever: My Lords, the noble Lords, Lord Rosser and Lord Tunnicliffe, tabled a similar amendment to Amendment 10 in Grand Committee. In response I assured your Lordships that I regarded Armed Forces advocates as an excellent idea and outlined the tasks they carried out in central government departments. I also mentioned the variety of roles which advocates or champions can and do play at local level in local authorities, NHS trusts or jobcentres. The form this took depended on the job to be done.

The issues surrounding this amendment have not changed. It is not the merits of local Armed Forces advocates that are in question but the need to legislate for their existence. Our approach is to spread good practice by demonstrating what advocates and other local initiatives are able to achieve. As the noble Lord pointed out, the noble Lord, Lord Davies of Stamford, suggested in our earlier debate that it was precisely those local bodies which decline to appoint an advocate which were most likely to need one as they had not focused on the issues. I undertook to consider this point further. Having done so, I take rather the opposite view. I suggest that a local body which appoints an advocate, simply because it ticks a box or meets a legal requirement, is very unlikely to make effective use of that individual. This is not the right approach to stimulate genuine improvements at local level, and I ask the noble Lord not to press his amendment.

Lord Rosser: My Lords, I am obviously somewhat disappointed at the Minister's reply because although I accepted that he might well not be prepared to accept the amendment, I expressed the hope that he would be able to spell out in rather more detail the specific action that the Government intended to take to ensure that best practice is introduced and implemented. It does not seem to me that the Minister has really addressed that point in his reply. However, I will not pursue the matter any further at this stage and I beg leave to withdraw the amendment.

Amendment 10 withdrawn.

Amendment 11 not moved.

Amendment 12

Moved by ***Baroness Finlay of Llandaff***

12: After Clause 11, insert the following new Clause—

"Procedure on arrest for substance abuse, violence against the person or damage to property

After section 74 of AFA 2006 insert—

"74A Procedure on arrest for substance abuse, violence against the person or damage to property

(1) If a person subject to service law and currently serving in Her Majesty's armed forces—

(a) has been arrested on suspicion of having committed an offence, and

(b) the damage is related to substance abuse, violence against the person or criminal damage to property,

prior to any decision being made as to charge, consideration shall be given and the conclusions recorded as to the possible diversion of the person for specialist services to assist with substance misuse and mental health treatment either through Her Majesty's armed forces or in the community.

(2) Prior to such a person's case being determined before a military or civil court, the prosecuting authority and the court shall review whether the case should be referred to specialist services such as are described in subsection (1).""

Baroness Finlay of Llandaff: My Lords, this amendment has been rewritten in the light of the debate we had in Committee. It has, I hope, addressed the criticisms of the previous wording. It is about the procedure on arrest of somebody for substance abuse, violence against the person or damage to property. This relates quite specifically to alcohol-fuelled aggression, a problem that sadly is increasing, and possibly to drug-fuelled aggression. The alcohol-fuelled problem is much greater. The aim of the amendment is simply to bring into line the military court system with the civilian court system.

The Police and Criminal Evidence Act, known as PACE, set out criteria for the police station in civilian life which present an automatic safeguard that does not exist in the military court system as PACE does

[Baroness Finlay of Llandaff]
not apply. Some of these safeguards include: access to a forensic medical examiner, addiction and arrest referral and mental health liaison and assessment teams. I am most grateful to the Minister and to officials who met me and spent some time discussing the details of this amendment. I draw noble Lords' attention to the wording just after the proposed new subsection (1)(b), which says that,

"prior to any decision being made as to charge, consideration shall be given and the conclusions recorded as to the possible diversion of the person for specialist services".

All this amendment is asking is that it is considered. It is not asking that any more than that happens. It does not mean that there has to be detailed testing. It simply means that the person making the arrest should have a prompt to think about the problem.

I understand that probation trusts are going to become increasingly involved in the assessment of Armed Forces personnel when they are up for charges. Indeed, Hampshire Probation Trust has been named as one. One of the difficulties, of course, is that like other areas it is facing stringent budget cuts, including front-line cuts. I would be concerned as to how a probation trust is going to have probation officers in areas such as Newcastle or Yorkshire or wherever there are other barracks because they are quite far-flung. I note that there has been a recent advertisement for probation officers to cover the whole of Germany. It is for two officers. It is a very large area for just two people to cover. There is concern about the level of training and support that these people will have. Therefore, I hope that the Government will be able to provide some reassurance that the prosecuting authority will seek to engage with local probation trusts, wherever appropriate, because a local probation trust will be familiar with local issues and local diversion projects both in the community and in barracks.

Any probation officers dealing with people from the military need to have proper training to identify underlying mental health and substance misuse issues. The way that such cases present in the military may be different from how they present in what one might call the purely civilian population.

The idea of an intervention before charging is precisely to avoid stigmatisation and to avoid court proceedings when other interventions would be more appropriate and, indeed, perhaps less expensive. In the civilian justice system there are many intervention and diversion possibilities before a person is charged. For example, if the custody sergeant or arresting officer suspects drug and alcohol or underlying mental health issues, he will, in fulfilling his duty, call in a police doctor. Under the Police and Criminal Evidence Act 1984 there are triggers to look for evidence if drugs or alcohol are suspected. I quote from the guidance:

"The drug test is a screening tool only and the result cannot be used … against the detainee ... The result of the test can lead to referrals for treatment and can also be used to inform court decisions on bail and sentencing".

If that guidance were adopted for military courts, we would certainly not run the risk of any results being used against a detainee but an intervention might provide the support needed to deal with the fundamental problem behind the offending behaviour.

The problem of stigmatisation is particularly marked in the Armed Forces. In medicine there has been, and perhaps still is, a somewhat macho culture in terms of coping with very traumatic situations. People suppress their feelings and have a drink, and it is quite a macho thing to hold your drink or to cope with drugs. When you fail to hold your drink and maintain that bravado, you are stigmatised as being weak because you have failed the alcohol or drugs test. People's inhibitions about admitting to having a problem or a trauma is therefore perpetrated by this macho culture.

Early detection and intervention is extremely cost-effective and was monetised by the New Economics Foundation. I have the figures relating to women, although I do not have them for men. The cost of incarcerating a woman for a year is £56,000 and the cost of locking her up for 10 years is £10 million. Therefore, on those figures, early intervention with someone for whom such incarceration had no benefit at all could certainly quickly be seen to be very cost-effective for society. There is simply a need to ask whether the person misuses substances and whether he wishes to self-harm or has ever tried to self-harm or commit suicide. That opportunity for self-disclosure in a safe setting prior to charging must be encouraged and nurtured by the Ministry of Defence, as opposed to the current culture of shaming a person and heaping punishment on them. With the help of outside lawyers, I ran the Minister's Committee stage briefing past former service personnel. I am afraid their response suggests that the impression that a lot is already in place may be a sign of slightly misplaced faith in the current system, and it reinforced my resolve to bring forward this amendment.

In the civilian justice system there is a fairly new joint initiative between the Ministry of Justice and the Department of Health to identify people known to the community mental health team as suffering from mental health issues or as being treated for substance misuse so that they can be dealt with fairly and appropriately. I would hope that the same could be put in place for the court martial service and the defence community mental health teams, and I think that this amendment would help to stimulate such collaboration.

In Committee, objections were raised about the pressure on the military court system to deal with every case through psychiatric reports and drug testing, but the wording has removed the obligation. As I said before, it simply makes it a consideration which lays some, although not an onerous, measure of legal responsibility. The wording creates a consideration, not an obligation, and leaves room for discretion. Some important current initiatives could certainly be built on and would, I think, be completely compatible with the wording of the amendment. For example, it looks as though the Trauma Risk Management programme, which is a peer-review support programme used in Afghanistan, will be a very effective way of supporting deeply traumatised members of our Armed Forces.

It is important to remember that many service personnel are very young indeed and do not have the emotional infrastructure behind them to help them to cope with the traumas that they encounter. Their repeated infractions are often symptoms of far deeper problems, some of which may have occurred before

they ever joined the Armed Forces. When the revealing of those multiple traumas is alcohol-fuelled, it can result in the injury of and violence towards people around them, particularly within the personnel's own family.

I suggest that lower welfare costs and the effect on budgets across all government departments will come about by dealing with the underlying issues through early intervention. That is the spirit behind the amendment. I know that the noble Lord, Lord Carlile, who regrets that he is unable to be here at the moment, feels that the amendment should meet the criticisms made in Committee, and it should also help to turn around the existing attitude within the military court system, bringing it into line with the civilian court system. I beg to move.

Lord Wallace of Saltaire: My Lords, I recognise the noble Baroness's concerns, which form the background to her amendment and to the way in which she has responded to points made in Committee on her earlier amendment. She wishes to bring awareness of and investigation into potential links between substance abuse, mental disorder and the committing of offences within the Armed Forces as close as possible to what is now required within the civilian justice system.

My understanding is that alcohol abuse is currently a much more common problem in the forces than drug abuse. Mental health issues—particularly those associated with post-conflict trauma—are, however, a wider concern.

I recognise the noble Baroness's concern that there are insufficient and insufficiently trained staff to provide the examinations and reports that are needed. I reassure her that the MoD will look again at the level of provision, but I am informed that there have not been recent complaints from within the military that resources are inadequate.

She raised the question of Germany. I have just checked again my previous understanding that UK forces remaining in Germany are now concentrated in two geographical areas and are not spread across the whole country. The appointment of two probation officers therefore seems appropriate.

There remain some real problems with the exact terms of the amendment as drafted, which make it impossible for the Government to accept it. However, we do accept and share the underlying concern that the noble Baroness is addressing. The importance of the psychological state of an offender and the appropriateness in some cases of a specialist social or mental health approach instead of prosecution is well understood in the service justice system, as in the civilian system. However, the framework within which the forces operate is not, and cannot be, identical to the framework within which civilian offences are handled. None the less, the MoD and the Armed Forces are conscious of the importance of recognising at an early stage those who may need specialist attention. If possible, this must happen before offences are committed or prosecutions are started. That is part of the service support system.

6 pm

The measures to identify and support those who are vulnerable range from informal support within the unit through to specialist medical attention. I will not attempt to cover them all but there is a clear pre- and post-deployment stress management policy in place across all three services. No system can provide a guarantee to detect every individual at risk of mental disorder. Nevertheless, measures are in place to increase awareness at all levels. These include pre- and post-deployment briefing and the availability of support, assessment and treatment if required both during and after deployments.

It is essential for there to be an understanding and awareness of mental health problems at all ranks and, in recognising the question of stigma, to remove the stigma that is still sometimes attached to admitting to mental health problems and obtaining treatment. Among the steps in place is the increased use of trauma risk management, known as TRIM. The aim is to provide non-specialist advice and support within the unit. Suitably trained members of each unit can do much to identify those in the unit who may have a problem, to give them basic but informed advice and support, and to refer them, if necessary, for specialist help. Another useful measure is decompression. This informal relaxation and briefing after an operational deployment allows individuals to begin to unwind mentally and physically while having time and briefing to encourage them to talk through their experiences.

I have already made reference to the importance of understanding the psychological state of an offender and the appropriateness in some cases of a specialist social or mental health approach. But in most cases, drugs offences and offences of violence or damage to property will be prosecuted. When a case is serious enough to go to a prosecuting authority, whether civilian or military, that authority must consider the evidence available as to whether the suspect had the necessary intent to commit the offence under consideration. The prosecuting authority must also consider whether the interests of justice make a prosecution in that case appropriate. This is not a statutory requirement but part of the general responsibilities of those making decisions on prosecutions. It is also a prosecuting authority's responsibility to keep these issues under review throughout the proceedings.

The defence routinely provides submissions to the prosecuting authority about the accused's state of mind and whether continued proceedings are appropriate. The prosecuting authority is therefore able to review in context its assessment of what the interests of justice require. It is also a prosecuting authority's duty to disclose to the defence any facts it becomes aware of which go to mitigate the seriousness of the alleged offence. The prosecuting authority should, and does consider what the interests of justice require and, in particular, whether a prosecution is appropriate. It does so, taking into account the evidence before it. But it would go too far to require prosecuting authorities or commanding officers to consider and to record their consideration whether the suspect should be referred instead to specialist services. To do so would confuse the role of prosecutor and the role of a commanding officer with that of a court. It is right for a prosecutor and a commanding officer to have some discretion on whether to prosecute and to respond to what the interests of justice plainly require. However,

[LORD WALLACE OF SALTAIRE]
there is an important boundary to be maintained between that role and the role this amendment would require them to play.

The second effect of the amendment applies once the member of the Armed Forces has been charged. It would require the prosecutor and the court to consider referring an accused to specialist services before trial. This would, I believe, be wrong in principle and unfair to the accused. It would in effect require the court to consider how the accused should be dealt with before hearing the evidence. To take a simple example, if a member of the Armed Forces pleaded not guilty to a charge of assault, the amendment would require the court to consider referring the person to specialist services before it had heard the evidence on whether he or she had committed the assault.

Lastly, the amendment would mean that members of the Armed Forces were singled out by statute as requiring in every case related to substance abuse, violence to a person or damage to property, special consideration of the need for assistance with substance abuse or mental health treatment. These do not apply to other citizens, and I do not consider that there are grounds for such a different approach between members of the Armed Forces and civilians. I emphasise that we recognise the importance of understanding the psychological and social background of an offender in the Armed Forces as well as in civilian life, and I hope that the noble Baroness will be reassured by my summary of what has been put in place in the Armed Forces to identify mental health problems and to treat them in the right way. In the light of the reassurances that I have given, I hope that the noble Baroness will feel able to withdraw her amendment.

Baroness Finlay of Llandaff: I am most grateful to the Minister for providing me with a very detailed response, and for the reassurances that he has given now. I was not given such reassurances in Committee. The points that he makes are extremely important. In the light of them I will withdraw the amendment and hope that we will not hear in the future about some of the disasters that have occurred in the past. I beg leave to withdraw the amendment.

Amendment 12 withdrawn.

Amendment 13

Moved by ***Lord Craig of Radley***

13: After Clause 23, insert the following new Clause—

"Commonwealth medals

After section 339 of AFA 2006 insert—

"339A Commonwealth medals

Medals awarded by Commonwealth governments, including the Pingat Jasa Malaysia Medal, to present or former members of Her Majesty's armed forces may be worn without restriction.""

Lord Craig of Radley: My Lords, I speak to Amendment 13 in my name and that of other noble Lords mentioned on the Marshalled List. In the course of the debates on the topic of medals it has become clear to me that there is considerable ambiguity and genuine confusion over who is responsible, who does what and why, and when foreign awards may be accepted by British subjects with or without restriction. Restriction seems to mean that a recipient may accept an award but is not allowed to wear it.

It has been normal for the Foreign Office to handle awards from foreign states but that now seems to be in doubt. I asked a Written Question about the Malaysian Pingat Jasa Malaysia medal but it was answered not by an FCO Minister but by the noble Lord, Lord Astor of Hever. The noble Lord has since written to me to say that he has set in hand a review of the process by which advice about the institution of medals and the acceptance of foreign awards in respect of military service is put together, considered and submitted to the Queen.

I also raised in Committee the issue of the prerogative when it came to submissions to the sovereign. I quoted two examples of Written Ministerial Statements, in 2005 and 2006, which made clear that the rules of no double medalling and a five-year moratorium were government policy. The Minister, in a Written Answer about the prerogative, dated 23 September, states that these references to the Government, "are not strictly correct".

Noble Lords will be taken aback to learn that such authoritative Statements to Parliament as two Written Ministerial Statements are not correct, or are deemed to be incorrect, in order to uphold a unique position claimed for the honours committee in relation to advice to the sovereign. I remind the Minister that in a reply to my Written Question in September about wearing the PJM medal, the noble Lord said about Commonwealth Governments:

"Each Government apply their own rules and judgment to their own citizens".—[*Official Report*, 5/9/2011; col. *WA 17*.]

Is there really such a difference for the UK Government? It would appear not. In his letter to me and other noble Lords dated 23 September, the Minister states that,

"there remains under the Prerogative scope to make exceptions".

In other words, Her Majesty follows the advice of her Ministers.

The Minister also claims that when an exception is allowed, the results are likely to be seen as anomalous or unfair. Surely, that is not the right conclusion to draw. Rather, it is that with the passage of time the rules themselves and officials who seek to hide behind them are the problem, not the numerous exceptions that have been granted over many decades. I am sure the Minister is right to have instituted the review. It should look at the so-called rules, and I welcome his assurance that a Written Ministerial Statement on the outcome will be forthcoming.

Amendment 13 should not be delayed because of any review. As I mentioned in Committee, the long-standing issue of the Pingat Jasa Malaysia medal has yet to be resolved. I visited Malaysia last June at the personal invitation of Prime Minister Najib. It was clear from what he told me and what I saw that Malaysia is now well on the way to achieving its vision of being a fully developed nation by 2020. Putting a restriction on the generous recognition of the contribution

of many service and other personnel to the start of that process of development seems quite unnecessary and lacking in appreciation of the donor's gesture and standing in the world. Even more bizarre, a British recipient has Her Majesty's agreement to accept but not to wear the PJM, while an Australian serviceman has Her Majesty's approval to accept and to wear it. How confusing and frustrating must that be to an individual with dual nationality?

As I have already mentioned, in his response to my Written Question about the PJM, the noble Lord the Minister attempted to explain this anomaly away when he said:

"Each Government apply their own rules and judgment to their own citizens".—[*Official Report*, 5/9/2011; col. *WA 17*.]

In other words, the Government are in the lead and Her Majesty is following that advice. How does that sit with the claim that the honours committee is independent of government? Once again, we have confusion and conflicting answers to the same Question. No contortionist could so ridiculously point in so many different ways at the same time. Other Commonwealth countries are also making giant strides in development, and this Government are anxious rebuild and reinforce the ties of Commonwealth. For these reasons, I believe that now is the time to make special provision for awards from Commonwealth countries. With the Commonwealth Heads of Government Meeting due at the end of this month in Perth, it would be a positive announcement for the Prime Minister to make at that meeting.

A further argument sometimes prayed in aid of the discredited restrictive rules is that the presence of a second award on the chest of an individual somehow reduces the value of the national award. I wonder whether that is really right. The individual can take pride in both and his contribution is clearer to those who see the medal ribbons on his uniform. I recently saw a photograph of the late Lord Mountbatten of Burma. He had 10 rows of medal ribbons on his Admiral of the Fleet uniform. I am sure he was proud to be able to display them all, but I shudder to think how the honours committee of the day managed to recommend so many exceptions to their precious rules so close to the date of their original adoption. I invite the noble Lord the Minister to accept this amendment. I beg to move.

Lord Ramsbotham: My Lords, as in Grand Committee, I support every word of my noble and gallant friend Lord Craig. Unlike in Grand Committee, I have not brought my PJM medal with me; nor have I brought my General Service Medal with its clasp, showing that I was involved in confrontation in Borneo, but they are two medals for the same thing.

Another aspect of the unfortunate way in which this issue has been handled relates to the veterans who raised the issue of the PJM with the Government. They were, frankly, treated in a way that I would not have expected of the Ministry of Defence. The HDC—the Honours and Decorations Committee—may have met, but if it did so, it did so internally and did not share any of its findings. The letter that was then sent to the veterans was unworthy of the ministry. I am grateful to the noble Lord the Minister for announcing that he is going to revisit this, and I hope that this time there will be proper transparency so that the veterans are aware of the arguments and that they are not just produced in secret and, as my noble and gallant friend has said, erroneously.

6.15 pm

Viscount Slim: My Lords, while we were in Committee in your Lordships' Chamber, there was a very fine debate on the Commonwealth and how it could be brought closer together and how we could enhance it. There were some excellent speeches. I think this whole question, put by the noble and gallant Lord, of Commonwealth decorations and medals received would bring the Commonwealth even closer together. After all, in the last three years, one New Zealander and two Australians got the Victoria Cross. There seems to be no problem about them participating; they are from the Commonwealth.

The Foreign Office and the Ministry of Defence have missed a point or two about the PJM medal of Malaysia, which is in dispute at the moment. The HD Committee, which I feel is the right way to go about these things, and I have said so in Committee, has missed a trick. Here is a Muslim nation—sophisticated, democratic and ably led—offering in gratitude a medal of thanks to all our veterans. That is really what it is. It is about the only nation I can think of that we have left that has thanked us like this. Of course, history shows, as many noble Lords will recall, that the gratitude comes from the fact that while the terrorist campaign was going on, and the British were definitely running that, it gave the Malays time to make their Government and to build their democracy.

As I said in Committee, I do not think that the HD Committee advised the Sovereign well. I would put it no stronger than that because I would not wish to embarrass the Sovereign in any way. We have not been very clever, as the noble Lord, Lord Ramsbotham says, in the way in which we have treated the veterans in rather rude, grubby and unfriendly letters that say, "You can do this but you can't do that". There is discontent among those veterans. They are old men and women now. Many in the brigade of Gurkhas spent 15 years of their lives in Malaya, and they are not allowed to wear the medal. Many British service men and women in the 11-year period went back one, two, three more times. This is giving, and this is service—to Britain and to Malaysia. The noble Lord the Minister wears such a medal himself. I know that he puts it on the inside of his jacket when he goes out and makes sure that he has it on. I say to the noble Lord the Minister that if I appeared in front of the Agong or any of the Malayan generals whom I know, respect and look up to and I was not wearing a PJM, they would be very offended.

Let us ask the noble Lord the Minister to refuse the recommendation and look at this again. The HD Committee should not be too proud to change its mind. As the noble and gallant Lord, Lord Craig, said, we are moving on and things are different from how they were in wartime and in the early days after World War II. The noble Lord the Minister wears his

[Viscount Slim]
general service medal bravely and proudly for his time as an excellent cavalry officer in Malaysia. I ask him to look again and not to let the civil servants rule him all the time.

Lord Touhig: My Lords, I support the amendment of the noble and gallant Lord, Lord Craig. The issue of the Pingat Jasa Malaysia medal is a stain on the honour of Great Britain. This is no way to treat our veterans. They are told that they can accept a medal awarded by His Majesty the King of Malaysia but that they must not wear it. The decision was based on advice to Her Majesty the Queen from the Committee on the Grant of Honours, Decorations and Medals. I have been involved in this matter, with other noble Lords and noble and gallant Lords, over the years. We were told that one reason why the HD Committee reached its conclusion was the double-medalling and five-year rule. However, the double-medalling and five-year rule was set aside in order that the men could accept a medal and then reimposed to prevent them wearing it. This is appalling. To add further shame, the Committee on the Grant of Honours, Decorations and Medals then advised that they should wear it for one week when they were invited to return to Malaysia for the celebration of its 50th anniversary of independence. What an appalling way to treat our veterans.

Mention has been made of the way in which some veterans had communications from various departments and civil servants. I have a letter from a veteran who said that he was advised by a civil servant that he could stuff his PJM back into his Kellogg's packet because the medal's status meant nothing. What a way to talk to somebody who fought for our Armed Forces in the jungles of Malaysia but not in the jungles of Whitehall. I have sought, through freedom of information legislation, more information on how the Committee on the Grant of Honours, Decorations and Medals reached its decision. Members often do not meet; they communicate and reach their decisions by e-mail. It is a good thing that we did not have e-mails in 1957 at the start of the Malaysian campaign, or some of the boys we wanted to send might have said, "I'm not going but I'll send an e-mail of support". This is an appalling way to treat our veterans.

In a few weeks, on November 11, we will remember those who gave their lives for Britain. There could be no better time to take stock and say, "We've got this wrong, we need to review this and ensure that these boys are able to wear a medal that they richly deserve". I know that the noble Lord the Minister feels this in his heart. I echo the comments made by the noble Lord: set aside the advice given by civil servants and anybody else. The right thing to do is to let our boys wear a medal. Let us—as a Government, as a Parliament and as a country—honour them in the way that they deserve.

Lord Palmer of Childs Hill: My Lords, I will speak to Amendment 14. I waited until everyone had spoken on Amendment 13. This does not stop me saying that I agree entirely with all noble Lords who spoke on that amendment. I hope that the Minister will change his mind.

I will talk about a national defence medal. We have heard very poignantly about medals for gallantry, for campaigns and for being in the armed services. However, since the end of the Second World War there has been an inconsistency and an injustice in medallic recognition. Noble Lords have spoken about medals they and others received, but many people in the armed services have received no medals. I found some amazing cases in my research. The Minister talked earlier about spreading good practice. It would spread good practice if we had a national defence medal issued to those who served in the Armed Forces. I thank the Minister and his colleagues who have given us a lot of verbal and written information on the subject. One civil servant commented that there were 4 million such veterans. Not all would apply for the medal, but the fact that there are 4 million veterans shows that this is an incredible group of people to whom we owe a debt of honour. In the United States they would all be in a veterans' organisation and very powerful politically. I am afraid that the only politics here is today in your Lordships' House.

A number of people do not support such a medal. This was also the case in Australia and New Zealand, where a very vocal minority opposed it. However, the medal was introduced and I believe that it is very successful and appreciated. I feel that I am on a losing wicket in trying to get this incorporated into the Bill. However, at the very least we should have a medal review that is independently chaired, transparent and open and that consults veterans. Sadly, the MoD review, which has been going on for a long time, is seen by veterans as flawed. The draft report that has been wandering around for a long time has been greeted with little enthusiasm.

The reality is that of 7,500-plus e-petitions on the government website, the one requesting a national defence medal ranks 46th. Of the 60-plus e-petitions that affect the Ministry of Defence, the one calling for the introduction of a national defence medal comes top. It would be extremely popular and symbolic if this came as part of the five-year review of the Armed Forces Bill. The cost would be about £2.50 per medal. Is that what is stopping this? Why can we not have this symbolic recognition of people's service to their country? I hope that the Minister will at least pursue an independently chaired committee that will be transparent. It may in the end decide not to have a medal, but at least the veterans will see that the decision has been made transparently and not in the back rooms of power.

Lord Astor of Hever: My Lords, I am grateful for the opportunity to speak on the subject of medals, the rules about accepting and wearing them, and the possible introduction of a national defence medal. A number of amendments on medals were tabled in Committee. They prompted a lively debate about an issue that clearly raises a great deal of interest. The discussion today has emphasised this. As my noble friend Lord De Mauley explained in Grand Committee, decisions on the institution of medals and honours, and the acceptance of foreign honours, are ultimately a matter for Her Majesty the Queen. The general approach adopted is that permission to accept and

wear foreign medals should only be given exceptionally for services, whether civil or military, to the Crown. Her Majesty is advised on the award and wearing of medals by the Committee on the Grant of Honours, Decorations and Medals.

6.30 pm

The HD Committee, as it is known, was established by King George VI to ensure proper co-ordination and consistency across Government regarding honours and decorations, both military and civilian. The committee is deliberately non-political and is made up of very senior Crown servants representing the departments most involved in matters relating to medals. The committee's work is administered by the Cabinet Office and, in respect of foreign awards, the Foreign and Commonwealth Office, which liaises with the Governments of other countries over any proposed awards.

The effect of the amendment proposed by the noble and gallant Lord, Lord Craig, if adopted, would be to end the broadly consistent approach across government. First, it would apply one approach to the award and wearing of Commonwealth medals for serving and former members of the Armed Forces and a different one for civilians whom a Commonwealth Government may wish to honour. It would mean that the rule for the Armed Forces was that they could wear Commonwealth awards, but the general principle for civilians would remain that they could not.

A further problem would be created by establishing a separate principle that applied to medals offered by the Governments of Commonwealth nations as opposed to those offered by other allies. The operations in which our Armed Forces find themselves involved are increasingly international, with British units regularly working alongside the UN, NATO or EU partners. It would not be easy to justify to non-Commonwealth allies or to members of our Armed Forces why we would generally decline the offer of a medal from them while readily accepting a medal offered by a Commonwealth nation. Considerable diplomatic difficulty could result from having to explain this to a non-Commonwealth ally.

For these reasons, I regret that I cannot support the noble and gallant Lord's amendment. However, I am aware that there is such concern over the matters raised today and in Committee that they warrant further examination. In that spirit, I have recently written to the noble and gallant Lord and other noble Lords who spoke about medals in Committee. In that letter, I explained that successive Governments have supported, and this Government continues to support, the principles that the HD Committee seeks to apply in relation to the receipt and wearing of foreign medals in accordance with the arrangements established by King George VI.

Most of the issues raised have been in relation to the application of sound principles in difficult cases to do with military medals. I have therefore asked Ministry of Defence officials to set in hand work to consider the process by which advice about the institution of medals, and the acceptance of foreign awards in respect of military service, is put together, considered and submitted to Her Majesty. The work will also consider the way that decisions are promulgated. My officials will discuss these matters with the current chiefs of staff and HD Committee members. They will then consider whether any advice should be given to Her Majesty about the need to review the process and make changes.

Once my officials have reported back to me, I shall report back to Parliament through a Written Ministerial Statement. I aim to do so before the turn of the year. In addition, I propose to write to ministerial colleagues in the FCO emphasising the strength of feeling that continues to exist, both in this House and elsewhere, specifically about the Pingat Jasa Malaysia medal. I declare an interest as being a holder of the medal, which I assure noble Lords remains hidden in my top drawer. In doing so, I will propose that they look again at whether they can advise the HD Committee to recommend to Her Majesty that those who were awarded the medal should also be permitted to wear it. I will write to the noble and gallant Lord in due course outlining our position.

All this work will complement the Ministry of Defence's review of military medal policy that resulted from an undertaking in the coalition's programme for government. This review is nearing completion under the direction of my right honourable friend, the Minister for Defence Personnel, Welfare and Veterans. The receipt and wearing of medals is a sensitive issue. I hope that what I have just set out might reassure noble Lords that, while I do not agree with the noble and gallant Lord's amendment, the Government are listening to the concerns that have been raised on this issue. In the light of that, I hope that the noble and gallant Lord will withdraw his amendment.

Turning now to my noble friend Lord Palmer's amendment about the institution of a national defence medal, I must inform him that there have been no significant developments in the situation since he raised the same amendment in Committee. I am aware that a relatively small group of veterans has campaigned vociferously for a number of years now for a national defence medal. I understand that they believe that such a medal should be presented to all of those who have served in the Armed Forces for two years or more since the Second World War—an estimated 4 million men and women—irrespective of where that service took them.

Of course, we already have an Armed Forces Veterans lapel badge which provides universal recognition of past military service. Almost a million badges have been issued and are worn with pride by veterans of all ages. The national defence medal campaigners consider the veterans badge to be insufficient recognition for having served. My noble friend suggested that a national defence medal could be produced for as little as £2.50 each. I would question whether a medal of quality could be produced and distributed for a figure anywhere near that. Our own estimate is closer to £75 each when one takes into account the cost of producing a medal of some quality, the cost of drawing individual service records from archives to check eligibility, the cost of distribution and the cost of the extra public servants to do all this. To issue a national defence medal to a potential 4 million people could therefore cost in the

[Lord Astor of Hever]
region of £300 million. Money is not the main issue here, but it is a significant factor in the current environment. The main question we must address is whether there is justification for such a medal to be introduced for all who served, whatever it is made of or its cost.

As my noble friend Lord De Mauley explained in Grand Committee, the Government set out their intention in their programme for government to review the rules governing the award of medals as part of its commitment to rebuild the military covenant. In delivering that commitment, the Ministry of Defence has recently completed a draft review which included the case that has been made for a national defence medal. Extracts of that review were sent to representatives of a number of groups that have campaigned for new medals and their views sought. Extensive comments were received from the chairman of the national defence medal campaign and the review is now being considered by my ministerial colleagues. We must await the publication of this review before drawing any conclusions as to whether there is justification for a national defence medal being created.

I hope that in the light of the comments I have made, the noble and gallant Lord, Lord Craig, and my noble friend Lord Palmer will withdraw their amendments.

Lord Craig of Radley: My Lords, the Minister has obviously given a lot of thought to this subject. Nevertheless, I am extremely disappointed, not only that he does not accept the amendment but that his opening remarks took no account at all of the numerous anomalies and differences between what he was saying was the position and what the reality has been. I leave him with that thought, but meanwhile I wish to withdraw the amendment.

Amendment 13 withdrawn.

Amendment 14

Tabled by ***Lord Palmer***

14: After Clause 23, insert the following new Clause—

"National Defence Medal

After section 339 of AFA 2006 insert—

"339A National Defence Medal

All serving and former members of Her Majesty's Armed Forces must be awarded the defence medal in recognition of their role in defending the United Kingdom and its interests both nationally and internationally.""

Lord Palmer: My Lords, I thank the Minister for his reply. I want to take up one point he raised, that of the ongoing review and the result, whatever it may be. It would help the veterans so much if the review was not something that just comes out of the Ministry of Defence but had some form of independence and transparency about it, whatever the result. There is a feeling that this is all being done behind closed doors. I invite the Minister to consider this.

Amendment 14 not moved.

Energy Bill [HL]

Commons Amendments

6.40 pm

Amendment 1

Moved by ***Lord Marland***

1: Clause 1 page 2, line 22, leave out "and"

The Parliamentary Under-Secretary of State, Department of Energy and Climate Change (Lord Marland): My Lords, I place on record my thanks to all noble Lords for the spirit of collaboration and constructive criticism that has characterised our formal and informal meetings leading up to this moment. This has influenced not only the Government's amendments, but also the consultation document and draft secondary legislation which we will soon be publishing. Your Lordships examined the Bill thoroughly when it started in this House and made many excellent suggestions of how it could be improved. These were taken up in the other place and I believe we now have a better Bill before us. I also place on record my thanks to all our officials and their team, who have worked so tirelessly to respond to questions from noble Lords and, indeed, to my own.

It is convenient to discuss Amendments 1 to 3 together with Amendments 4 to 32, 96, 97 and 131. Anchoring ambition for household energy efficiency was an issue we debated in depth following amendments tabled by the noble Baroness, Lady Smith of Basildon, and the noble Lords, Lord Grantchester and Lord Davies of Oldham. The Bill returns to us with Clauses 97 and 107, which oblige the Secretary of State to take reasonable steps to improve the energy efficiency of the English residential sector by 2020 in order that emissions from this sector follow a trajectory consistent with the UK carbon budget.

My noble friends Lady Parminter and Lord Teverson and the opposition Front Bench stressed the importance of an annual report on the Green Deal. This Bill now contains, via Amendments 96 and 131, a requirement on the Secretary of State to report to Parliament on the contribution of Green Deal policy and the energy company obligation to reduce carbon emissions in Great Britain, and the extent to which such reductions have contributed towards achieving the carbon budgets.

As we went into the detail of the Bill, we had considerable discussion on the importance of Green Deal assessors not being able to mislead customers. Noble Lords will now see that Amendment 4 requires that Green Deal assessors should act impartially. In addition, the Government have listened to the concerns raised in the House regarding liability for default on Green Deal payments. Amendment 10 fulfils this, making provision that energy companies will share revenue collected on a proportionate basis with the Green Deal provider in cases of customer default. In this model, the energy supplier will not be liable to pass anything on if no moneys are received from the customer, a feature that is vital to ensure they are not left with significant liabilities that would impact on their balance sheets. Amendment 12 is related to this.

It allows the Government to require that energy suppliers, with customer consent, share relevant data on customers' prior energy bill payments with Green Deal providers at the point of contracting. This is crucial as it ensures that Green Deal providers will be better placed to make responsible lending decisions.

Finally, early repayment fees are covered by Amendment 17, which I signalled in this House. Without it, Green Deal providers would find keeping the cost of finance low extremely difficult. I assure noble Lords that such a fee will be limited to Green Deals of a specific length, and the Secretary of State will be able to specify further conditions that must be met to ensure that additional compensation will only be available in appropriate circumstances. Further, the amount of compensation that can be claimed will be subject to a cap set by the directive. I beg to move.

6.45 pm

Baroness Smith of Basildon: My Lords, the noble Lord, Lord Marland, is to be congratulated on his presentation of the amendments, and it is important that we also place on the record the fact that we welcome many of the government amendments before us. We still consider that more could have been done by the Government to make the legislation as effective as possible, but we welcome the direction the Government have moved in.

A number of issues were first raised in your Lordships' House, and even if the Government did not concede the point at the time, it is clear that the Minister listened and that changes have been made in the other place. Specifically on the Green Deal, there is a clause that states the ambition of the Bill. Important consumer protections are now in place, particularly on the impartiality of the assessors, as well as the issues around apprenticeships. Further on in the Bill, the suggestion in amendments put forward by my noble friend Lord Judd in relation to the national parks has been taken up.

The noble Lord, Lord Marland, referred to the collaboration and co-operation that has marked the course of the Bill. I concur entirely with that, and I acknowledge his willingness to engage in debate, which was welcome. As successful as we have been on seeing a number of improvements made to the Bill, there were times when my persuasive powers failed. He knows that we do not give up easily, and I am sure that as this legislation is implemented we will all want to monitor its effectiveness and see how improvements can be made. We understand very well that this is a framework Bill and that further secondary legislation will be brought forward. I hope that we will be able to continue the collaborative approach we have seen during the course of this Bill. Given that the statutory instruments will be unamendable, it would be helpful to have discussions prior to them being brought before the House in order to get the best results possible. We have made it clear that we want the Green Deal to be successful, and early discussions on the 52-plus sets of regulations that will be tabled would be in the best interests of moving forward.

I turn to the amendments in the group before us. I welcome the introduction of the energy efficiency aim as set out in Commons Amendment 97. This was first raised in your Lordships' House, and it would be a lost opportunity if it was not anchored in existing environmental legislation. The Government have said that they want to be the greenest Government ever, so tackling climate change has to be at the heart of any Government who seek to be responsible on the environment. Although I know that the Government do not like targets, they have often proved to be the best way of achieving stated aims. We have always recognised the potential for this legislation to be a good tool towards fulfilling the Government's environmental objectives, including the carbon target set by the last Labour Government. This government amendment on energy efficiency aims sets down the right sentiments and heads in the right direction.

Amendment 96A is one that will assist the Government in measuring the success of the Green Deal by including in the annual report the number of homes that have had energy efficiency measures installed in that and in previous years as part of the deal. I acknowledge that the noble Lord agreed to this when we discussed it in Committee and possibly again on Report, but knowing how many homes have taken up the opportunity to subscribe to the Green Deal will allow the Government to take action in order to improve take-up, if necessary, and gauge success. I would be grateful if the noble Lord could respond to that. We all know how difficult it can be to wade through government reports to find exactly the figures we are looking for, but this would be a simple figure to illustrate how successful the project has been, and to take action if it has not.

I welcome the fact that the Government have taken on many of the concerns raised in your Lordships' House and elsewhere about protection for the consumer. One area on which I badgered the Minister was the impartiality of the assessors. I know he felt that I went on at some length and rather laboured the point in Committee, but clearly the Government have listened and brought forward Amendment 4, which requires,

"green deal assessors to act with impartiality",

and that is very welcome. Some concerns remain on this point; that is why I have tabled Amendments 4A and 4B, which are about monitoring and enforcement. I know that those details will come forward in regulation, and I welcome further discussions prior to those details coming forward.

The two amendments seek only to strengthen the points that the Government are making with this amendment. My amendments would have the effect of ensuring that the code of practice will extend to any arrangements for monitoring and enforcing impartiality. Amendment 4B is seeking to give the consumer the information on which the assessment will be made. That strengthens the consumer in that they know what to expect from the assessor and the methodology used. It would make it very much harder for an unscrupulous assessor to give bad advice and provide bad options for customers. One reason this amendment is so important is that the debt stays with the property, not with the individual who originally incurred that debt. It might be many years before any problems or difficulties came to light. It is better to take preventative action at an early stage rather than to wait until there is a

[Baroness Smith of Basildon]
problem, which might be quite difficult to resolve. The amendment also fulfils the Government's objectives of openness and transparency.

I welcome the Government's clarification to the Labour amendment passed in the Commons committee on Green Deal apprenticeships. I appreciate that the Government were not fully behind this proposal initially, but following the success of the amendment and voted on by Conservative Members in the House of Commons —albeit, I think, accidentally—the Government have responded well, for which I am grateful.

My final amendment relates to Commons Amendment 18, which proposes the new clause headed "Exercise of scheme functions on behalf of the Secretary of State or a public body". We have discussed previously what public bodies could be involved. I am seeking clarification on whether they include charities, social enterprises and other non-profit-making organisations. I suspect that they do, but from the wording it is not clear. Furthermore, could the Minister clarify whether the Government intend to consult Green Deal participants and consumer groups about any proposals in this area to ensure that we get it right and that we take on board any comments that they have at an early stage?

I know that the Minister understands the concerns that I have raised with him directly about the financing arrangements. I remain concerned that the interest rate for any loan or credit agreement on the Green Deal is not a fixed loan as the legislation stands at present. The Minister has said to me that he takes the view, understandably, that the Government cannot intervene in the finance market in this way. I put a further point to the Minister for consideration. The Government have already intervened in the market by creating a new system of a loan or credit agreement attached to a property rather than to an individual. That is different from most loans and most credit agreements. So someone who purchases a house that already has a Green Deal credit arrangement has no say in the terms and conditions of that loan. They have a say if they have taken over the house and the terms and conditions of any mortgage that they may undertake, but not on a loan that is part of the Green Deal. Many people may well be reluctant to take on such a long-term loan or credit agreement that could run for another 10 or 15 years without knowing what the rate of interest could be and having had no say in the terms and conditions of that agreement. Given those unusual circumstances, it does not seem unreasonable that the interest rate should be fixed, so that someone coming along in the middle or at some stage in that loan knows what the interest rate will be for the remainder of that loan, given that it was taken out by another individual.

I hope that the Minister can reflect further on that point. I think it would be very helpful and perhaps lead to a greater take-up of the Green Deal, because it would not put prospective participants of the Green Deal off by worries about what would happen if they want to sell their property afterwards.

My final comment on this group of amendments is about the regulations, repeating the points that I made earlier. It would be very helpful if the Minister could give a commitment that he is happy to discuss any secondary legislation prior to it being tabled in the House. The spirit of collaboration and co-operation that we have had so far for this Bill has been very welcome and has led to significant changes that have improved it. We are grateful to have been part of that and welcome the Minister's comments on those proposals.

Lord Jenkin of Roding: My Lords, I will be extremely brief. The Commons amendments, particularly those in this group, make considerable improvements to the Bill, and it was very welcome to hear the noble Baroness, Lady Smith of Basildon, say that the Opposition are finding it easy to accept these amendments.

I also thank my noble friend Lord Marland for the amount of trouble that he and his officials have taken with what is, at first sight, a pretty formidable list of amendments that have come from the other place. When I picked up the paper initially from the Printed Paper Office, I thought that we might be here for a week. But he has taken a huge amount of trouble to explain what the amendments are all about, which will make our debate very much simpler.

I want to raise two points on this group of amendments, which I have discussed with my noble friend. I have always found it difficult to understand why, if somebody chooses to pay off a debt early, they are subject to some sort of penalty. I would have thought that if you pay off your mortgage early, as I did some years ago, the lender then has more money to lend to somebody else. Why should one be expected to pay him compensation because you have repaid him early? Can my noble friend justify why that is particularly relevant in this case? He also talked about the regulations that will be limited to Green Deals of a specified length and so on. Is he able to give us any guidance as to how that will work?

The second point is much more relevant. From the beginning it has been recognised that a body will have to be appointed to manage the Green Deal oversight and the authorisation scheme, because that will be fundamental to securing the consumer protection that, quite rightly, the noble Baroness has referred to. Can we yet be told anything about who that will be or to what body this vital task is going to be entrusted? We have now come to the final stage of this Bill. It has gone on for a long time and we still know nothing about who is going to run the scheme. It is obviously going to be under the general supervision of Ministers, but a body will be delegated to manage the Green Deal oversight and authorisation scheme. Can my noble friend tell us anything more about that at this stage?

Lord Hunt of Chesterton: My Lords, I would like to ask just one question, which I asked at Second Reading and in Committee. Heating a house is also a matter of ventilation. I raised the fact that the word "ventilation" was not in the Bill and the Minister assured me that it was not. We still have no reference that I can see in the Bill to advice about investment in ventilation systems in housing, which is a huge part of the thermodynamics. Just to satisfy the odd thermodynamics freak in this House, I wonder whether he could put that straight.

Lord Whitty: My Lords, I join my noble friend and the noble Lord, Lord Jenkin, in expressing appreciation for the way in which many of the concerns, particularly in relation to consumer protection but more widely about the regulation of this area, have been taken into account by the Government in their amendments in the Commons.

However, before the noble Lord gets too complacent about this, he needs to recognise that we are leaving an awful lot to the regulations in a situation where there is considerable confusion as to how the Green Deal, which in concept most people welcome, is going to be delivered, and how the householders and landlords are going to relate to the rather lengthy chain between a bank or financial institution at one end right through to the installer at the other. There is a serious confidence issue here, which I addressed in Committee and which the noble Lord acknowledged, that the regulations and the code of practice are going to have to address. The fact is that information from neither financial institutions nor local builders—nor indeed government—is automatically accepted by householders and consumers.

I appreciate that considerable consumer protection has now been built in, but the task that the Government now have in the process of drawing up regulations, guidelines and the code of practice is to make clear exactly what quality control—to this extent, I agree with the noble Lord, Lord Jenkin—will be exercised by the body that will oversee the operation of the scheme, from the financial package right through to the independence of the assessor. The confidence that will need to be instilled in the market if the Government are to attain their worthy ambition of rolling out the Green Deal will require considerable attention in the regulations, the code of practice and the consultation.

7 pm

In terms of this Bill, we have made considerable progress, but the organisation that the Government are setting up for accreditation and oversight will need a lot of work before householders and those who are due to benefit from the Green Deal will be really convinced. As I have stressed previously, it is important that we do not make any mistakes at the beginning of the scheme. Just two or three bad examples at an early stage will ruin public confidence in it. I therefore plead with the Minister, who I know understands, that we ensure in the coming year or so as the regulations and codes go through that confidence of the householder is seen as their prime objective.

Baroness Parminter: My Lords, when the Bill was first introduced in this House, we on these Benches—a number of us cannot be here today due to the rescheduling of business—welcomed it on the basis that it would help provide green jobs and move us towards meeting our legally binding carbon targets and achieving a low-carbon economy. However, like many other noble Lords, we also recognised that there could be further areas where the Bill could be strengthened. We have been heartened by the approach taken by the Minister, and I join other noble Lords in paying tribute to him for being prepared to listen to the many thoughtful comments that we in this House and another place have made during the progress of the Bill. It is a much strengthened Bill and it will do much to deliver on the Government's commitment.

I thank the Minister particularly for listening to those of us who argued the need for a stated aim and ambition in the Bill, as well as the desperate need for an annual report. That is extremely welcome. I welcome also the further measures pertaining to consumer protection, in particular the early appointment of a body to manage the oversight and authorisation scheme. However, I support what the noble Baroness, Lady Smith of Basildon, said about the consultation on how such a body would take forward its role. Consumer protection, as the noble Lord, Lord Whitty, made clear, will be fundamental to the success of the Bill. I hope that the Minister can give reassurance today that such consultation will take place, without it necessarily being in the legislation. Without that consumer protection, all the good words spoken in this House will come to nought.

Lord Grantchester: My Lords, I join others in thanking the Minister for his introductory remarks. I congratulate him on the way in which he has led the government team on this Bill and on the fact that his first Bill will soon be enacted.

With the Bill now on its last lap, and with all the opportunities that we have had to examine it both here and in the other place and the improvements that have been made at each stage, we are now able to see the coherence of the Green Deal. With today's amendments clarifying certain aspects of it, I should like the Minister to confirm my interpretation of them and give some guidance on the Government's thinking. I ask the House's indulgence concerning Amendments 6 to 9, on disclosure documents, Amendment 10, on default, and Amendments 12 to 15, on data for responsible lending.

I take it from the amendments that it is the Green Deal provider and his or her finance company that makes the payment risk decision on whether to give the go-ahead to a green deal on a certain property. Under Amendments 6 to 9, the Green Deal provider has to disclose detailed information to a consumer taking over a property; under Amendment 10, clarity is provided regarding who is liable in a default situation; and under Amendments 12 to 15, the Green Deal provider can, following the consent of the present or intended future bill payer, be advised by the energy company collecting the Green Deal payment regarding their payment history.

From these Benches, we are keen to see the legislation and the Green Deal a success in improving the energy efficiency of the nation's housing stock and buildings and reducing the demand for energy. Given that Green Deal improvements are to be paid for over 20 years, I can envisage certain properties generally populated on a more short-term basis becoming problems, even given that it may be the landlord in these circumstances who gives the go-ahead for the Green Deal improvements. Given that the Green Deal loan attaches to the property, and that there is an element of risk-taking on the part of several participants, will the ultimate assessment of risk be made on the property or on the bill payer, who could pass on the payment? Has the Minister sense-checked the Green Deal in the marketplace and seen

[Lord Grantchester]
the results of the pilot scheme in Sutton, where nearly half the homeowners who expressed interest subsequently turned down the opportunity to participate?

Lord Marland: My Lords, I thank noble Lords for their contributions. I am grateful particularly to the noble Baroness, Lady Smith of Basildon, for her further searching and detailed questions, which will help us all better to construct the Green Deal. As we said in Committee and at every stage of the Bill, consumer protection is at the very heart of the scheme. I echo the noble Lord, Lord Whitty—who recognises the consumer position better than anyone having been chair of the consumers' body—in saying that we must not make any early mistakes. He is quite right about that, and that is why this and future debates on this subject will be so valuable in creating a Green Deal that is fit for purpose.

I confirm that we will report annually on the take-up of the scheme. The noble Lord, Lord Grantchester, mentioned the Sutton housing scheme. If 50 per cent of households took up Green Deal, we would be incredibly satisfied. We would not be complacent about it, but if 50 per cent took it up, I think that we would all say, "Well, we're moving in the right direction".

As I said earlier, consumer protection is at the heart of the scheme. It is therefore fundamentally important that we have a code of practice that protects the consumer and provides a pathway for them. The assessors have to deliver and the consumer should be protected. I make the commitment on record that I shall be very happy to engage, as we have throughout the passage of the Bill, with all sides of the House in establishing the code of practice and ensuring that it is fit for purpose for the Green Deal.

The noble Baroness mentioned apprenticeships. Clearly, a good many of our MPs in the other place felt that apprenticeships were fundamental and therefore voted against the Government on this point, and one can only agree with them.

The issue of loan interest rates is difficult; there is no point in pretending otherwise. My noble friend Lord Jenkin of Roding got to the heart of the whole matter of borrowing for the consumer over a 20-year period. We have to remind ourselves that this is a market-driven proposition and that, therefore, the market, as it does in every other form of lending, will come up with a rating structure. If the Government try to confine that market by imposing restrictions and limitations on interest rates, they will shy the market away from it. The whole point is to encourage the market to react to this.

I wholeheartedly agree with my noble friend, as I do on virtually every occasion—I think that there was only once where I disagreed with him—that it would be wonderful to encourage people to pay off debt. Debt is at the core of this society's problems at the moment. He knows that—we all do. I would be very keen to find a way to do that but unfortunately it is not within the powers of our department in the Bill. It goes to a far wider remit. It is for BIS and the Treasury to grapple with the serious problem that we have but it is a good point.

It seems a little churlish now to move to the subject of ventilation, which the noble Lord, Lord Hunt, frequently raises. This is part of the product offering that I am sure will be available as we roll out a range of products that will be acceptable within the Green Deal. He knows that our department is very sympathetic to the matter of ventilation as being at the heart of improving the build quality of a house. As I said, and to repeat the words of the noble Lord, Lord Whitty, it is important that we give confidence to the market so that it can deliver but also that, as my noble friend Lady Parminter kindly said, we continue to work together to ensure that this Green Deal is a roaring success.

Amendment 1 agreed.

Amendments 2 and 3
Moved by ***Lord Marland***

2: Clause 1 page 2, line 24, at end insert ", and

(c) recoverable as a debt by the relevant energy supplier from the person referred to in paragraph (a)."

3: Clause 1 page 2, line 24, at end insert ", and

() recovered and held by the relevant energy supplier as agent and trustee for the person who made the improvements (unless the relevant energy supplier is also that person)."

Amendments 2 and 3 agreed.

Amendment 4
Moved by ***Lord Marland***

4: Clause 3 page 4, line 37, at end insert—

"requiring green deal assessors to act with impartiality;"

Amendments 4A and 4B (to Amendment 4) not moved.

Amendment 4 agreed.

Amendments 5 to 17
Moved by ***Lord Marland***

5: Clause 3 Page 5, line 12, at end insert ";

(f) withdraw authorisation from a body authorised for the purposes of subsection (1)(a) as a body whose members are authorised to act as green deal participants"

6: Clause 8 page 8, line 32, leave out from "takes" to "in" in line 33 and insert "one or more of the following actions as required by the framework regulations"

7: Clause 12 page 10, line 29, after "must" insert ", in relation to the document, or each document, required to be produced or updated as mentioned in section 8(4)"

8: Clause 12 page 10, line 30, leave out from "document" to "has" and insert "or, if the requirement to produce or update the document"

9: Clause 13 page 11, line 19, leave out from "obtain" to "has" and insert "a document required to be produced or updated as mentioned in section 8(4) or, if the requirement to produce or update such a document"

10: Clause 17 page 14, line 3, at end insert—

"(3A) Provision made by virtue of subsection (2)(b) which falls within subsection (3)(c) may include provision requiring the holder of the licence, where a bill payer has failed to pay a sum due under an energy bill, to remit a proportion of any payment received to a green deal provider."

11: Clause 17 page 14, line 21, at end insert "or nominated by a green deal provider"

12: Clause 19 page 15, line 15, leave out from "for" to end of line 17 and insert "one or both of the following two purposes only.

(2A) The first purpose is the purpose of requiring, at specified times, the holder of the licence to provide bill payers with specified information in connection with their green deal plans.

(2B) The second purpose is the purpose of requiring the holder of the licence to disclose on request specified information about the payment of energy bills by a person who is, or is to be, the bill payer for a property in respect of which there is, or is proposed to be, a green deal plan.

(2C) The only persons to whom the licence holder may be required to disclose information by virtue of subsection (2B) are—

(a) where there is a green deal plan, the green deal provider under the plan;

(b) where there is proposed to be a green deal plan, a person who is authorised under the framework regulations to act as a green deal provider.

(2D) The licence holder may be required to disclose the information requested only where—

(a) the green deal provider or authorised person states that the request is made for purposes connected with the green deal plan or proposed green deal plan;

(b) the green deal provider or authorised person provides evidence that the bill payer has consented to—

(i) disclosure of the information to that provider or person for those purposes, and

(ii) onward disclosure of the disclosed information to and by other persons for those purposes;

(c) the information relates to a time within the 5 years immediately preceding the request; and

(d) the licence holder has the information."

13: Clause 19 page 15, line 18, after "power" insert "under subsection (1)"

14: Clause 19 page 15, line 19, leave out "form" and insert "manner or form, or subject to specified requirements or restrictions"

15: Clause 19 page 15, line 19, at end insert—

"(4) Conditions included in a licence under section 7A(1) of the Gas Act 1986 by virtue of the power under subsection (1) and the purpose mentioned in subsection (2B) may do any of the things authorised by section 7B(5)(a)(i) or (iii) of that Act (which applies to the power of the Gas and Electricity Markets Authority with respect to licence conditions under section 7B(4)(a)).

(5) Conditions included in a licence under section 6(1)(d) of the Electricity Act 1989 by virtue of the power under subsection (1) and the purpose mentioned in subsection (2B) may do any of the things authorised by section 7(3)(a) or (c) or (4) of that Act (which applies to the power of the Gas and Electricity Markets Authority with respect to licence conditions under section 7(1)(a))."

16: Clause 21 page 16, line 9, leave out subsection (2)

17: After Clause 28, insert the following new Clause—

"Early repayment of green deal finance

(1) The Consumer Credit Act 1974 is amended as follows.

(2) After section 95A (compensatory amount to creditor in relation to early repayment) insert—

"95B Compensatory amount: green deal finance

(1) This section applies where—

(a) a regulated consumer credit agreement provides for the rate of interest on the credit to be fixed for a period of time ("the fixed rate period"),

(b) the agreement is a green deal plan (within the meaning of section 1 of the Energy Act 2011) which is of a duration specified for the purposes of this section in regulations, and

(c) under section 94 the debtor discharges all or part of his indebtedness during the fixed rate period.

(2) The creditor may claim an amount equal to the cost which the creditor has incurred as a result only of the debtor's indebtedness being discharged during the fixed rate period if—

(a) the amount of the payment under section 94 is not paid from the proceeds of a contract of payment protection insurance, and

(b) such other conditions as may be specified for the purposes of this section in regulations are satisfied.

(3) The amount in subsection (2)—

(a) must be fair,

(b) must be objectively justified,

(c) must be calculated by the creditor in accordance with provision made for the purposes of this section in regulations, and

(d) must not exceed the total amount of interest that would have been paid by the debtor under the agreement in the period from the date on which the debtor makes the payment under section 94 to the date fixed by the agreement for the discharge of the indebtedness of the debtor.

(4) If a creditor could claim under either section 95A or this section, the creditor may choose under which section to claim."

(3) In section 94 (right to complete payments ahead of time)—

(a) in subsection (1) after "section 95A(2)" insert "or section 95B(2)";

(b) in subsection (5) after "section 95A(2)" insert "or section 95B(2)".

(4) In subsection (2)(c) of section 97A (duty to give information on partial repayment) after "section 95A(2)" insert "or section 95B(2)"."

Amendments 5 to 17 agreed.

Amendment 18

Moved by ***Lord Marland***

18: After Clause 30, insert the following new Clause—

"Exercise of scheme functions on behalf of the Secretary of State or a public body

(1) This section applies to any function exercisable in connection with the scheme established by the framework regulations.

(2) The Secretary of State may arrange for such a function to be exercised by any body or person on behalf of the Secretary of State.

(3) A public body specified in relation to such a function in an order made by virtue of section 30(1)(a) may arrange for the function to be exercised by any other body or person on its behalf.

(4) Arrangements under this section—

(a) do not affect the responsibility for the exercise of the function;

(b) may include provision for payments to be made to the body or person exercising the function under the arrangements."

Lord Grantchester: My Lords, I beg the House's indulgence to ask the Minister further questions on Amendment 18. Has he envisaged an accreditation body for the Green Deal scheme? Has he only envisaged some administrative functions being undertaken or will such an accreditation body undertake any overarching role acting to co-ordinate, oversee and drive forward the objectives of the Green Deal? While the Minister may answer that the market will provide, the success of this initiative would be enhanced if there was a body that could take ownership of the task.

Lord Marland: My Lords, I can assure the noble Lord that we are working with UKAS—the United Kingdom Accreditation Service—to have an overarching effect on this particular Green Deal. I, too, beg the House's indulgence in responding to something that the noble Baroness, Lady Smith, asked me earlier: charities are included in the Green Deal. I apologise for not answering that earlier. It occurred to me as I sat down.

Amendments 18A and 18B (to Amendment 18) not moved.

Amendment 18 agreed.

Amendments 19 to 32

Moved by ***Lord Marland***

19: Clause 33 page 22, line 1, leave out "this section" and insert "subsection (2)"

20: Clause 33 page 22, line 21, at end insert "or, in Scotland, expenses"

21: Clause 33 page 22, line 24, leave out "this section" and insert "subsection (2)"

22: Clause 33 page 22, line 25, at end insert—

"(5A) If the Scottish Ministers consider it appropriate for the purpose of, or in consequence of, any provision falling within subsection (3)(a), (d), (f) or (g), they may by regulations revoke or amend any subordinate legislation, or any provision included in an instrument made under an Act of the Scottish Parliament, if the provision making the revocation or amendment would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament."

23: After Clause 34, insert the following new Clause—

"Preparatory expenditure: framework regulations

The Secretary of State may, before the framework regulations are made, incur expenditure for the purpose of, or in connection with, preparing for a scheme of the kind provided for by section 3."

24: After Clause 34, insert the following new Clause—

"Green deal installation apprenticeships

(1) Before making the first framework regulations the Secretary of State must lay before Parliament a report on what, if any, steps the Secretary of State has taken to encourage green deal installation apprenticeships.

(2) A "green deal installation apprenticeship" is an apprenticeship which provides training on how to install energy efficiency improvements at properties."

25: Clause 36 page 23, line 15, after "Chapter" insert ", other than those made by the Scottish Ministers,"

26: Clause 36 page 23, line 22, leave out paragraph (b)

27: Clause 36 page 23, line 23, after "33" insert "(2)"

28: Clause 36 page 23, line 29, leave out subsection (6) and insert—

"(6) Regulations under section 10(2), 14(7) or (8) or 15(4) are subject to the negative procedure."

29: Clause 36 page 23, line 30, at end insert—

(6A) Regulations under section 33(5A) are subject to the affirmative procedure."

30: Clause 36 page 23, line 44, at end insert—

"(8A) Before amending under section 9 a provision of the Building Regulations 2010 (S.I. 2010/2214), the Secretary of State must, if and so far as the function under which the provision was made is exercisable by the Welsh Ministers, obtain their consent."

31: Clause 36 page 24, line 1, leave out "Subsection (8) does" and insert "Subsections (8) and (8A) do"

32: Clause 36 page 24, line 6, after "(8)" insert "or (8A)"

Amendments 19 to 32 agreed.

7.15 pm

Amendment 33

Moved by ***Lord Marland***

33: Clause 38 page, line 30, after "housing," insert—

"(a) it is low cost home ownership accommodation within the meaning of section 70 of that Act,"

Lord Marland: My Lords, this second group of amendments covers the private rented sector, the energy company obligation and the Home Energy Conservation Act. For convenience, I will speak to Amendments 33 to 72 and Amendment 104 as a group.

During the early stages of the Bill, many noble Lords tabled amendments in the House for stronger provisions to improve the energy efficiency of the private rented sector. I acknowledge the leadership shown in this by the noble Lord, Lord Best. During the Bill's passage, the sentiments underlying those amendments were shared by many in another place and by a wide range of interest groups who made the

case for a clearer and firmer regulatory position. We have listened carefully to those arguments and, through amendments in the other place, have responded to them.

Amendments 37 to 39, 44 and 47 remove the provisions from the Bill which required a review of the private rented sector by April 2014. The review has been omitted to send a clearer signal that we want action to address this problem. We have also made it clear that there is a duty on the Secretary of State to make regulations.

However, with the regulatory certainty generated by the omission of the review provisions, we need to give the sector longer to prepare. Therefore, from April 2016 instead of April 2015, all domestic landlords should not unreasonably refuse a tenant's request for consent to have relevant energy efficiency improvements where there is finance available under the Green Deal and the ECO. Amendments 45 and 46 make these changes.

The current provisions for the domestic energy efficiency regulations were removed and we sought new regulation-making powers to introduce a minimum energy efficiency standard for the domestic private rented sector, as provided for in Amendments 35 and 36. Under these new provisions, from April 2018 landlords will not be permitted to rent property unless it has an E or above, or they have done the maximum package of measures under the Green Deal or ECO—even if that still does not take them above F. This is a clearer legislative position for both landlords and local authorities, as the enforcement body, and is similar to the current provisions in the Bill for the non-domestic sector.

Amendments 48 and 51 impose a duty on the Secretary of State to make the non-domestic regulations and change the date for regulating from 1 April 2015 to 1 April 2018, in line with the domestic provisions. Under these new provisions, we remain committed to minimising the regulatory burden on landlords. Amendments 54 to 69 relate to Chapter 3 and the Scottish private rented sector provisions, and reflect the differences in Scottish parliamentary procedure.

A number of additional amendments are very minor or technical. These include Amendments 33 and 34, 40 to 43, 49 and 50, 52 and 53, 72, and 125 and 126. I will not take up your Lordships' time with these. Amendment 104 is to enable the Secretary of State to require local authorities to report on their engagement with the Green Deal and ECO. Scottish and Welsh Ministers have decided to continue with the repeal of HECA. I beg to move.

Lord Best: My Lords, I shall speak to Amendments 35A to 35E. I fear that some of the excitement of this debate may be lacking, as I recognise that it would be very bad form for me to press any amendment to a vote on a night when so many from the government Benches are away at their party conference. However, I feel sure that I would not in any case be tempted to divide the House since the Minister has, throughout this Bill's progress, been extremely helpful in recognising and responding to the suggestions made within—and, indeed, outside—your Lordships' House.

During the Bill's passage through this House, I moved an amendment to secure improved energy efficiency in the worst of the properties in the private rented sector. My amendment was promoted by Friends of the Earth and the Association for the Conservation of Energy, alongside a consortium of a large number of voluntary bodies— from Citizens Advice to National Energy Action and from Age Concern to the Chartered Institute of Environmental Health. The amendment aimed to make it compulsory for landlords to improve the properties with the very worst energy efficiency ratings to a minimum standard before letting them. This would address a serious problem in the private rented sector where there are 680,000 properties with the worst energy ratings of F and G. These properties are wasteful of energy, create fuel poverty for their occupants and represent a hazard to health. The private rented sector has a special problem in this regard because the owners of the property do not pay the fuel bills and may have little interest in upgrading energy standards.

The Minister was very receptive to the arguments put forward, although my amendment was not pursued by the Government during the Lords stages of the Bill. Indeed, there was widespread support for a new law outside that would ensure that tens of thousands of vulnerable households are saved from the poverty brought on—unnecessarily, when remedies are at hand—by huge heating bills following big hikes in the price of electricity and gas over recent months. I was very pleased that the Government tabled an amendment to the Bill in the Commons Committee, as the noble Lord has explained. It is the changes to this Commons amendment that we are now debating. In essence, Ministers have taken on board the principle that, to quote the right honourable Chris Huhne, the Secretary of State,

"the rental of the very worst performing properties—those rated F and G—will be banned through a minimum energy efficiency standard".—[*Official Report*, Commons, 10/5/11; col. 1064.]

That is very good news and a credit to Ministers in both Houses for taking this matter forward.

However, the Commons amendment has some deficiencies in the opinion of the expert groups involved and my amendments seek to overcome them. I am hopeful that the Minister will be able to provide reassurances on most, if not all, of these points. The changes I am suggesting here are relatively straightforward. First, there are two proposed changes to subsection (1) of the proposed new clause so that as well as placing requirements on landlords, the legislation should cover letting and managing agents. It was estimated by the Rugg inquiry on the private rented sector that some 60 per cent of properties were in the hands of agents, often with the landlord being an investor rather than a hands-on participant in the process. With day-to-day management in the hands of agents in so many cases, it seems important for the Bill to cover those who are acting on behalf of landlords, so these amendments extend the legislation to appointed agents and make it an offence for them to let or indeed market the properties below the F or G energy rating. My amendment to subsection (4) ensures that there is a proper definition of marketing in regulations. If the Minister believes that other regulations achieve this without the need for my amendment, I know that he will explain that to the House.

[Lord Best]

I have some knowledge of managing and letting agents in the private rented sector, not least in my role as chair of the Property Ombudsman Council, which considers complaints against agents from both tenants and landlords. A good letting agent is a real asset but not all are perfect and it seems important, since so much privately rented property has been placed by absentee landlords in the hands of agents, that the Bill covers them too. I am hoping that the Minister will confirm that existing regulations can be used to ensure that landlords as well as tenants will be covered by the obligations in the Bill.

Secondly, the amendment to subsection (2) simply tightens up on the definition of the standard which the property must achieve—that is, above the abysmal F or G rating. I am hopeful that this is not a controversial point since I know it is the Government's intention that the energy efficiency of privately rented properties should be raised above the F and G level. The problem with the wording of the Commons amendment is that there could still be some privately rented properties which fail to obtain an E rating but which could still be deemed to comply with the legislative requirement because the landlord has made some improvements. They may be using Green Deal funding, perhaps topped up with special ECO finance, even though these properties have failed to achieve the minimum standard.

This loophole would create a category of legally let F or G-rated properties. Such a situation would lead to real compliance difficulties for tenants, landlords, agents and the local authorities who will be doing the enforcing. It would not be clear whether the minimum standard for letting had been achieved. If there are to be exceptions to the rule so clearly announced by the Secretary of State—I think a case could be made in the rather obscure instances of private letting of grade 1 listed buildings, for example—then surely such exceptions will be spelt out in the regulations. Obviously, the straightforward ban on the rental of properties rated F and G is what the Government intend and my amendment would make the position clearer.

Finally, the amendment to subsection (6) substitutes 2016 in place of 2018. Although I am not entirely clear why, the date for compliance in the original amendment I tabled for all the environmental organisations and consumer bodies was changed from five years hence to seven years hence when the Bill was amended in the Commons. I hope that the noble Lord will be able to give me some reassurance on the arrangements here. It happens that 2016 is also the deadline for all new homes being built in the private and social sector to achieve the higher standards of energy efficiency required by the *Code for Sustainable Homes*—that is, to level 5 or above. While I understand 2016, I am not clear on why the extra two years are to be deployed in this case.

As in all such cases, we can be sure that the most recalcitrant and inefficient landlords will leave everything to the last minute, meaning that we would have to wait for a full seven years from today for action to be taken in a lot of serious cases. I know that many felt that a starting point of five years hence was taking the matter too slowly. Some older people living in cold and draughty properties and paying huge amounts for their heating will not be comforted by knowing that things will not change for five years. A seven-year delay really does sound a bit feeble. I know that there is an aversion in some parts of government to introducing any regulation which could affect the private landlord for fear that, with the decline of social housing, the sector might contract. However, private renting has been expanding rapidly. Rents are still rising in most areas and the costs of improving energy efficiency to above the F and G levels is not likely to be a deterrent to letting. Research by the Energy Saving Trust for Friends of the Earth puts the cost at under £900 for 37 per cent of the offending properties, and less than £3,500 for three-quarters of these homes. Moreover, landlords will have access to the Green Deal and to assistance, where costs are higher, through energy company obligation finance.

If there are properties where, despite all the Government's help and encouragement, the landlord feels the obligation is still too burdensome and sells them either to another landlord with a better business plan or to owner-occupiers who are keen to do the places up, this would not seem to be a bad thing.

I know that the Minister has worked hard on these matters and I am confident that he will be able to give us, and all the many interested parties, some reassurance in relation to most of the suggested improvements to the Commons amendment which I am suggesting. However, I am a bit worried that bringing forward the implementation date from 2018 to 2016 may still be problematic for the Minister. I know the Bill uses the words,

"no later than 1 April 2018".

Therefore, if little progress is apparent as time goes by, Ministers could bring the regulation into force at an earlier date. Although it would seem better to fix a five-year deadline for the changes here and now, not least so that landlords know exactly where they stand, it would be good to hear from the Minister about the process for reviewing progress in the sector and considering an earlier starting date.

I am very grateful to the Minister for the considerable progress that has been made in improving this important Bill, and I look forward very much to hearing his response.

7.30 pm

Lord Deben: My Lords, I thank my noble friend for the changes that he has made. I very much agree with the spirit in which the noble Lord has brought forward his amendments. However, I do not think we should leave this without accepting that this has been a major response to the pressures which have been brought about, and we ought to thank my noble friend for that.

However strongly one feels about the need for care with regulation, this is one area where regulation is essential. As any of us who have had to deal with this on either a constituency basis or a ministerial basis will know, there are many good landlords; but, my goodness, there are some pretty bad ones as well. I too would like to ask whether we could think again about the seven-year period, for several reasons. First of all, one has to think of the situation of a family in such accommodation. It is the whole primary-school period

for a child. Seven years is a very long time for people in very poor accommodation, and it is something that we can do something about.

It is also very bad environmentally. Forget the sadness of the people themselves—we are wasting energy in a way which is unnecessary, in circumstances where this can relatively easily be put right.

Thirdly, although I hesitate to draw too close a comparison with other things that are happening, there is a worry that we are not living up to the promises that we have made. Therefore people are worried about the date of 2016. It is a crucial date. If this Government in any way move from that date, they will do huge damage to the housing industry. The good housebuilders are all prepared to meet the requirements which the last Government laid on them and which this Government are continuing. There are some quite large housebuilders who have no intention of doing anything about this until they are absolutely sure that we are sticking to 2016. It would be a crying shame if their tardiness were to succeed, and those who had done the job and were prepared were found to have wasted very considerable amounts of their money preparing to meet the Government's targets. I am worried that if we move this from 2016 to 2018, there will be those in the companies which have decided not to do the job properly who will say, "There you are—the Government are not really absolutely sure. It is not actually on that date".

Therefore I beg the Minister to reassure us that 2016 is written in stone, because the best housebuilders have spent a great deal of money on being prepared for that, and they will not only not forgive the Government but will not believe the Government again if we move from that. It is a cross-party agreement, and it is one which I think is crucial.

I therefore ask the Minister whether it is possible to think again about 2016. Five years is plenty of time to prepare, even for the most unhappy of landlords. I do not believe they need another two years; and there is also the ancillary problem, which I hope will be put right.

The second thing I wanted to say, very briefly, refers back to a point which has been raised about not being sure as to what all this means. Certainty is the key thing for the housing industry. I declare an interest in this, because although I am not a landlord I advise some housing companies on how to build ecological houses, and I do that as the chairman of a company as well. These are not covered, I am happy to say, by this Bill, so I can speak entirely independently, but as someone who knows something about it. The one thing the industry needs is absolute certainty. If there is any doubt in the way in which the amendments have been so fortunately made, I hope the Minister will allay those fears now, simply because this is an industry that does not actually move very fast, and only moves when it knows precisely what it has to do. I fear that is true, and it will be very helpful if the Minister would allay those fears.

Lord Jenkin of Roding: My Lords, I will make two brief points. The first is that, yes, there are landlords who fall well short of the standards that we might like them to adhere to. I am especially concerned with one category of letting, and that is letting to students. I say this with some feeling, as my grandchildren are in exactly this position now. A group of four students at Imperial rented accommodation in the north-east of London, and it was so draughty that my dear granddaughter came and said, "Please may we have a rug to lay against the front door to keep the snow out?". They were not going to be there for more than a year, and indeed they were already looking for something else. However, these will be the really difficult cases, and I think one has to recognise that.

My second point is quite different. I have been consulting local authorities, because they now have quite specific rules to enforce the new provisions that are made for the private rented sector. I am gratified to find that they are in fact quite ready to take that up. They welcome this, provided that the full cost will be met, and that this will be treated under a full burdens assessment so that they will not have to thrust the cost upon their council tax payers. I think that they have been given some assurances, but if those assurances could be repeated this evening by my noble friend that would be very welcome.

Lord Whitty: My Lords, I also thank the Minister for bringing forward the substantive amendments here. However, I would also like to support the noble Lord, Lord Best, particularly on Amendment 35E, on the date. We have arrived at a slightly illogical position. There was some concern when the date was 2016, but there was a certain logic to that date. People were worried about it taking five years, but in the original proposition there was a review to be completed by 2014. The Government have accepted the logic of removing that review, which might delay progress and clarity about what we were requesting. However, that should make 2016 easier to attain, rather than less easy. I am therefore somewhat bemused as to why we are now talking about 2018 for meeting these standards.

I will accept that there could be two logical reasons for it. The noble Lord, Lord Jenkin, has touched on one: the argument that local authorities need time to prepare and to set up their enforcement. However, that is not what local authorities are saying. They are concerned about the cost, but they are also quite keen to get involved in this, at least at the RDA level. No doubt one or two local authorities will not quite make it but we know that most of them are trying to. Frankly, it would be slightly easier for them to do so had an amendment to another Bill proposed by the noble Lord, Lord Best, been accepted by the noble Lord's colleagues in the DCLG, which would have allowed the local authorities to set up registers. However, it is not really the case—

Lord Jenkin of Roding: I have specifically asked the local authority associations where they stand on the issue of 2016 or 2018. While they see the attraction of 2016, they have actually made it quite clear that they are not taking a position on this. No doubt different local authorities will have different views. However, the associations have specifically told me firmly that they are not taking sides in this argument.

Lord Whitty: I appreciate that, and am glad for the clarification. I was not implying that they were taking sides; they were saying that they could meet what would be required from them in 2016, provided that the cost is covered by the Minister's department, as I believe to be the case. I really do not think that time for local authorities to prepare justifies moving the date back to 2018.

The other argument relates perhaps to the wider concern about the housing market, which we have debated during the passage of other Bills in recent days, that we might deter new landlords from coming into the market just as there is a big strain on the private rented sector to provide more accommodation. However, if you look behind that argument, the logic of that is not clear either. We want landlords to come into the private rented market who will be there for some time and who are prepared to provide accommodation that will not be deemed illegal in two years' time. When attracting new landlords in, it must be those who are prepared to provide capacity within the private rented sector that meets the post-2018 standards. Were they prepared to come in earlier than that, they would have made sure that their property met those standards, whether it was new build, refurbished or existing premises. I can understand that there might be some concern about those two issues, but I do not think that it stands up.

I appreciate that the Minister may be in difficulty. This has been through the Commons and so forth, and clearly there are a number of interests to be placated here. However, if he cannot accept the amendment of the noble Lord, Lord Best, he can at least tell us this evening that, as far as his department is concerned, "no later than" means that it will attempt to bring the regulations in as soon as is practical. In my judgment, the end date would be earlier than 2018; it would probably be approximately 2016. A slippage of a few months will not worry me if the Minister can give the assurance that his department will work on the regulations, consult everybody concerned, from the property owners to the consumers, and aim to get an early date for those regulations, whatever the terminal date, in the statute book.

Baroness Smith of Basildon: My Lords, I support the amendments of the noble Lord, Lord Best, but speak specifically on Amendments 35C and 35E. I should apologise to the Minister for dragging him away from the Conservative Party conference. Looking around the Chamber, I think the average age in your Lordships' House is currently significantly lower than in the debate I saw at the Conservative Party conference this afternoon. We are pleased to have the Minister here.

In some ways, this is the most controversial part of the Bill, although not in intent, because it is clear that everyone in your Lordships' House wants to see improvements in energy efficiency in the private rented sector. The difference is the degree of urgency. I endorse the comments of other noble Lords who want to see the 2018 date brought forward.

I greatly welcome the changes that have been made, and a number of amendments in this group, particularly the Government removing the requirement for a review on which any change in energy efficiency regulations would be dependent. That is very good. That is the point that I raised in Committee. At the time it was not accepted. I have discussed it since with the Minister and I am really grateful to him for listening to the many voices that have asked for that condition to be removed.

I also greatly welcome the introduction of a minimum energy efficiency standard for private rented properties, so that properties that do not meet at least an E standard cannot be let. I entirely agree with and welcome that commitment. The impact of energy efficiency regulations could have a massive impact on health; on bringing down the energy bills of some of those hardest hit by the increases in energy prices; and, of course, as the noble Lord, Lord Deben, mentioned, on the environment. Consumer Focus estimated that just lifting band E to being the minimum could lift 150,000 households out of fuel poverty by saving each an average of £488 off their fuel bills a year. It would save 1.87 million tonnes of CO_2 annually and cut the Bill to the NHS, as we have heard in previous debates, by around £145 million, which is currently spent on illnesses and conditions for those who live in poorly heated homes.

All those objectives have our full support, and I welcome the Minister's movement on them. However, I part company with the Government on two qualifications, or loopholes, to those commitments, which undermine the Government's stated objectives: first, to ensure that all homes that are rented out are of an acceptable energy efficiency standard; and, secondly, that this is done as soon as possible. The amendments of the noble Lord, Lord Best, seem a sensible and practical way of addressing these issues and meeting the Government's objectives. I hope that the Minister will be able to say something positive about those two amendments in particular and about all those tabled by the noble Lord, Lord Best.

7.45 pm

As we have heard from other noble Lords, delaying the regulations that will provide for a minimum standard of energy efficiency until 2018 is really unacceptable. People in Belfast wear a t-shirt about the "Titanic" that says, "When it left here it was okay". We feel the same about the dates. When the Bill left here, it was okay in that regard. The date was 2015. We would be very happy with 2015 and would accept 2016. but now it has been knocked back to beyond the next election.

Even with 2018 in legislation, the picture is still quite confusing. Greg Barker, as a Minister, has repeatedly said that he sees 2018 as the end date, or finishing line, by which properties should have been improved voluntarily, rather than just the start of the regulations. He then said that if voluntary improvement does not happen quickly enough, the date could be brought forward. That is a very confused message to send to private landlords, who need certainty in what is expected of them. It is also a very confused message to send to tenants, who could be saving an average of £488 a year on their fuel bills, but do not know when that will be. It is also a very confused message to send to those who are suffering from living in cold homes that they

cannot afford to heat properly. I was struck by the comment of the noble Lord, Lord Deben, that if we are talking about a seven-year delay, that is a child's entire primary school career. It is just too long.

Professor Marmot, who is known to the Minister for the reviews that he has undertaken, and his team identified very startling and disturbing details about the impact of cold homes on children. We are all very aware of the impact of cold homes on older people. Statistics from CLG, obtained by Friends of the Earth, also show that over 1.3 million children are estimated to be living in the coldest, worst insulated homes: that is, those with an F or G rating. The figures have increased. In 2009, the number of households in the group that were in fuel poverty was seven times the number in 2003. Children living in cold homes are more than twice as likely to suffer from a variety of respiratory problems than children in warm homes. More than one in four adolescents in cold housing are at risk of multiple mental health problems, compared with one in 20 adolescents living in warm homes. Cold housing significantly affects children's attainment, emotional well-being and resilience. There is significant evidence of cold housing affecting infants' weight gain, hospital admission rates, developmental status, and the severity and frequency of asthmatic symptoms.

The Government identify those problems and get the right answer by identifying that a minimum standard must be brought in, but then fail to act on it for another seven years. I plead with the Minister not to delay but to act as quickly as possible. That date can be brought forward to what it was before the Bill left your Lordships' House. That would be greatly appreciated by Members across your Lordships' House.

There is another qualification—the second loophole—that damages the Government's credibility on this issue and the Bill. Under this provision, from 2018, landlords will not be able to rent a property unless it is in band E or above, which we all entirely support. However, as the noble Lord, Lord Best, made very clear, if they have undertaken a package of measures from the Green Deal and the ECO and the property is still at band F or G, they will be allowed to rent it out legally, presumably for ever. There is no time limit on that legislation.

I have struggled with this, because I have been trying to work out what the Minister and the Government are seeking to achieve by allowing that position to continue. Not only is it wrong to allow households to live in such appalling conditions—conditions that the Government themselves have said are below the minimum requirements—but it will make it harder to enforce the regulations. Whether a home has had enough Green Deal or ECO improvements could be used as a defence or argument in the courts, if it was ever to get that far. Local authorities, as the noble Lord, Lord Jenkin, said, are quite rightly looking to recoup their costs and for the Government to reimburse any costs arising from taking these issues to court. If there are categories—bands F and G—that are both legal and illegal, the ability to enforce the legislation is significantly weakened. It seems to be a legal nightmare and a solicitor's delight. It will bang around in the courts for ages.

Greg Barker has stated that,

> "landlords will know what is required of them and when".—[*Official Report*, Commons, Energy Bill Committee, 14/6/11; col. 181.]

However, under this legislation they do not. Chris Huhne has said:

> "From 2018, the rental of the very worst performing properties—those rated F and G—will be banned through a minimum energy efficiency standard".—[*Official Report*, Commons, 10/5/11; col. 1064].

No, they will not; most will, but not all. The Government have almost got this right. I know that the Minister longs for three cheers and only ever gets two from me. On this occasion I am afraid it might be just one, but he can redeem that. There is a great danger that what is right and what the Government have done so well in this could be completely undermined by qualifications, exemptions and loopholes. Therefore, I urge the Minister to accept the amendments of the noble Lord, Lord Best.

Lord Marland: My Lords, I thank the noble Lord, Lord Best, for a very well constructed and well put argument on this amendment. It is fundamental, as he says, that we should deal with recalcitrant and inefficient landlords. I remind the House of what was happening before we brought the Bill forward: not a lot. The Bill has moved us on a long way. The other day I asked the noble Lord, Lord Whitty, "Is there any logic in government?". He was careful in responding but his silence suggested that there is not. However, his logic here is that provided we get to 2016, there is logic. The answer is that it is not logic that we can live with here, but it is a logic that we can get a long way towards. I shall come to that point in a minute in addressing the remarks of the noble Lord, Lord Best, and my noble friend Lord Deben. In particular, I pick up on one remark that my noble friend made about certainty. We have to give certainty; it is absolutely right that we should do so in this area.

I shall address my noble friend Lord Jenkin. I am encouraged to hear that student accommodation has not changed since my day or my children's day. However, that is a very good test case—one where we have to hit the landlord hard. My noble friend raised the point, as did the noble Lord, Lord Whitty, about local authorities and their attitude towards this. We have to work very closely with the local authorities. I was in Liverpool not long ago, persuading the chairman and chief executive of the local authority of the merits of the Green Deal. We have been to many other towns and cities, persuading them of those merits. I am thoroughly encouraged by their attitude towards this and their desire to ensure that properties in their cities are dealt with on this basis.

The noble Baroness, Lady Smith, gave a huge number of statistics, for which I am very grateful. I shall read them before I go to sleep tonight—or probably when I am going to sleep tonight. Many of these statistics will be helpful in getting us to where we should be. On a serious note, it is fundamental that these recalcitrant landlords—to quote the noble Lord, Lord Best—should act responsibly towards children and families in need, and that we stamp on them with great authority. Because of the significance of these amendments and the seriousness with which the Government take them, I shall break with tradition and read a script so that we are absolutely clear about the direction in which we are going.

[LORD MARLAND]

I turn first to Amendments 35A, 35B and 35D, which deal with letting agents and marketing. We have investigated this matter and, under the existing Consumer Protection from Unfair Trading Regulations 2008, it will be unlawful for letting agents and landlords classified as traders to market properties that do not meet the minimum energy efficiency requirements. In addition, a landlord will not be able to circumvent the prohibition against letting a below-standard property simply by seeking the assistance of a letting agent.

I turn now to Amendment 35C on the implementation of the minimum standard. This is intended to ensure that all properties, regardless of cost and availability of finance under the Green Deal, are brought up to the minimum standard. I stress that "no up-front costs" is an important safeguard. It helps to ensure that our regulations do not have an adverse impact on the supply of properties in this key sector. Therefore, landlords will need either to reach band E or to carry out the maximum package of measures under the Green Deal and ECO, even if this does not take them above an F rating. Within that, there is the matter that the noble Lord raised to do with grade 1 listed houses. We are committed to a significant ECO, which will minimise those who cannot get above F under the golden rule.

Lastly, I turn to Amendment 35E on timing. As I outlined earlier, we amended the Bill and provided a firm legislative position. With this, we also need to provide landlords with a reasonable period in which to prepare and schedule works in their normal maintenance cycles. This is a long-backstop power; our intention is that regulations will bite right at the end of this period. However, the provisions of the Bill as they as stand, without amendment, are expressed in terms that do not preclude regulations being made sooner than 1 April 2018. Therefore that possibility, as a matter of law, is left open. I also confirm that we will review progress in the sector annually—an excellent suggestion by the noble Lord, Lord Best, for which I am very grateful. If we do not see reasonable progress, we could consider acting earlier. As I have stated, this possibility, as a matter of law, is left open and is within the scope of the Bill. With these reassurances, I hope the noble Lord will withdraw his amendment.

Lord Deben: Will my noble friend take this opportunity to reassure me on one point that may not be in his script, elegant though it was? Does the movement from 2016 to 2018 in any way undermine our commitment to 2016 as the date from which domestic properties that are to be built from then must meet the new highest rating?

Lord Marland: I assure my noble friend that properties have to reach the highest rating but for the private rented sector, as I have said, 2018 is the long-backstop date. If we feel, having annually reviewed it—an undertaking that I have given the House today—that we are not making the right progress, we will act accordingly. The department is determined and keen to ensure that there is big take-up. That is why I have made the commitments that I have.

Baroness Smith of Basildon: I am grateful to the Minister, who is so eloquently reading out his script to take care over what he says in your Lordships' House. I just want some clarification on the point about F and G properties. From what he said, it seems that it will remain legal to let an F or G property if it has had a package of measures under the Green Deal or the ECO. The deciding factor would not be whether it reaches the minimum standard that the Government have set, but whether the measures have been carried out on it. Will there be any circumstances in which it will be legal to let an F or G property?

Lord Marland: As I said, there may be circumstances, such as in the case of a grade 1 listed property, in which you cannot make the improvements that you need to because of the listing arrangements. Therefore, there must be some sort of caveat. However, if our annual review finds that things are falling through a loophole, we will of course act. Our attitude to this is not to allow inefficient properties and recalcitrant landlords to operate within the Green Deal, and to carry on acting inefficiently or inappropriately in perpetuity. We shall attempt to make sure that they do not. All the initiatives and drivers from our department try to force them into that position. However, there may be situations where we might have to take a view, for instance in the case of grade 1 listed properties. I think that the noble Lord, Lord Best, indicated that they may be a case in point.

8 pm

Lord Best: My Lords, I am very grateful to all noble Lords who have spoken, the noble Lords, Lord Deben, Lord Jenkin and Lord Whitty, and the noble Baroness, Lady Smith of Basildon. I have received support around the House for this amendment. I deeply regret that I am not in a position to take it any further. However, I wish to press the Minister a little on where we have got to at the end of this discussion. I am very pleased that Amendments 35A, 35B and 35D, relating to agents, are clearly answered by his comments, for which I am grateful.

In relation to trying to ensure that there is clarity on whether a property has or has not met a minimum standard, whether it is or is not above the F and G level in the energy performance rating, and on the date—2018 versus 2016—as I do not think that we will make further progress tonight on changes to the Bill, I wonder whether the Minister would be willing to agree that further consultation might take place with the sector before the Green Deal kicks in and well in advance of 1 April next year, because I suspect that the private sector would prefer a position in which it is clear that the minimum standard means E or above except in specified circumstances such as grade 1 or grade 2 listed buildings. I think the private rented sector would prefer to be clear that the deadline was 2016 rather than having 2018 as a longstop. As the Minister says, it would be possible to bring forward the date if an annual review showed that that was worthwhile. I think the sector might prefer certainty. The noble Lord, Lord Deben, mentioned this. The industry finds it more helpful to know where it stands.

We need to be clear on whether a property is or is not meeting a minimum standard as it may have had certain expenditure spent on it although it has not got to level E. That leaves an uncertainty for local authorities trying to enforce this. They would have to understand the finances of that property, not just know whether the certificate says E or above. That will complicate matters. I wonder whether a bit of consultation with private landlords early on would not be more helpful to the Government and to them in getting clarity on that matter and on the date. I suspect that instead of the reviews they would rather have 2016 for sure. Would the Minister be willing to consult on that before all these measures kick in next year so that we can see whether, through regulation and through using the power that the Bill gives to come forward from the longstop of 2018, that might not happen rather earlier with everyone's agreement? I hope that the noble Lord might wish to say something on this proposal before I sit down.

Lord Marland: I thank the noble Lord. Of course, we are in consultation with the sector and we will continue to be in consultation with it. If the sector wishes to move in that direction, of course, we will embrace it. I give a commitment that we shall continue with the consultation and we will continue to listen.

Amendment 33 agreed.

Amendment 34

Moved by ***Lord Marland***

34: Clause 38 page 24, line 35, leave out "or any regulations replacing those regulations"

Amendment 34 agreed.

Amendment 35

35: After Clause 38 insert the following new Clause—

"Domestic energy efficiency regulations

(1) The Secretary of State must make regulations for the purpose of securing that a landlord of a domestic PR property—

(a) which is of such description of domestic PR property as is provided for by the regulations,

(b) in relation to which there is an energy performance certificate, and

(c) which falls below such level of energy efficiency (as demonstrated by the energy performance certificate) as is provided for by the regulations,

may not let the property until the landlord has complied with the obligation mentioned in subsection (2).

(2) The obligation is to make to the property such relevant energy efficiency improvements as are provided for by the regulations.

(3) Regulations under this section are referred to in this Chapter as "domestic energy efficiency regulations".

(4) For the purposes of domestic energy efficiency regulations—

"energy performance certificate" has the meaning given by the Energy Performance Regulations;

"landlord" and "let the property" have the meaning given by the regulations (and "let the property" may be defined to include "continue to let the property"); and

"relevant energy efficiency improvements" means improvements which—

(a) are of such description as the regulations provide, and

(b) can be—

(i) wholly paid for pursuant to a green deal plan as provided for by Chapter 1 of this Part,

(ii) provided free of charge pursuant to an obligation imposed by an order made under section 33BC or 33BD of the Gas Act 1986 or section 41A or 41B of the Electricity Act 1989,

(iii) wholly financed pursuant to a combination of such a plan and such an obligation, or

(iv) financed by such other description of financial arrangement as the regulations provide.

(5) The Secretary of State may by order amend the definition of "energy performance certificate" in subsection (4).

(6) The first domestic energy efficiency regulations must come into force no later than 1 April 2018."

Amendments 35A to 35E (to Amendment 35) not moved.

Amendment 35 agreed.

Amendments 36 to 72

Moved by ***Lord Marland***

36: Insert the following new Clause—

"Further provision about domestic energy efficiency regulations

(1) Domestic energy efficiency regulations may, in particular, include provision about—

(a) the period within which improvements required by the regulations must be started or completed;

(b) exemptions from any requirement imposed by or under the regulations;

(c) evidence relating to any requirement imposed by or under the regulations.

(2) Provision falling within subsection (1)(b) includes, in particular, provision about exemptions—

(a) relating to any necessary permissions or consents;

(b) relating to the likely negative impact on the value of a property of complying with a requirement imposed by or under the regulations.

(3) Provision falling within subsection (1)(c) includes, in particular, provision about evidence for the purpose of demonstrating—

(a) an exemption from a requirement imposed by or under the regulations;

(b) that a property is not one in relation to which the regulations have effect;

(c) that the improvements required by or under the regulations are not relevant energy efficiency improvements within the meaning given by the regulations."

37: Clause 39 page 25, line 1, leave out Clause 39

38: Clause 40 page 25, line 31, leave out Clause 40

39: Clause 41 page 26, line 39, leave out Clause 41

40: Clause 42 page 27, line 28, leave out "about—" and insert "—

(za) for a local authority to enforce any requirement imposed by or under the regulations;"

41: Clause 42 page 27, line 29, at beginning insert "about"

42: Clause 42 page 27, line 31, at beginning insert "about"

43: Clause 42 page 27, line 33, leave out "both cases" and insert "cases falling within paragraph (a) or (b)"

44: Clause 43 page 28, line 21, leave out subsection (1)

45: Clause 43 page 28, line 30, leave out 'may' and insert "must"

46: Clause 43 page 29, line 11, leave out subsection (6) and insert—

"(6) The first tenants' energy efficiency improvements regulations must come into force no later than 1 April 2016."

47: Clause 46 page 31, line 4, leave out subsection (1)

48: Clause 46 page 31, line 13, leave out "may" and insert "must"

49: Clause 46 page 31, line 30, leave out ", "let the property" and "tenant"" and insert "and "let the property""

50: Clause 46 page 31, line 31, after "regulations" insert "(and "let the property" may be defined to include "continue to let the property")"

51: Clause 46 page 31, line 42, leave out subsection (7) and insert—

"(7) The first non-domestic energy efficiency regulations must come into force no later than 1 April 2018."

52: Clause 46 page 33, line 26, leave out "40(7)" and insert "*[Domestic energy efficiency regulations: England and Wales]*(5)"

53: Clause 51 page 34, line 22, leave out "or any regulations replacing those regulations"

54: After Clause 51 insert the following new Clause—

"Scottish domestic energy efficiency regulations

(1) The Scottish Ministers may make regulations for the purpose of securing that a landlord of a Scottish domestic PR property—

(a) which is of such description of Scottish domestic PR property as is provided for by the regulations,

(b) in relation to which there is an energy performance certificate, and

(c) which falls below such level of energy efficiency (as demonstrated by the energy performance certificate) as is provided for by the regulations,

may not let the property until the landlord has complied with the obligation mentioned in subsection (2).

(2) The obligation is to make to the property such relevant energy efficiency improvements as are provided for by the regulations.

(3) Regulations under this section are referred to in this Chapter as "Scottish domestic energy efficiency regulations".

(4) For the purposes of Scottish domestic energy efficiency regulations—

"energy performance certificate" has the meaning given by the Energy Performance (Scotland) Regulations;

"landlord" and "let the property" have the meaning given by the regulations (and "let the property" may be defined to include "continue to let the property"); and

"relevant energy efficiency improvements" means improvements which—

(a) are of such description as the regulations provide, and

(b) can be—

(i) wholly paid for pursuant to a green deal plan as provided for by Chapter 1 of this Part,

(ii) provided free of charge pursuant to an obligation imposed by an order made under section 33BC or 33BD of the Gas Act 1986 or section 41A or 41B of the Electricity Act 1989,

(iii) wholly financed pursuant to a combination of such a plan and such an obligation, or

(iv) financed by such other description of financial arrangement as the regulations provide.

(5) The Scottish Ministers may by order amend the definition of "energy performance certificate" in subsection (4).

(6) Scottish domestic energy efficiency regulations may come into force no earlier than 1 April 2015."

55: After Clause 51 insert the following new Clause—

"Further provision about Scottish domestic energy efficiency regulations

(1) Scottish domestic energy efficiency regulations may, in particular, include provision about—

(a) the period within which improvements required by the regulations must be started or completed;

(b) exemptions from any requirement imposed by or under the regulations;

(c) evidence relating to any requirement imposed by or under the regulations.

(2) Provision falling within subsection (1)(b) includes, in particular, provision about exemptions—

(a) relating to any necessary permissions or consents;

(b) relating to the likely negative impact on the value of a property of complying with a requirement imposed by or under the regulations.

(3) Provision falling within subsection (1)(c) includes, in particular, provision about evidence for the purpose of demonstrating—

(a) an exemption from a requirement imposed by or under the regulations;

(b) that a property is not one in relation to which the regulations have effect;

(c) that the improvements required by or under the regulations are not relevant energy efficiency improvements within the meaning given by the regulations."

56: Clause 52 page 34, line 29, leave out Clause 52

57: Clause 53 page 35, line 17, leave out Clause 53

58: Clause 54 page 36, line 24, leave out Clause 54

59: Clause 55 page 37, line 11, leave out "about—" and insert "—

(za) for a local authority to enforce any requirement imposed by or under the regulations;"

60: Clause 55 page 37, line 12, at beginning insert "about"

61: Clause 55 page 37, line 14, at beginning insert "about"

62: Clause 55 page 37, line 16, leave out "both cases" and insert "cases falling within paragraph (a) or (b)"

63: Clause 56 page 38, line 7, leave out subsection (1)

64: Clause 58 page 39, line 43, leave out "costs" and insert "expenses"

65: Clause 58 page 40, line 21, leave out "costs" and insert "expenses"

66: Clause 59 page 40, line 35, leave out subsection (1)

67: Clause 59 page 41, line 16, leave out ", "let the property" and "tenant"" and insert "and "let the property""

68: Clause 59 page 41, line 17, after "regulations" insert "(and "let the property" may be defined to include "continue to let the property")"

69: Clause 61 page 42, line 40, leave out "costs" and insert "expenses"

70: Clause 62 page 43, line 8, leave out subsection (2)

71: Clause 62 page 43, line 10, leave out subsections (3) and (4) and insert—

"(3) Orders under this Chapter are subject to the negative procedure.

(4) Regulations under this Chapter are subject to the affirmative procedure."

72: Clause 69 page 53, line 23, at end insert—

"(6A) In sections 28 to 30F and section 38 of the 1986 Act (enforcement of relevant requirements etc) a reference to a "relevant requirement" is to be treated as including a reference to a requirement imposed on a gas transporter or gas supplier under this section.

(6B) In sections 25 to 28 of the 1989 Act (enforcement of relevant requirements etc) a reference to a "relevant requirement" is to be treated as including a reference to a requirement imposed on an electricity distributor or electricity supplier under this section."

Amendments 36 to 72 agreed.

Amendment 73

Moved by ***Lord Marland***

73: Clause 73 page 56, line 9, leave out paragraph (b)

Lord Marland: My Lords, it is convenient now to speak to Amendments 73 to 95, 98 to 103 and 105 to 135 together.

First, on the upstream petroleum infrastructure, Amendments 77 to 87 have been made in the other place to correct some unintended consequences of the drafting of these clauses. Your Lordships may recall that Calor Gas was concerned that an LPG project in which it is investing might unintentionally be caught. We have resolved this problem. We have also separated the upstream and downstream regimes for third party access so as to enable the new upstream regime set out in the Bill to be considered by Parliament in parallel with a separate legislative exercise that affects the downstream sector only, and which is required as part of the implementation of the EU gas directive.

The clause covering nuclear-funded decommissioning programmes was removed by the Government in Committee in the other place, Amendment 102; and was reinstated in an improved form on Report, Amendment 93. The amendment places a requirement on the Secretary of State that he cannot enter into an agreement under the clause unless he is satisfied that the agreement includes adequate provision for the modification of the funded decommissioning programme in the event that it ceases to make prudent provision.

Two new provisions—Amendments 94 and 95—were also introduced to facilitate the reuse of existing capital assets for CCS where they are suitable. The first of these amends the decommissioning arrangements for offshore energy structures to remove the possibility that the previous owners and operators of those facilities for petroleum production could be made liable for their decommissioning once they have been used for carbon capture and storage demonstration. The second enables the owner of an existing pipeline to compulsorily acquire rights from affected landowners to transport carbon dioxide through the pipeline rather than the substance which he already has rights to use the pipeline for.

On the small provision on the regulation of security at civil nuclear construction sites—Amendment 92—there are potential security risks from early on in the construction of new nuclear sites. The Secretary of State currently has no powers to make regulations to require owners of new civil nuclear sites to put security measures in place while sites are under construction. This amendment will permit him to do so.

Amendments 100, 101 and 133 extend the renewable heat incentive legislation to cover Northern Ireland, enabling it to make its own regulations to incentivise renewable heat.

The noble Lord, Lord Judd, raised an important issue in this House, and I am pleased that we have been able to fulfil his request, that Amendment 99 was passed in the other place unambiguously to allow national park authorities and the Broads Authority to generate and sell renewable electricity, which I hope noble Lords will agree is an exciting and positive change.

The remaining amendments in this group: Amendments 73 to 76, 88 to 91, 98, 102, 103, 105 to 132 and 134 to 135 in this group are minor and technical and I do not wish to take up the House's time with these, so I shall simply go on to say that I hope noble Lords will be content to accept these

amendments as passed in another place. I beg to move that the House do agree with the Commons in their Amendments 73 to 95.

Lord Judd: The House will not be surprised when I say a very warm thank you to the Minister, his officials and all those involved in introducing the amendment, which empowers the National Parks and the Broads Authority to generate renewable energy. I am sure that that will be welcomed. It is now a challenge to the parks and the Broads Authority to demonstrate how those important areas can make a real contribution to energy needs in a socially responsible way which is completely compatible with their overriding objective: to enhance and preserve the countryside for which they are responsible. Now that the Government have responded so positively, I hope that the parks and broads authorities will prove that they can set standards for the nation as a whole.

I would be remiss not to say that the way in which the Minister has conducted the Bill is a model. He has been untiringly—sometimes dangerously—charming, but he has delivered on his promises, and that is something very special. If I may say so, it would not have been possible without the leadership that has come from this side of the House from my noble friend Lady Smith of Basildon. Watching them both at work demonstrates a very interesting and constructive way that could enhance the quality of our democracy. There have been real, important, searching debates, but they have all been conducted in a most civilised and encouraging way. I hope that a lot of people will take the time to read the debate and see how it should be done. Anyway, I thank both noble Lords very much.

Amendment 73 agreed.

Amendments 74 to 95
Moved by ***Lord Marland***

74: Clause 73 page 56, line 10, leave out subsection (6) and insert—

"(6) Regulations under this section are subject to the negative procedure."

75: Clause 75 page 57, line 21, leave out subsection (2)

76: Clause 79 page 61, line 13, leave out from "consultation" to "the" in line 14 and insert "before, as well as consultation after,"

77: Clause 80 page 62, line 10, after "have" insert "piped"

78: Clause 80 page 62, line 14, at end insert—

"(1A) This section does not apply by virtue of subsection (1)(c) where a person makes an application to the owner of a gas processing facility for a right to have gas processed by the facility for a downstream purpose (as to which, see section 12 of the Gas Act 1995)."

79: Clause 80 page 63, line 39, at end insert—

"(10A) A notice under subsection (10) may also contain such provisions as the Secretary of State considers appropriate for the purpose of ensuring that no person suffers a loss by reason of the mixing together of—

(a) substances conveyed by the pipeline or processed by the facility on behalf of the applicant in exercise of a right secured by the notice; and

(b) substances conveyed by the pipeline or processed by the facility by or on behalf of any other person."

80: Clause 80 page 63, line 48, leave out from "applicant" to end of line 3 on page 64 and insert—

"(12A) If a notice under subsection (10) contains provision of a sort mentioned in subsection (9) or (10A) the Secretary of State must give a copy of the notice to every person who has a right to have anything conveyed by the pipeline or processed by the facility.

(12B) Before giving a copy of a notice under subsection (12A) the Secretary of State must—

(a) remove from the copy any provision included in the notice by virtue of subsection (10)(d) or (11)(a); and

(b) after giving the owner and the applicant an opportunity to be heard, remove from the copy any other provision included in the notice which the Secretary of State considers may prejudice the commercial interests of the owner or the applicant if not removed."

81: Clause 82 page 65, line 42, leave out from beginning to "person" in line 44 and insert "If a notice under subsection (2) contains provision by virtue of subsection (4) the Secretary of State must give a copy of the notice to every"

82: Clause 82 page 65, line 45, at end insert—

"(5A) Before giving a copy of a notice under subsection (5) the Secretary of State must—

(a) remove from the copy any provision included in the notice by virtue of subsection (3)(b); and

(b) after giving the owner and the applicant an opportunity to be heard, remove from the copy any other provision included in the notice which the Secretary of State considers may prejudice the commercial interests of the owner or the applicant if not removed."

83: Clause 88 page 70, line 6, leave out from second "facility" to end of line 7 and insert "which—

(a) carries out gas processing operations in relation to piped gas;

(b) is operated otherwise than by a gas transporter; and

(c) is not an LNG import or export facility (within the meaning of section 12 of the Gas Act 1995);"

84: Clause 88 page 70, line 12, at end insert—

""piped gas" means gas which—

(a) originated from a petroleum production project; and

(b) has been conveyed only by means of pipes;"

85: Clause 88 page 70, line 18, at end insert "and is not a carbon dioxide pipeline"

86: Clause 88 page 70, line 32, at end insert—

""carbon dioxide pipeline" means—

(a) a pipeline used to convey carbon dioxide to a carbon dioxide storage site; or

(b) a pipeline which is not being used for any purpose but which is intended to be used to convey carbon dioxide to such a site;

"carbon dioxide storage site" means a facility—

(a) for the storage of carbon dioxide (with a view to its permanent disposal, or as an interim measure prior to its permanent disposal); and

×(b) in respect of the use of which a person is required to have a licence under section 18 of the Energy Act 2008;"

87: After Clause 89, insert the following new Clause—

"Acquisition of rights to use gas processing facilities for downstream purposes

(1) Section 12 of the Gas Act 1995 (acquisition of rights to use gas processing facilities) is amended as follows.

(2) In the heading at the end insert "for downstream purposes".

(3) For "the Secretary of State" (in each place those words occur) substitute "the Authority".

(4) In subsection (1)—

(a) in the words before paragraph (a), after "gas processing facility" insert "which processes gas for a downstream purpose";

(b) in that paragraph for "on that person's behalf" substitute "for such a purpose".

(5) After subsection (1) insert—

"1ZA) At least two months before publishing those conditions or any changes to them under subsection (1), the owner of the facility must—

(a) publish a draft of the proposed conditions or changes; and

(b) inform any person who has a right to have gas processed by the facility that the draft has been published.

(1ZA) The owner of the facility must take into account any representations received about the proposed conditions or changes before publishing them, or a modified version of them, as final conditions or changes under subsection (1)."

(6) In subsection (1B) for "on his behalf" substitute "for a downstream purpose".

(7) In subsection (1D)—

(a) omit the "and" immediately preceding paragraph (c);

(b) after paragraph (c) insert "; and

(d) that the gas is to be processed for a downstream purpose".

(8) In subsection (1G) for "he" substitute "it".

(9) In subsection (2)(b) for "his" substitute "its".

(10) For subsections (5) and (5A) substitute—

"(5) Sections 28 to 30F of the 1986 Act (enforcement of relevant requirements etc) apply in relation to the owner of a gas processing facility as if—

(a) references to "a licence holder" were references to the owner of the facility; and

(b) references to a "relevant requirement" were references to a requirement imposed on the owner under this section.

(5A) For the purposes of this section, gas is processed for "a downstream purpose" if it is processed with a view to its being put into a gas storage facility, an LNG import or export facility, a gas interconnector or a distribution system pipeline."

(11) In subsection (6)—

(a) in the definition of "gas processing facility" for the words from "carries" to the end substitute "—

(a) carries out gas processing operations;

(b) is operated otherwise than by a gas transporter; and

is not an LNG import or export facility;";

insert, in the appropriate place, the following definitions—

""authorised transporter" has the same meaning as in Part 1 of the 1986 Act;";

""the Authority" means the Gas and Electricity Markets Authority;";

""distribution system operator" has the meaning given by Article 2(6) of Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC;";

""distribution system pipeline" means a pipeline operated by an authorised transporter who is a distribution system operator;";

""gas interconnector" has the same meaning as in Part 1 of the 1986 Act;";

""gas storage facility" means a facility in Great Britain (including the territorial sea adjacent to Great Britain and the sea in any area designated under section 1(7) of the Continental Shelf Act 1964) for either or both of the following—

(a) the storage in porous strata, or in cavities in strata, of gas which has been, or will be, conveyed in a pipeline system operated by the holder of a licence under section 7 or 7ZA of the 1986 Act;

(b) the storage of liquid gas which, if regasified, would be suitable for conveyance through pipes to premises in accordance with a licence under section 7 of the 1986 Act;

but the reference in paragraph (b) to the storage of liquid gas does not include such temporary storage as is mentioned in the definition of "LNG import or export facility";";

""LNG import or export facility" means a facility in Great Britain (including the territorial sea adjacent to Great Britain and the sea in any area designated under section 1(7) of the Continental Shelf Act 1964) for—

(a) the importation into Great Britain and regasification of liquid gas prior to its conveyance to a pipeline system operated by the holder of a licence under section 7 or section 7ZA of the 1986 Act, or the liquefaction of gas for the purpose of its export from Great Britain; and

(b) any activity, including temporary storage of gas or liquid gas, which is necessary for that importation, regasification or liquefaction;";

""storage", in relation to liquid gas in a gas storage facility, includes any liquefaction of gas or regasification of liquid gas ancillary to the storage of liquid gas, and "stored", in relation to liquid gas in a gas storage facility, shall be construed accordingly;".

(12) For subsection (7) substitute—

"(7) Section 89 of the Energy Act 2011 (meaning of "associate") applies for the purposes of subsection (3) of this section as it applies for the purposes of section 80(6)(d) and (8)(a) of that Act.""

88: Clause 95 page 76, line 13, leave out subsection (4)

89: Clause 95 page 76, line 32, after "conditions of" insert "generation, distribution and supply"

90: Clause 95 page 76, line 35, after "conditions of" insert "transporter, supply and shipping"

91: Clause 95 page 76, line 37, at end insert—

"(11A) In section 146(5) of the Energy Act 2004 (standard conditions of interconnector licences under Part 1 of the Electricity Act 1989), for "or under this Act" substitute ", under this Act or under section 95 of the Energy Act 2011".

(11B) In section 150(5) of the Energy Act 2004 (standard conditions of interconnector licences under Part 1 of the Gas Act 1986), for "or under this Act" substitute ", under this Act or under section 95 of the Energy Act 2011"."

92: After Clause 101, insert the following new Clause—

"Regulation of security of nuclear construction sites

(1) Section 77 of the Anti-terrorism, Crime and Security Act 2001 (regulation of security of civil nuclear industry) is amended as follows.

(2) In subsection (1) (list of matters that may be regulated) after paragraph (c) insert—

(cza) nuclear construction sites and equipment used or stored on such sites;".

(3) In subsection (7) after the definition of "equipment" insert—

""nuclear construction site" means a site—

(a) on which works are being carried out with a view to its becoming a nuclear site used wholly or mainly for purposes other than defence purposes; and

(b) which is situated within 5 kilometres of an existing nuclear site.""

93: After Clause 101, insert the following new Clause—

"Agreement about modifying decommissioning programme

(1) Section 46 of the Energy Act 2008 (approval of a decommissioning programme) is amended as follows.

(2) After subsection (3) insert—

"(3A) When approving a programme the Secretary of State may agree to exercise, or not to exercise, the section 48 power—

(a) in a particular manner;

(b) within a particular period.

"(3B) An agreement under subsection (3A) may subsequently be amended by the Secretary of State and the other party to the agreement.

(3C) The Secretary of State may not make such an agreement or amend such an agreement unless satisfied that the agreement (or the agreement as amended) includes adequate provision for the modification of the programme in the event that the provision made by it for the technical matters (including the financing of the designated technical matters) ceases to be prudent.

(3D) Provision in such an agreement (including the provision mentioned in subsection (3C)) may include provision—

(a) for a determination by a third party in relation to a relevant matter specified in the agreement, and

(b) for the Secretary of State to be bound by such a determination.

(3E) A "relevant matter" is a matter relating to the provision made by the programme for the technical matters.

(3F) Subsections (3A) to (3D) apply notwithstanding that the agreement or amendment fetters the Secretary of State's discretion.

(3G) In subsection (3A) "section 48 power" means the power of the Secretary of State under section 48 to propose a modification of the programme or a modification of the conditions to which the approval of the programme is subject."

(3) In subsection (4) for "(3)" substitute "(3B)"."

94: After Clause 101, insert the following new Clause—

"Abandonment: infrastructure converted for CCS demonstration sites

(1) The Energy Act 2008 is amended as follows.

(2) After section 30 insert—

"30A Installations converted for CCS demonstration projects

(1) The Secretary of State may by order designate an installation as an eligible CCS installation.

(2) But an order may not be made under subsection (1) in relation to—

(a) a carbon storage installation established or maintained under a licence granted by the Scottish Ministers, or

(b) any other installation established or maintained wholly or partly in Scotland.

(3) An order under subsection (1) ceases to have effect if the installation in relation to which it is made becomes an installation within subsection (2)(a).

(4) An eligible CCS installation qualifies for change of use relief if—

(a) the installation is or has been used as part of a CCS demonstration project, and

(b) the trigger event has occurred in relation to the installation at a time when the installation was so used (whether before or after it was designated under this section).

(5) The trigger event occurs—

(a) in relation to an installation used for the injection of captured carbon dioxide into a carbon storage facility as part of a CCS demonstration project, when captured carbon dioxide is first present at the installation, and

(b) in relation to an installation used as part of a CCS demonstration project for any other purpose, when captured carbon dioxide is first present at another installation used as mentioned in paragraph (a) as part of the same project.

(6) Where an eligible CCS installation qualifies for change of use relief—

(a) an abandonment programme notice must not be served on a person who is within section 30(1) of the 1998 Act only because one or more of subsections (7) to (9) applies in relation to the person (but this does not affect the validity of a notice served on any such person before the installation qualified for change of use relief), and

(b) a proposal must not be made under section 34(1)(b) of the 1998 Act if the effect of the proposal (if implemented) would be to impose an abandonment liability on a person who is within section 34(2)(a) of the 1998 Act only because one or more of subsections (7) to (10) applies in relation to the person.

(7) This subsection applies in relation to a person if—

(a) the person is within paragraph (b) of section 30(1) of the 1998 Act in relation to the installation only by virtue of the fact that the person had a right mentioned in section 30(5)(a) of that Act when an activity mentioned in section 30(6) of that Act was last carried on from, by means of or on the installation, and

(b) any such activity was last so carried on before the trigger event occurred in relation to the installation.

(8) This subsection applies in relation to a person if—

(a) the person is within paragraph (ba) of section 30(1) of the 1998 Act in relation to the installation, and

(b) the transfer mentioned in sub-paragraph (i) of that paragraph took place before the trigger event occurred in relation to the installation.

(9) This subsection applies in relation to a person if the person is within paragraph (e) of section 30(1) of the 1998 Act only by virtue of being associated with a body corporate which is within subsection (7) or (8).

(10) This subsection applies in relation to a person if the person has been within any of paragraphs (a), (b), (c), (d) or (e) of section 30(1) of the 1998 Act in relation to the installation, but only at a time—

(a) when the installation was an offshore installation (within the meaning given by section 44 of the 1998 Act), and

(b) before the trigger event occurred in relation to the installation.

(11) The power conferred by subsection (1) does not include a power to revoke an order made under that subsection.

(12) In this section—

"abandonment liability", in relation to an installation, means a duty to secure that an abandonment programme for the installation is carried out;

"abandonment programme", in relation to an installation, means a programme in respect of the installation approved, or having effect as if approved, by the Secretary of State under section 32 of the 1998 Act;

"abandonment programme notice" means a notice served under section 29(1) of the 1998 Act;

"captured carbon dioxide" means carbon dioxide that has been produced by, or in connection with, commercial electricity generation and captured with a view to its disposal by way of permanent storage;

"carbon dioxide", "CCS demonstration project" and "commercial electricity generation" have the same meanings as in Part 1 of the Energy Act 2010 (see section 7 of that Act);

"carbon storage facility" has the same meaning as in section 20;

"Scotland" has the same meaning as in the Scotland Act 1998 (see section 126(1) of that Act).

(13) Section 30(8) to (9) of the 1998 Act (when one body corporate is associated with another) apply for the purposes of this section.

30B Submarine pipelines converted for CCS demonstration projects

(1) The Secretary of State may by order designate a submarine pipeline as an eligible CCS pipeline.

(2) An eligible CCS pipeline qualifies for change of use relief if—

(a) the pipeline is or has been used as part of a CCS demonstration project for a purpose other than the transport of petroleum, and

(b) the trigger event has occurred in relation to the pipeline at a time when the pipeline was so used (whether before or after it was designated under this section).

(3) The trigger event—

(a) in relation to a pipeline used to transport captured carbon dioxide as part of a CCS demonstration project, occurs when captured carbon dioxide is first present in the pipeline, and

(b) in relation to a pipeline used as part of a CCS demonstration project for any other purpose, occurs—

(i) when captured carbon dioxide is first present in another pipeline used as part of the same project, or

(ii) if earlier, when captured carbon dioxide is first present at an installation used as part of the same project for the injection of captured carbon dioxide into a carbon storage facility.

(4) Where an eligible CCS pipeline qualifies for change of use relief, a proposal must not be made under section 34(1)(b) of the 1998 Act if the effect of the proposal (if implemented) would be to impose an abandonment liability on a person who is within section 34(2)(b) of the 1998 Act only because subsection (5) applies in relation to the person.

(5) This subsection applies in relation to a person if the person has been within any of paragraphs (a) to (c) of section 30(2) of the 1998 Act in relation to the pipeline, but only at a time—

(a) when the pipeline was used solely for activities other than activities connected with any mentioned in section 17(2)(a), (b) or (c), and

(b) before the trigger event occurred in relation to the pipeline.

(6) The power conferred by subsection (1) does not include a power to revoke an order made under that subsection.

(7) In this section—

"abandonment liability", in relation to a submarine pipeline, is a duty to secure that an abandonment programme for the pipeline is carried out;

"abandonment programme", in relation to a submarine pipeline, means a programme in respect of the pipeline approved, or having effect as if approved, by the Secretary of State under section 32 of the 1998 Act;

"captured carbon dioxide" and "CCS demonstration project" have the same meanings as in section 30A;

"carbon storage facility" has the same meaning as in section 20;

"petroleum" has the same meaning as in Part 1 of the 1998 Act (see section 1 of that Act) and includes petroleum that has undergone any processing;

"submarine pipeline" has the same meaning as in Part 4 of the Petroleum Act 1998 (see section 45 of that Act)."

(3) In the cross heading before section 30, for "installations" substitute "infrastructure".

(4) In section 30 (abandonment of installations)—

(a) in subsection (1) (application of Part 4 of Petroleum Act 1998 in relation to abandonment of carbon storage installations)—

(i) for ""the 1998 Act"" substitute "referred to in this section and sections 30A and 30B as "the 1998 Act"", and

(ii) at the end insert "and section 30A",

(b) after subsection (4) (power to make regulations modifying Part 4 of the 1998 Act in its application to carbon storage installations) insert—

"(4A) The power in subsection (4) is subject to section 30A.", and

(c) in subsection (5) (meaning of "carbon storage installation") after "this section" insert "and section 30A".

(5) In section 105(2) (parliamentary control of subordinate legislation), after paragraph (a) insert—

"(aa) an order which contains provision made under section 30A or 30B only (powers to designate installations and submarine pipelines as eligible CCS installations and eligible CCS pipelines);"."

95: After Clause 101, insert the following new Clause—

"Carbon dioxide pipelines: powers of compulsory acquisition

(1) The Pipe-lines Act 1962 is amended as follows.

(2) In section 12 (orders for compulsory acquisition of rights over land for pipe-line construction)—

(a) in subsection (1), for "the next following section" substitute "section 13";

(b) in subsections (2), (4), (5)(a) and (b), (5A) (in both places), (6) and (7), after "a compulsory rights order" insert "under this section";

(c) in subsection (3), after "compulsory rights orders" insert "under this section".

(3) After section 12 insert—

"Pipe-lines for Conveying Carbon Dioxide: Compulsory Acquisition of Rights over Land

12A Orders for compulsory acquisition of rights over land: pipe-lines for conveying carbon dioxide

(1) This section applies in relation to a pipe-line (or a length of a pipe-line) that is intended to be converted into a pipe-line (or length) used for conveying carbon dioxide.

(2) The owner of the pipe-line may apply to the Secretary of State for an order under subsection (3) in relation to land in which the pipe-line (or a length of the pipe-line) is situated.

(3) An order under this subsection is an order authorising the owner of the pipe-line to do one or more of the following—

(a) to use the pipe-line (or length of the pipe-line) in the land described in the order to convey carbon dioxide;

(b) to execute pipe-line works in the land which are necessary in consequence of the presence of the pipe-line (or length) in the land;

(c) to execute pipe-line works in the land to enable the pipe-line (or length) to be used to convey carbon dioxide or in consequence of its use to convey carbon dioxide;

(d) to exercise, in relation to the pipe-line (or length), such of the rights mentioned in Schedule 4 as may be specified in the order.

(4) An order under this subsection is referred to in this Act as a "compulsory rights order".

A compulsory rights order under this section may be made subject to conditions (see section 13).

(5) On receiving an application under subsection (2), the Secretary of State may grant or refuse the application.

(6) Part 1 of Schedule 2, as modified by Part 2 of that Schedule, has effect in relation to applications for compulsory rights orders under this section.

(7) A compulsory rights order under this section enures for the benefit of the owner for the time being of the pipe-line.

(8) The Secretary of State may by order revoke a compulsory rights order under this section, in whole or in part, if—

(a) the pipe-line (or length of the pipe-line) is diverted from the land described in the order,

(b) the pipe-line (or length) is abandoned,

(c) the pipe-line (or length) ceases to be used to convey carbon dioxide, or

(d) the owner of the pipe-line makes an application for the revocation of the order.

(9) A compulsory rights order under this section does not affect any right over the land described in the order that would not have been affected had the land been compulsorily purchased by virtue of a compulsory purchase order.

(10) A compulsory rights order under this section does not authorise the disregard of any enactment or of any instrument having effect by virtue of any enactment.

(11) A compulsory rights order under this section is not to be taken to confer a right of support for the pipeline (or length of pipeline).

(12) A compulsory rights order under this section is to be subject to special parliamentary procedure.

(13) For the purposes of this section, "carbon dioxide" includes any substance consisting primarily of carbon dioxide.

Compulsory Rights Orders under Sections 12 and 12A: Supplementary Provisions".

(4) In section 66 (general interpretation provisions), in subsection (1), in the definition of "compulsory rights order", for "subsection (1) of section twelve" substitute "sections 12(1) and 12A(3)".

(5) In Schedule 2—

(a) in the shoulder reference, after "12," insert "12A,";

(b) in paragraph 10(1), for "subsection (3) of section twelve of this Act" substitute "sections 12(3) and 12A(4)".

(6) In Schedule 4, in the shoulder reference, for "Section 12" substitute "Sections 12 and 12A"."

Amendments 74 to 95 agreed.

Amendment 96

Moved by ***Lord Marland***

96: After Clause 101, insert the following new Clause—

"Contribution to carbon budgeting under the Climate Change Act 2008

(1) The Secretary of State must prepare and publish an annual report on the extent to which—

(a) green deal plans under Chapter 1 of Part 1, and

(b) the energy company obligations provisions,

have contributed to the Secretary of State fulfilling the duty under section 4(1)(b) of the Climate Change Act 2008 (carbon budgeting).

(2) The "energy company obligations provisions" means—

(a) sections 33BC and 33BD of the Gas Act 1986 and sections 41A and 41B of the Electricity Act 1989 (promotion of reductions in carbon emissions and home-heating costs),

(b) sections 103 and 103A of the Utilities Act 2000 (overall carbon emissions and home-heating cost reduction targets), and

(c) section 103B of the Utilities Act 2000 (Secretary of State's power to require information about carbon emissions and home-heating cost reduction targets).

(3) The first report under this section must be published before the end of 2014.

(4) The Secretary of State must lay before Parliament a copy of each report under this section."

Amendment 96A (to Amendment 96) not moved.

Amendment 96 agreed.

Amendment 97 to 135

Moved by ***Lord Marland***

97: After Clause 101, insert the following new Clause—

"Energy efficiency aim

(1) The Secretary of State must take such action as he considers appropriate to improve the energy efficiency of residential accommodation in England so as to contribute to the Secretary of State fulfilling the duty under section 1(1) of the Climate Change Act 2008 (reduction of net UK carbon account by 2050).

(2) In subsection (1) "residential accommodation" has the meaning given by section 1 of the Home Energy Conservation Act 1995.

(3) Section 2 of the Sustainable Energy Act 2003 (energy efficiency of residential accommodation) ceases to have effect.

(4) In section 9 of the Sustainable Energy Act 2003 (citation, extent and commencement), in subsections (3) and (5) leave out "2,"."

98: After Clause 101, insert the following new Clause—

"Adjustment of electricity transmission charges

In section 185(11) of the Energy Act 2004 (areas suitable for renewable electricity generation: end date for schemes adjusting transmission charges) for "2024" substitute "2034"."

99: After Clause 101, insert the following new Clause—

"Electricity from renewable sources: National Park authorities and Broads Authority

(1) This section applies to a body which is a National Park authority or the Broads Authority.

(2) The body may—

(a) produce electricity from a renewable source;

(b) establish and operate generating stations and other installations for the purpose of producing electricity from a renewable source;

(c) make grants or loans to enable other persons to do anything which the body may do by virtue of paragraph (a) or (b);

(d) use, sell or otherwise dispose of electricity produced by virtue of the powers conferred by this section.

(3) A "renewable source" is—

(a) in England and Wales, a source listed in regulation 2 of the Sale of Electricity by Local Authorities (England and Wales) Regulations 2010 (S.I. 2010/1910);

(b) in Scotland, a source listed in regulation 2 of the Sale of Electricity by Local Authorities (Scotland) Regulations 2010 (S.I. 2010/1908).

(4) Any regulations which—

(a) are made in exercise of the power conferred by section 11(3) of the Local Government (Miscellaneous Provisions) Act 1976 (power to prescribe the circumstances in which local authorities may sell electricity), and

(b) amend, revoke or re-enact regulation 2 of the Sale of Electricity by Local Authorities (England and Wales) Regulations 2010,

may amend subsection (3)(a) for the purpose of providing what is a "renewable source" in England and Wales.

(5) Any regulations which—

(a) are made in exercise of the power conferred by section 170A(3) of the Local Government (Scotland) Act 1973 (power to prescribe the circumstances in which local authorities may sell electricity), and

(b) amend, revoke or re-enact regulation 2 of the Sale of Electricity by Local Authorities (Scotland) Regulations 2010,

may amend subsection (3)(b) for the purpose of providing what is a "renewable source" in Scotland.

(6) Nothing in this section—

(a) exempts a body from the requirements of Part 1 of the Electricity Act 1989, or

(b) affects what a body has power to do apart from this section."

100: After Clause 101, insert the following new Clause—

"Renewable heat incentives in Northern Ireland

(1) The Department of Enterprise, Trade and Investment may make regulations—

(a) establishing a scheme to facilitate and encourage renewable generation of heat in Northern Ireland, and

(b) about the administration and financing of the scheme.

(2) Regulations under this section may, in particular—

(a) make provision for the Department or NIAUR to make payments, or to require designated fossil fuel suppliers to make payments, in specified circumstances, to—

(i) the owner of plant used or intended to be used for the renewable generation of heat, whether or not the owner is also operating or intending to operate the plant;

(ii) a producer of biogas or biomethane;

(iii) a producer of biofuel for generating heat;

(b) make provision about the calculation of such payments;

(c) make provision about the circumstances in which such payments may be recovered;

(d) require designated fossil fuel suppliers to provide specified information to the Department or NIAUR;

(e) make provision for payments to fossil fuel suppliers in specified circumstances;

(f) make provision about the enforcement of obligations imposed by or by virtue of the regulations (which may include a power for the Department or NIAUR to impose financial penalties);

(g) confer functions on the Department or NIAUR, or both.

(3) In this section—

"biofuel" means liquid or gaseous fuel which is produced wholly from biomass;

"biogas" means gas produced by the anaerobic or thermal conversion of biomass;

"biomass" means material, other than fossil fuel or peat, which is, or is derived directly or indirectly from, plant matter, animal matter, fungi or algae;

"biomethane" means biogas which is suitable for conveyance through pipes to premises in accordance with a licence under Article 8(1)(a) of the Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I. 2)) (licences to convey gas);

"the Department" means the Department of Enterprise, Trade and Investment;

"designated fossil fuel suppliers" means—

(a) if the regulations so provide, a specified class of fossil fuel suppliers, and

(b) in any other case, all fossil fuel suppliers;

"fossil fuel" means—

(a) coal;

(b) lignite;

(c) natural gas (within the meaning of the Energy Act 1976);

(d) crude liquid petroleum;

(e) petroleum products (within the meaning of that Act);

(f) any substance produced directly or indirectly from a substance mentioned in paragraphs (a) to (e);

"fossil fuel supplier" means a person who supplies fossil fuel to consumers for the purpose of generating heat;

"functions" includes powers and duties;

"modify" includes amend, add to or repeal;

"NIAUR" means the Northern Ireland Authority for Utility Regulation;

"owner", in relation to any plant which the subject of a hire purchase agreement, a conditional sale agreement or any agreement of a similar nature, means the person in possession of the plant under that agreement;

"plant" includes any equipment, apparatus or appliance;

"renewable generation of heat" means the generation of heat by means of a source of energy or technology mentioned in subsection (4).

(4) The sources of energy and technologies are—

(a) biomass;

(b) biofuels;

(c) fuel cells;

(d) water (including waves and tides);

(e) solar power;

(f) geothermal sources;

(g) heat from air, water or the ground;

(h) combined heat and power systems (but only if the system's source of energy is a renewable source within the meaning given by Article 55F of the Energy (Northern Ireland) Order 2003 (S.I. 2003/419 (N.I. 6)));

(i) biogas.

(5) The Department may by regulations—

(a) modify the list of sources of energy and technologies in subsection (4);

(b) modify the definition of "biofuel", "biogas" or "biomass" in subsection (3).

(6) The Department may by regulations make provision, for the purposes of subsection (2)(a)(iii) and the definition of "fossil fuel supplier", specifying that particular activities do or do not constitute generating heat.

(7) Any power to make regulations under this section is to be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).

(8) Regulations under this section may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(9) Regulations under this section may—

(a) provide for a person to exercise a discretion in dealing with any matter;

(b) include incidental, supplementary and consequential provision;

(c) make transitory or transitional provisions or savings;

(d) make provision generally, only in relation to specified cases or subject to exceptions (including provision for a case to be excepted only so long as conditions specified in the regulations are satisfied);

(e) make different provision for different cases or circumstances or for different purposes."

101: After Clause 101, insert the following new Clause—

"Power for Gas and Electricity Markets Authority to act on behalf on Northern Ireland authority in connection with scheme under section [Renewable heat incentives in Northern Ireland]

(1) GEMA and a Northern Ireland authority may enter into arrangements for GEMA to act on behalf of the Northern Ireland authority for, or in connection with, the carrying out of any functions that may be conferred on the Northern Ireland authority under, or for the purposes of, any scheme that may be established, under section [*Renewable heat incentives in Northern Ireland*].

(2) In this section—

"GEMA" means the Gas and Electricity Markets Authority;

"Northern Ireland authority" means—

(a) the Department of Enterprise, Trade and Investment, or

(b) the Northern Ireland Authority for Utility Regulation."

102: Clause 102 page 80, line 2, leave out Clause 102

103: Before Clause 105, insert the following new Clause—

"Amendment of section 137 of the Energy Act 2004

In section 137(3) of the Energy Act 2004 (standard conditions of transmission licences under Part 1 of the Electricity Act 1989)—

(a) in paragraph (a) omit "or", and

(b) after paragraph (b) insert—

"(c) under the Energy Act 2008,

(d) under the Energy Act 2010, or

(e) under the Energy Act 2011,"."

104: Clause 105 page 81, line 20, leave out subsections (1) and (2) and insert—

"(1) The Home Energy Conservation Act 1995—

(a) ceases to have effect in Scotland;

(b) ceases to apply in relation to energy conservation authorities in Wales.

(2) In section 1 of that Act (interpretation) in the definition of "energy conservation measures" after "promotion," insert "any available financial assistance,".

(3) In section 1 of the Sustainable Energy Act 2003 (annual report on the progress towards sustainable energy aims)—

(a) subsection (1)(e) and the "and" immediately preceding it cease to have effect, and

(b) subsection (1AA) ceases to have effect.

(4) In section 4 of that Act (energy efficiency of residential accommodation: energy conservation authorities) subsection (13)(b) ceases to have effect."

105: Clause 105 page 81, line 27, leave out subsection (4)

106: Before Clause 106, insert the following new Clause—

"Consultation

A requirement for the Secretary of State to consult which arises under or by virtue of this Act may be satisfied by consultation before, as well as consultation after, the passing of this Act."

107: Clause 106 page 82, line 2, after "Wales)," insert—

"(ea) section *[Energy efficiency aim],"*

108: Clause 106 page 82, line 11, at end insert—

"(ca) section 33(5A) (green deal appeals: revocation or amendment of delegated legislation by Scottish Ministers),"

109: Clause 106 page 82, line 15, at end insert—

"() Section [*Renewable heat incentives in Northern Ireland*] (renewable heat incentives in Northern Ireland) extends to Northern Ireland only.

() Section [*Power for Gas and Electricity Markets Authority to act on behalf of Northern Ireland authority in connection with scheme under section [Renewable heat incentives in Northern Ireland]*] (power for Gas and Electricity Markets Authority to act on behalf of Northern Ireland authority in connection with scheme under section [*Renewable heat incentives in Northern Ireland*]) extends to England and Wales, Scotland and Northern Ireland."

110: Clause 106 page 82, line 18, leave out "28" and insert "*[Early repayment of green deal finance]*"

111: Clause 107 page 82, line 25, leave out "made by statutory instrument"

112: Clause 107 page 82, line 31, at end insert—

"(ca) section 33(5A) (green deal appeals: revocation or amendment of delegated legislation by Scottish Ministers);"

113: Clause 107 page 82, line 46, at end insert—

"(ha) section [*Regulation of security of nuclear construction sites]* (regulation of security of nuclear construction sites);"

114: Clause 107 page 82, line 46, at end insert—

"() section *[Agreement about modifying decommissioning programme]* (agreement about modifying decommissioning programme)"

115: Clause 107 page 83, line 2, at end insert—

"() section *[Abandonment: infrastructure converted for CCS demonstration projects]* (abandonment: infrastructure converted for CCS demonstration projects)."

116: Clause 107 page 83, line 2, at end insert—

"() section [*Adjustment of electricity transmission charges*] (adjustment of electricity transmission charges);"

117: Clause 107 page 83, line 2, at end insert ';

"() section [*Electricity from renewable sources: National Park authorities and Broads Authority*] (electricity from renewable sources: National Park authorities and Broads Authority)"

118: Clause 107 page 83, line 2, at end insert—

"() sections [*Renewable heat incentives in Northern Ireland*] and [*Power for Gas and Electricity Markets Authority to act on behalf of Northern Ireland authority in connection with scheme under section [Renewable heat incentives in Northern Ireland]*] (renewable heat incentives in Northern Ireland)."

119: Clause 107 page 83, line 4, at end insert—

"(a) section *[Preparatory expenditure: framework regulations] (preparatory expenditure: framework regulations);"*

120: Clause 107 page 83, line 8, leave out first "section" and insert "sections [*Consultation*] and"

121: Clause 107 page 83, line 11, leave out "to 4, 6" and insert ", 3, 4"

122: Clause 108 page 83, line 23, leave out subsection (2)

123: Schedule 1 page 84, line 7, leave out paragraph 2

124: Schedule 1 page 84, line 19, leave out paragraph 6

125: Schedule 2 page 87, line 21, leave out paragraphs 8 to 10

126: Schedule 2 page 87, leave out lines 33 to 35 and insert—

""(A3) Pipelines that are relevant upstream petroleum pipelines for the purposes of section 80(1) of the Energy Act 2011 are excepted from the operation of this section.""

127: Schedule 3 page 88, line 20, leave out Schedule 3

128: In the Title line 7, after "infrastructure" insert "and downstream gas processing facilities"

129: In the Title line 10, after "electricity;" insert "about the security of nuclear construction sites;"

130: In the Title line 10, after "sites" insert "and offshore infrastructure; for the use of pipelines for carbon capture and storage"

131: In the Title line 10, after "sites;" insert "for an annual report on contribution to carbon emissions reduction targets; for action relating to the energy efficiency of residential accommodation in England;"

132: In the Title line 10, after "sites;" insert "for the generation of electricity from renewable sources;"

133: In the Title line 10, after "sites;" insert "about renewable heat incentives in Northern Ireland;"

134: In the Title line 11, after "Authority;" insert "for an amendment of section 137 of the Energy Act 2004;"

135: In the Title line 11, after third "the" insert "amendment and"

Amendments 97 to 135 agreed.

House adjourned at 8.13 pm.

Grand Committee

Tuesday, 4 October 2011.

Arrangement of Business

Announcement

3.30 pm

The Deputy Chairman of Committees (Lord Colwyn): My Lords, welcome to Committee Room 4A. I think it is time we started—you can hear Big Ben from the Moses Room, so it is very easy to know when to start. If there is a Division in the Chamber while we are sitting, the Committee will adjourn for 10 minutes and resume after that.

Lord Foulkes of Cumnock: I wonder whether I could raise a point in relation to that. If there are disabled people in wheelchairs present in the Committee in large numbers—that could be three, four, five or six Members of the Committee when we are discussing the Welfare Reform Bill—how are they are going to get down to the Chamber to cast their votes?

The Deputy Chairman of Committees: I understand that the usual channels are discussing that and it is something that will probably be in place for future Committee meetings. However, this afternoon it has not yet been agreed so if there are wheelchair users, on this occasion they will have to get down to the Chamber discussed.

Lord Foulkes of Cumnock: That surely is unacceptable—

Baroness Garden of Frognal: I wonder whether the noble Lord would bear with me for one minute.

Lord Foulkes of Cumnock: Well, I was speaking speak but all right.

Baroness Garden of Frognal: I know but it is in order to answer your question and perhaps save a bit of time. There are discussions about whether anybody in a wheelchair may have their vote taken here rather than having to go down to the Chamber. That is what is currently being proposed and we will wait to hear the results of that, if it is agreed by the usual channels. It is under consideration.

Lord Foulkes of Cumnock: I appreciate that, Lord Chairman, but we are here this afternoon and the Welfare Reform Bill is on the agenda as soon as we have finished the Education Bill. It is quite possible there could be Division in the Chamber when the Committee is sitting later. It is quite possible that a number of Members who are in wheelchairs will wish to vote. No agreement has yet been made through the usual channels and I think there may be some problems with any agreement that is made. What is going to happen this afternoon if there is a Division and we have four of five Members of the House of Lords in wheelchairs in this room? I would appreciate a response.

Baroness Garden of Frognal: My Lords, might I point out that for this session there are not people in wheelchairs to whom that might apply? By the time we start the Welfare Reform Bill, when it might apply, we will have had confirmation of what the system will be. We perfectly understand that it would not be possible for people in wheelchairs to get down from this room to vote should a vote be called.

Lord Peston: My Lords, might I raise a further question? I am not quite yet in a wheelchair but I have a badly damaged knee. I could easily not manage to get down there, particularly if the lift was not working. When these discussions take place could you not confine it just to people in wheelchairs but include people who are hampered in other ways?

The Deputy Chairman of Committees: I add that I am able to make the temporary recess while we go down to vote a little longer if I feel it is necessary, so I shall keep an eye on that.

Education Bill

Committee (11th Day)

Relevant documents: 15th Report from the Delegated Powers Committee, 13th Report from the Joint Committee on Human Rights.

3.33 pm

Amendment 145D

Moved by ***Lord Young of Norwood Green***

145D: After Clause 71, insert the following new Clause—

"Assessment on effect of tuition fees on over 19s seeking to reskill

Prior to the implementation of increased tuition fees for persons aged 19 or over the Secretary of State will assess the impact on adults seeking to reskill, with special regard to disability and gender."

Lord Young of Norwood Green: My Lords, this is one of those amendments that speaks for itself so I do not intend to detain noble Lords long on this particular issue. Nevertheless, it is an important issue these days given the levels of redundancy and the need for people to retrain and reskill throughout their working lives. It is important that there is an assessment of the impact. It is difficult enough for people with disabilities to gain employment without any further impediments. Of course, there is the impact on women as well. I would welcome a response from the Minister.

Lord Peston: My Lords, I support my noble friend's amendment. I do so with a certain degree of sadness. It is just under 50 years since I wrote the first paper ever written in the Treasury on loan schemes, and it would never have occurred to me then that we would end up discussing this sort of thing 50 years later. It

[Lord Peston]
would never have occurred to any of us who were among the first to think that loan schemes were the right way into student support that we would live in a world in which tuition fees were charged in higher education. That is why I say that there is a certain sadness here.

It may well be that the economy is so dire and so many people want to benefit from higher education that we have to have tuition fees, but it has always seemed quite awful to me. I assume that this amendment has been tabled so that the Minister can tell us exactly what preparations the Government looked at before deciding to go along the path that they have chosen.

I would like to hear what the research is that tells us that those who are disabled will not suffer from extreme disincentives because of these fee increases, and that there is no gender bias in them. I find it very hard to believe that there is no gender bias in what is happening here; quite the contrary. My noble friend has not told us this, but I assume this is why the amendment was tabled. This is all in preparation for the next stage, and for how we analyse these things. I look forward to a lecture from the Minister answering everything implicit in this amendment.

Baroness Turner of Camden: My Lords, I support the amendment. It is an amendment that the Government should welcome, because they are always telling us that we do not have a skilled workforce, and that the workforce needs to be skilled. Here is a specific recommendation for reskilling people who are disabled. I would have thought it would have been welcomed by the Government as being well in line with their policies; the policies they are always telling us about, anyway. Therefore I am very happy to support my noble friend's amendment.

Baroness Sharp of Guildford: My Lords, I have some sympathy with this amendment. However, one issue in particular concerns me: the fact that not only degree courses but access courses are subject to loans.

As Members of the Committee will know, those who have not gone through the normal route of taking GCSEs and A-levels and entering university by that route, but instead apply to university later, often take courses which are regarded as being the equivalent of A-levels—they are called access courses—at colleges for education. These are normally two-year courses. Many of these students initially do GCSE courses and go on to an access course, so they often have between two and three years at the college of further education. Because these are level 3 courses, and because the people concerned are often over the age of 24, these are regarded as loan courses, and consequently many people will have five years of loans rather than three. Since, almost by definition, most of these people come from disadvantaged backgrounds, the whole problem of debt aversion is one of some difficulty. I am particularly concerned about the build-up of debt in these circumstances.

The accumulation of debt from having to take on debt to put themselves through access courses, and then more debt on top of that to do degree courses, is going to be a major disincentive to using this route to those from disadvantaged backgrounds. Considerable numbers use this route at present. Could the Government look at this? It would be good to have some good news. I know that my right honourable friend Simon Hughes, when he was looking at the issue of access, picked this up, but I do not think anything has yet been done about it.

Baroness Verma: My Lords, I would like to respond to the amendment of the noble Lord, Lord Young, and also, I hope, reassure other noble Lords that the Government are committed to supporting protected groups. I can assure noble Lords that before we undertake any reforms we carefully consider the impact on protected groups. Our reforms to higher education funding and student finance are no exception. Work undertaken as part of our impact and equalities impact assessments, published in November 2010, and the Government's skills strategy indicated that changes to funding priorities were unlikely to have a negative impact on protected groups, including disabled people and women. We will continue to monitor the impact of our reforms as we move to implementation.

We want to do more to encourage protected groups to participate fully in higher education. The provision for the first time of loans to eligible part-time students to cover the full cost of their tuition will provide a more viable route into higher education for anyone who does not wish to follow the more traditional full-time route. This should provide more opportunities to work alongside higher education; for example, to maintain caring or other responsibilities. We will also continue to provide dedicated support to help disabled students participate and succeed in higher education. The Government provide funding to HE institutions, through the Higher Education Funding Council for England, to help them recruit and support disabled students; £13 million is being provided for 2011-12.

The Government are also providing a comprehensive package of financial support directly to students, with additional support targeted at those who, through a range of circumstances, need it most. Eligible disabled students studying in higher education are able to access the disabled students' allowance to enable them to study on an equal basis with their non-disabled counterparts. DSAs are available to both full-time and part-time students. They are paid in addition to the existing standard student support package and are not means-tested and therefore will not need to be repaid.

The Government also make additional support available to eligible full-time students with adult or child dependants. The adult dependants grant, the childcare grant and the parents' learning allowance are non-repayable. They are means-tested, so that those on the lowest incomes benefit most.

I hope that the noble Lord, Lord Young, and other noble Lords are reassured that the Government have already made an assessment of the impact of tuition fees and I would therefore urge him to withdraw his amendment. To answer the questions of my noble friend Lady Sharp about access courses, I will have to take them away and write to her in detail about what we propose, so I do hope that the noble Lord withdraws his amendment.

The Earl of Listowel: My Lords, what specific support is given to lone parents? They may, perhaps, be in the situation that the noble Baroness, Lady Sharp, spoke of. She spoke of childcare support. Can the Minister provide more detail about what incentives are provided to lone parents to engage in education of this kind? I am sure that it must seem also to the noble Baroness that it is extremely important to encourage such people into education.

Baroness Verma: The noble Earl, Lord Listowel, raises a really important point and I hope that he will allow me to write to him in greater detail with that response.

Lord Young of Norwood Green: My Lords, I welcome the reassurances that we have received from the noble Baroness, Lady Verma. I trust that she will circulate to everybody details about the points that have been raised about access courses and the lone parent scenarios. I think that we will study the detail in *Hansard* in order to assure ourselves that there has been a full assessment of the impact. I beg leave to withdraw the amendment.

Amendment 145D withdrawn.

Amendment 145 E not moved.

Clause 72 : Student loans: interest rates

Amendment 145F

Moved by ***Lord Stevenson of Balmacara***

145F: Clause 72, page 56, line 4, at end insert—

"( ) not in excess of the average cost of borrowing borne by the Government in the preceding financial year."

Lord Stevenson of Balmacara: My Lords, Clause 72 amends the powers given to the Secretary of State in the Teaching and Higher Education Act 1998 to make regulations setting interest rates for student loans. As the legislation currently stands, Section 22 of the 1998 Act effectively provides that the interest rates set must be no higher than the rate required to maintain the value of the loan in real terms. So the fee and maintenance loans of students who study at English universities attract interest while individuals are students and when they graduate.

This is charged in line with a predetermined measure of inflation, and if no repayments are made, the size of the loan increases in cash terms but remains fixed in value terms. This means that the value of the money borrowed by students has the same value as the money we paid.

3.45 pm

Clause 72 gives the Secretary of State wide and substantial powers to set interest rates. But its intention is to move the policy of the Government away from where it was, and from where its independent adviser, the noble Lord, Lord Browne of Madingley, recommended it should stay, away from zero rates of real interest to where the real interest rate would be three per cent above RPI. The Bill provides the Secretary of State with the power to introduce a positive, real rate of interest in addition to maintaining the value of fee and maintenance loans.

Depending on the size of the loan, the real rate of interest charged in excess of RPI, and the movement in salary levels in the period to 2016, more graduates than at present are likely to find that they do not pay off their loans in full in spite of the apparently higher salary threshold.

The extension of the repayment period to 30 years compounds the problem, and it was no surprise to hear the Deputy Prime Minister, no less, state that up to 60 per cent of graduates are not expected to repay their loans in future. This has obvious consequences, not only for the individual, but for the taxpayer.

So, let us look at this seemingly innocuous proposal in more detail. Why was RPI selected? Is it not the case that the Government's preferred measure in inflation is CPI? CPI is now used for the Bank of England's inflation target, for measuring inflation, for pension calculations, and for most salary and other uplifts.

RPI was said last month to be running at about 1 per cent higher than CPI, because it includes housing costs. I suspect that mortgage and other housing costs do not feature in many of the budgets of students taking out these loans. So what is the logic for using RPI and not CPI? I would be interested to hear what the Minister says about this. The Government's choice of RPI will cost the student more, but will bring in more for the Treasury, when and if the loan is repaid, and in the interim, of course, it helps the department to stay within its budget. I will return to this point later.

As I am sure I do not need to remind the Committee, without the ability to charge such penal rates of interest as are provided for in this clause, the impact of the new loans policy would have put an intolerable strain on public finances. The cost of public funds is the face value of the loans in any one year, less the present value of future repayments. If the fees are higher, the loans will be higher, and if the interest rates are 3 per cent or more above base, the PV of future payments goes up, and the department's bacon is saved. But is it fair for future generations of students to be charged at this exorbitant rate just because the department got its sums wrong?

My second point is the impact on social inclusion. If the rate of interest charged is in fact 3 per cent above RPI, that would result in interest rates at the moment of about 8.2 per cent per year. These are eye-wateringly high figures. We take the view that the move to impose a real rate of interest is not progressive, and that it will act as a barrier for bright kids from poorer backgrounds contemplating going to university. It may also impact on diversity and equality issues. Is this really fair?

One particular aspect of this is the question of whether such penal rates of interest are Sharia-compliant. Sharia law prohibits riba, which means the paying and receiving of interest for profit. At present, even the inflation-only interest that is paid out on student loans for undergraduates is seen as riba, although there are many Islamic scholars who do not see it this way.

[Lord Stevenson of Balmacara]

A spokesman for the Department for Education and Skills quoted in an article in the Guardian in April 2004 said,

"We appreciate the Muslim position on borrowing. But, it is important to remember that student loans do not incur a real rate of interest and the government does not make any profit out of these loans".

This is April 2004.

"Student loans do not incur a real rate of interest".

How interesting. But for new students starting higher education in 2012, a real rate of interest is to be charged. Presumably more than a few Islamic scholars will now come to the view that such a system is not Sharia compliant, and many Muslim students may be deterred from applying to university.

I assume the Government considered this point very carefully before introducing this measure, and I understand that the Government are currently working with various Islamic groups to discuss the issue. On 19 July 2007, the Minister of State for Universities and Science confirmed in the other place that he had met with the NUS and the Federation of Student Islamic Societies to discuss this issue. Will the Minister update us on this, because it is a very important point?

My third point is that there seems to be no justification for the figure of 3 per cent. The Committee will recall that the independent Browne report on higher education recommended that, if fees were to rise, there should be a safeguard to ensure that those making no, or relatively small, repayments did not see the balance of their loan increase in real terms. The Browne report recommended that the interest rate should be set at the rate that the Government can borrow money. He calculated that this would be about 2.2 per cent at the time he submitted his report. Again, our students are being penalised, with the amount that they are having to borrow rising at a rate not only higher than CPI or RPI inflation, but 0.8 per cent higher than it ought to be to preserve the cost of what they are borrowing. Our amendment would have the affect of reinstating what the noble Lord, Lord Browne, recommended, which we think is fair.

My last point is the apparent rise in the salary threshold, which determines when a graduate has to start repaying his or her loans. I say "apparent" because, when this new threshold kicks in, it kicks in for loans taken out in the session 2012-13 so that the figure has to be deflated using RPI in the period to April 2016. My calculator broke down when I was trying to do this calculation before I came upstairs and it is why I was slightly late for the start of the Committee, for which I apologise. I came out with a figure of about £15,000. I am sure that officials will be able to check that quickly and give the Minister the figure to rebut it if it is true. But, even if it is not close to it, it is a lot less than £21,500 and remarkably close to the current threshold. Anyway, my point is that, deflating to today's figures, does not represent a significant increase at which point the interest repayment trigger is activated.

Before he was reshuffled, the noble Lord, Lord Henley, very kindly wrote to me last month about these amendments. I am grateful to him for doing so. He set out why the Government have acted in the way that they have. No doubt his successor will share these comments with us later in this debate. However, in his letter, the noble Lord, Lord Henley, gave the game away. He said:

"Imposing a cap on the interest charged to borrowers would make it very difficult for the Government to budget for the cost of issuing loans and is likely to make the system unaffordable for the taxpayer."

I do not really understand the point about making it difficult to budget—unless this has to do with the mess the department are clearly in over the overall costs for this scheme. But we are left with a real reason. The Government have to put a 3 per cent limit on top of RPI because they need, in some ways, to pay for it and reassure the public about the overall costs.

So, the Government have to use RPI, not CPI. They have to charge more than the Browne report recommends. They have to amend the current legislation because they have to cover the cost of issuing loans and because there is a limit to what the country will stand for. Although my party commissioned the Browne report while we were in power, we did not have to make the decisions that arose from the report's recommendations. Therefore, it is easy for us to say that we would not have done it this way. But this proposal to impose penal interest rates is surely not fair and cannot be in the best interests of this country's future students. The impact of a positive real rate of interest will be significant and will lead to graduates paying more for their higher education and repaying for longer than at present. Using RPI instead of CPI is wrong and taking powers to impose rates of up to three percentage points above RPI is penalising our young people and their families. It will exacerbate social divisions and it may deter young Muslim applicants. It will generate a high level of debt that will have to be repaid over a period of 25 or 30 years as a contingent tax liability.

A positive real rate of interest will impact in particular on the repayments made by mature students. Getting behind the figures, we find that there has been no increase in the salary threshold, so only the term has changed. However, as a result of that, many more graduates are likely to reach the end of the repayment period without paying off their loans—and I understand that these typically will be of the order of £45,000 at the end of a three-year course. It is also likely to have an inadvertent impact on female graduates and on men at the bottom decile of earnings. I am afraid that it is beginning to sound like a bad deal all round. It will set up a lifelong debt and borrowing habit that some people will take to their graves—a new form of the term mortgage. If this clause stays in the Bill, it should be seen for what it is: deeply unfair and divisive. It is not progressive. Indeed, it is easier to see it as part of the narrative of readying the Student Loans Company for sale as well as depressing demand for higher education than about cutting public expenditure. Our amendment would at least restore the status quo. I beg to move.

Lord Peston: My Lords, I am very puzzled by what the Government want to do. I thought they wanted people to "stand on their own two feet"—I think that is an exact quote from the Chancellor. The effect of raising the real cost of repaying loans must act for

some people as a disincentive to going into the labour force. Otherwise, in my favourite remark, economics makes no sense at all—you may think economics makes no sense at all, but that is another matter. That is one bit that puzzles me. What do the Government think they are doing? Should they not be pursuing exactly the opposite policy and trying to encourage people where they can to re-enter the labour force?

The second thing, which goes back to the earlier amendment that we did not debate at great length but will at Report, is the gender bias question. Is it part of the Government's view that they want women not to take out loans and go into higher education so they do not have this burden and therefore it does not act as a disincentive to marriage and family life? After all, if they go into higher education and carry this implicit cost with them, their ability to find a suitable partner, who may have to bear this cost at some point, might go down

I thought the Government favoured families instead of the reverse. Equally, maybe it is much more subtle than that. Where there are lone parents, for example, who are graduates, maybe we do not want them to stand on their own two feet and take a job and hire a babysitter. Maybe we want them to stay at home, driving themselves round the bend trying to cope with the children, and so forth. My general point from all that, is that I can see no rationality in what the Government are doing, other than: "If we can get some more money from any route that we can find we will take it." That is not a rational way to produce economic policy.

If I can revert to my 1960s Treasury experience, one of my thoughts listening to my noble friend's speech was about when I wrote a hotshot paper on student loan schemes—nothing to do with fees, but about maintenance. One question that never occurred to me in what must have been a really bad paper—in those days you did not take home your work so I have no idea precisely what I wrote—was the rate of interest. It never came up in my mind. I just took it for granted that it would be the Treasury bill rate.

Lord Sutherland of Houndwood: My Lords, the noble Lord, Lord Stevenson, has made a powerful and cogent case, and I look forward with more than usual interest to the Minister's response because there are some issues of real principle. I would add two points. One is that much of the odium for charging fees is falling on universities. I still remember sufficiently far back when that would have fallen on me, and it looks like there is an extra 3 per cent of odium being added. That is not a good principle.

More to the point, I have supported the principle of student fees on the basis that students pay for what they get in educational terms, not for an additional premium for whatever accounting reasons seem necessary to the Government at the time.

Lord Knight of Weymouth: My Lords, I wanted in part to make a contribution so that anyone reading the proceedings of this Committee did not feel there were one or two isolated voices concerned about these proposals. The strength with which the arguments were made by my noble friend Lord Stevenson in particular do not need many words to be added and I know that the Committee is keen to move on.

I would fully endorse what my noble friend said and emphasise two points. One is this move around RPI and CPI. The Chancellor was perfectly clear in his Budget of 2011 that the Government were moving to use CPI in respect of benefits and pensions uprating and it is certainly something that has been around for some time. I remember appearing before the STRB and arguing the use of CPI over RPI. I was very glad to have Ed Balls alongside me making the technical aspect of that argument when giving evidence on behalf of the Government against, I think, the teaching unions, who wanted RPI. I would be really interested in the Minister's response about why we have gone with something different in this case. The second point is the final point that my noble friend Lord Stevenson made around the Students Loans Company. I ask for a direct answer whether in conversations about the Student Loan Company, it has been a condition of being able to sell it off that a commercial rate of interest is chargeable. A direct answer would be helpful.

4 pm

Baroness Sharp of Guildford: My Lords, as many people round the Table will know, I opposed the imposition of student fees and student loans even when the Opposition were in power. I continue to have considerable reservations about the system that they introduced in terms of student financing.

I have three points to make in relation to the debate. One is to pick up the point just made by the noble Lord, Lord Knight. Given that the Government have shown that on the whole they prefer the CPI to the RPI in relation to welfare upgrading and pensions, it would seem obvious that they should use the CPI on this occasion rather than the RPI, which tends to be rather higher than the CPI anyhow.

Secondly, I continue to worry about the cost. As the noble Lord, Lord Stevenson of Balmacara, mentioned, something like 60 per cent of students are never going to be able to repay their loans and therefore will have the debt hanging around them for a considerable period of time.

The consequence is that the real cost of these loans is enormous. The Government are making loans. The Government say, rightly, that they are putting a lot of money into this because they are putting the loans forward, and they have to provide the loans in the first place. If something like 50 per cent or 60 per cent of students never repay them, the cost of providing those loans is probably at least as great as the £3 billion that they have taken out of the higher education budget.

The only advantage is that it is off the books, because the Student Loans Company is not regarded as part of the national debt. It does not come back onto the books until 30 years hence. This is one of the issues that I disagree with the Government on, because I feel we are putting a disproportionate amount of debt on the current generation. They have to repay their debt at a rate of 9 per cent. Those who earn only between £20,000 and £30,000 will be repaying that debt for 30 years at 9 per cent. There will be a 9 per

[Baroness Sharp of Guildford]
cent surcharge on income tax unless, of course, you have parents who are well off enough to be able to pay it off in the first place. Again, the disadvantaged are the people who do not benefit. It comes back onto the books in 30 years' time so the Government will then have to pay extra interest on the national debt. I said this when we talked about these regulations and I say it again. It means that it is a very expensive system for the Government.

I have a specific point that I ask the Minister to respond on. There is concern about what happens if the Government succeed in selling this debt on. The aim of the coalition Government, as much as the aim of the Labour Government, is that the student loans debt should be regarded as an asset by the Government and packaged up and sold on. Under the Bill as we put it through originally, if the debt were sold on, those who took it on were not allowed to vary the rate of interest on the debt. Does it still apply that anyone who buys the debt and carries it on will have to maintain the same rate of interest as the Government were charging?

Baroness Verma: My Lords, I understand noble Lords' desire to ensure parity between the rate of interest charged to students and that which is borne by the Government. However, I would be reluctant to introduce the stringent cut suggested by the noble Lord.

Let me first respond to why RPI and not CPI. We have always taken the view that there is no single measure of inflation that is appropriate for all purposes, but the RPI is commonly used in private contracts for uprating of living costs, payments and housing rents, so it is more appropriate than CPI for student loan interest as it takes account of, among other things, changes in mortgage interest and council tax—typical expenses for graduates that are not included in the calculation of the CPI.

Historically, RPI has always been used for calculating interest on student loans. This means that over a period of years the rate of interest on student loans has been consistently applied on a widely recognised and adopted measure of inflation.

Lord Foulkes of Cumnock: I am getting very confused. Why is it that RPI is appropriate for repayment of student loans but CPI is appropriate for increases in pensions for retired people? Could the Minister explain that? I do not quite understand, from her explanation, why there are differences between the two.

Baroness Verma: My Lords, the costs for older people are different. It has always been the case that most measures have been taken under RPI. If the noble Lord is not satisfied, I am quite happy to meet him outside the Chamber to further the discussion, but I think I can offer him this one response only. If he is not satisfied, I am quite happy to take the question outside the Chamber with other noble Lords. We can discuss it in further detail and, hopefully, come back with a more detailed response. I do not think I can offer the noble Lord anything other than what I have just offered him: that it is normally the case that it is measured by RPI.

Lord Foulkes of Cumnock: The purpose of us coming along here today is to discuss this and get explanations from the Minister, who presumably had a very extensive briefing before coming along, and presumably inquired of her officials these kinds of questions. She must have anticipated that they would come up.

RPI is being charged to the student when they have to pay the Government, but CPI is being applied when the Government pay me and other retired people. So it is all right that when you take money from other people you charge RPI but, when you give increases to people to pay for all the extra costs of energy and everything else, it is only CPI. Would the Minister take a minute to explain?

Lord Knight of Weymouth: Before the Minister stands up, perhaps I could try to be helpful. This is a key question. My understanding is that the only circumstance in which RPI is lower than CPI is when mortgage interest rates are falling and that is relatively unusual, although we have experienced a bit of that recently.

When the Chancellor made his announcement about making the shift from Rossi to CPI, he was honest enough to say that it was to save money—it would save £6 billion to the Exchequer. Would it not be easier for the Minister to have the same sort of honesty as her right honourable friend in the Government and say, "It's to save money"?

Baroness Verma: I remind the noble Lord, as he was in Government, that they also used RPI as a measure. It is a commonly used measure. My right honourable friend the Chancellor, of course, is the Chancellor, and has to find all means of reducing the debt that unfortunately we inherited from noble Lords opposite.

We should remember that the changes to the rate of interest on student loans are part of a new student finance package that creates a progressive repayment system and is designed to protect lower earning graduates, as well as balancing the financial demands of universities with the interests of students and future graduates by delivering necessary savings without cutting the quality of higher education or student numbers.

Under the new system, students from lower income households will receive more support than they do now—and I hope that that satisfies the noble Lord, Lord Foulkes—although many will pay back for longer than they do now. Their monthly repayments will be less than now, and the variable interest rate we propose will mean that they will also pay back less overall. If we accepted this amendment and capped the rate of interest that we could charge on student loans, we simply could not deliver this new system, nor would it create a suitable or worthy alternative. A cap would have little or no positive effect on borrowers who did not repay in full, nor would it afford greater financial protection.

This amendment would mean that higher earners would be charged a lower rate of interest than under the Government's proposals. Higher earners would therefore benefit the most from this amendment, since the interest rate that they are now charged would reduce typically from RPI plus 3 per cent to RPI plus

2.2 per cent, while lower earners would not benefit at all as their interest rate would already be less than the Government's cost of borrowing.

The system of student support would be much less progressive as a result. The Government remain committed to delivering a progressive system whereby those who benefit the most from higher education contribute the most. Would the noble Lord really favour a package that meant that the highest earners did not contribute to the cost of their higher education in net terms, or one that would inhibit our ability to protect lower earners?

Lord Peston: What the noble Baroness has said is not quite right. Is it not the case that those very much higher earners whose parents pay off the loan immediately will not bear a higher cost? It is only those whose parents have not paid off the loan immediately who will do so.

Equally, while I am on my feet, I say to the Minister that there is no ideal index number at all. I do not use either of those—I always use the GDP deflator as the correct measure of inflation—but that is another matter; it is not what this debate is about. It is not about an ideal index number, it is about who pays what, and that is all it is about. My noble friends, particularly the noble Lord and I, have made it very clear: all that we are discussing is, who are we going to take the money from? Am I right that the plus 3 per cent is definitely decided?

Baroness Verma: Yes. And the noble Lord knows that I would be the last person here to make sure that people of low incomes could not get fair access. That is why it is so important that those who can afford to pay more do so, because they benefit more from higher education. Those families on low incomes will actually be able to be better protected. That is the key to this.

I am sorry that the noble Lord shakes his head. There will never be an ideal measure, but we have to have a measure. The previous Government did it and we are carrying on doing it. Anything to do with higher education will be coming up in the higher education White Paper, which we are consulting on at the moment, and of course that will be a wonderful opportunity to get the sort of questions posed by the noble Lord asked and responded to.

Lord Foulkes of Cumnock: It would help us to understand it better if the Minister could reply to the question put by my noble friend Lord Stevenson of Balmacara about the threshold. Is his calculation right, that the payment would begin at about £15,000, which I think my noble friend said? If that is the case then that is at a very low level of income, and it would be very interesting to know what the Government calculate the threshold income to be.

Baroness Verma: I should like the noble Lord to allow me to make a little progress, but it is £21,000 and not £15,000. It is higher—if the noble Lord will allow me—

Lord Stevenson of Balmacara: On that technical point, and I am sorry to interrupt, no—£21,500 currently cannot possibly deflate over five years to £21,000. I simply cannot accept that.

4.15 pm

Baroness Verma: If the noble Lord will allow me to continue, I am hoping that I will be able to respond to the questions that he has raised.

The system of student support would be much less progressive as a result of the noble Lord's amendment. The Government remain committed to delivering a progressive system whereby those who benefit most from higher education contribute the most. With regard to imposing the cap, the noble Lord asked if the current £15,000 threshold would have risen in 2016 compared with the £21,000 threshold proposed by the Government. Of course he knows that the previous Government did not raise the threshold annually, which is why we are proposing from 2016-17, as part of the progressive system, that it be introduced.

The noble Lord, Lord Peston, asked about the impact on women. It is important to consider the package in the round. The amount that borrowers repay in a year is strictly linked to income. Borrowers whose income drops below the threshold, for example, when moving to part-time work or seeking downgrade posts at the end of their career, or who leave employment for whatever reason, will be protected because their repayments will cease immediately.

Lord Peston: But they will still owe the money.

Baroness Verma: But the repayments are written off after 30 years.

My noble friend Lady Sharp asked about the sale of student loans. The student loans Act makes clear that the borrower will not be affected by the sale. Their loans will be subject to the same terms as those that remain unsold. Nothing in the Bill changes that position.

I would like to finish on Sharia law. In relation to issues around Sharia compliance, the noble Lord mentioned the meeting between the Minister for Universities and Science, my honourable friend David Willetts, the Federation of Student Islamic Societies—a body that represents students from the Muslim faith—and the National Union of Students to discuss the issue. We accept the importance of the concerns raised by those organisations and have an ongoing dialogue to see how we can best ensure that student finance is not impacted on through the systems that we are bringing in. However, it would be better for me to write to the noble Lord on the outcomes after we have made sure that the consultations have been fully gone through.

Lord Foulkes of Cumnock: There is one point that the noble Baroness has not dealt with in relation to my noble friend Lord Stevenson's introductory speech, which said that the Deputy Prime Minister—who we know is well versed in the issue of student fees—reckons that about 60 per cent of the loans will not be repaid. Is that an official statistic on behalf of the Government? Is that the estimate? Is that how much will not be repaid out of all of this expenditure?

Baroness Verma: My Lords, it is not 60 per cent. The estimate is about 40 per cent.

Lord Foulkes of Cumnock: How can the Deputy Prime Minister get it so wrong? Has he got a different brief from the Minister?

Baroness Verma: No, the Deputy Prime Minister has not got it wrong; maybe the noble Lord has got it wrong. It is 40 per cent. This is why the threshold for repayment is being increased to £21,000 and why repayments will be taken at 9 per cent above that level. This, hopefully, will mean that individuals will repay less. There will be less opportunity for them not to pay their loans off because we have made it easier for them to repay their loans. The noble Lord makes faces. I am sorry that I am not satisfying him. But I think he will agree, when he reads *Hansard* tomorrow, that he will realise that I am laying out a very clear, comprehensive way of making sure that we are protecting most those on the lowest incomes and giving them an easier way of repaying so that there will be less opportunity for them to default and hopefully more students, rather than fewer, repaying the loans that have been taken out.

Lord Knight of Weymouth: Before the Minister sits down, could she answer the question that I asked quite directly about whether it is a condition of being able to sell the Student Loans Company book that this arrangement around interest rates is applied?

Baroness Verma: I am sorry if the noble Lord did not hear my response. I thought I had answered his question, but I will answer it again. The Sale of Student Loans Act makes it clear that the borrower will not be affected by the sale. Their loans will be subject to the same terms as those that remain unsold.

Lord Knight of Weymouth: That is not the question. The question was: as part of the Government's desire to be able to sell off the student loan book, is being able to shift to this more commercial arrangement around interest rates one of the conditions of being able to do so?

Baroness Verma: I suspect that my answer will not satisfy the noble Lord, because I am not satisfied with it either. However, I will read it out, then look at my civil servants to give me a better response at some point. Looking at the existing loan portfolio now, I do not think that we can give the response that the noble Lord wants.

Lord Stevenson of Balmacara: That has been interesting. A relatively small point at the end of a Bill that is about something else has revealed an interesting range of issues that we may have to come back to at Report. I thank the noble Lords, Lord Peston, Lord Sutherland, Lord Knight and Lord Foulkes, and the noble Baroness, Lady Sharp, for their comments and for illuminating and extending some of my points. As the noble Lord, Lord Foulkes, said, the purpose of discussions at this stage of a Bill is to discuss some of the underlying issues and principles and, if possible, get some illumination on the thinking behind the Government's plans and understand better the consequences of what they are doing.

I am afraid we did not really get much illumination, and we tended towards the end to run into a sort of blame game. If it was not our fault for having been in Government when the first arrangements were made, it was our fault for not having supported what is currently proposed. Indeed, at one point I heard the Minister say that we should not be discussing this now but should wait for the Higher Education Bill soon to come into this House.

Baroness Verma: No, what I said was that there are issues coming up in the Higher Education White Paper that is under consultation. That is a good forum for concerns such as those raised by the noble Lord, Lord Peston. That is the place where that would be discussed far more fruitfully than here today.

Lord Stevenson of Balmacara: We beg to differ on that. Actually, I agree on the essence—that a lot of what has been raised today needs to be discussed in a wider context. It is a great pity that we are not able to do that because of the strange way in which the Government have been developing policy in this area. We had an announcement about the funding system detached from the student loan system which is in this Bill. We had a White Paper at the very end of the previous Session but we do not yet know when the Bill that will follow is due, and we are therefore not able to tie all these things together. That is the point I was trying to make.

I do not think we disagree in principle on what any Government would have to do in these situations. We want to fund our universities to the best level possible and we accept the principle that those who benefit from that should contribute to it. The problem is that I do not think the system that is coming out is the right one. The noble Lords, Lord Foulkes and Lord Knight, put a fairly precise finger on the first of my questions, about the difference between RPI and CPI, and I am afraid that I did not think that the answer that the Government came up with was at all credible. We will need to return to this at Report.

On the social inclusion points, I heard the Minister and I admire her aspirations. However, I think that there will be severe problems for women, particularly those in lower-paid occupations, and for mature students. Although I understand that negotiations are continuing about Sharia law compliance, I am worried about this and I hope it will be taken back and discussed seriously. If it turns out this is not a Sharia-compliant issue or is sufficiently close to problems that will cause the Government to reflect on it, we perhaps need an early decision; we are moving quite fast with this Bill and it would be difficult to change it later on, even this month.

On the question of why 3 per cent, I do not think that the Minister gave us much; 2.2 per cent from 3 per cent may not sound a lot but it would make a huge difference in terms of whether loans are keeping pace in value or are increasing in an overall race to the bottom.

On the question of the student loan sell-off, there is more to make of this, and we will need to return to it because I think it is driving some of the policy here. Unless we can get an absolutely clear answer on that,

we will have to return to it. However, this is Committee and we have had a very good discussion so I beg leave to withdraw the amendment.

Amendment 145F withdrawn.

Clause 72 agreed.

Clause 73 : Limit on student fees: part-time courses

Amendment 145G

Moved by ***Lord Stevenson of Balmacara***

145G: Clause 73, page 56, line 26, at end insert—

"( ) Notwithstanding the above, student fees for part-time courses must not exceed £1,000 per annum."

Lord Stevenson of Balmacara: My Lords, I am moving Amendment 145G and I shall also speak to Amendment 148 in the name of the noble Baronesses, Lady Brinton and Lady Sharp of Guildford, which we support. The noble Lord, Lord Browne, in his review, and the coalition Government in their agreement, strongly supported the need to improve provision for part-time students and to assist the institutions that teach them. So far, so good. So you would think that the Government would therefore agree with one of the main aims of the Browne review, which was to abolish the arbitrary distinction between full-time and part-time study. Unfortunately, the Government's announcement that from 2012 the system of loans they are introducing for full-time students will be extended to part-time students does not create parity. Indeed, it is going to wreak havoc in this sector. The amendment in my name is a probing amendment, but if it were accepted it would effectively extend the status quo. At any rate, it allows me to set out some questions for the Minister. Amendment 148 makes some detailed proposals on the same topic, and I look forward to hearing the noble Baroness reply.

Part of the problem is that the Government's proposals do not seem to have caught up with the way part-time courses are now operated in the UK. Part-time undergraduate provision is very different from full-time undergraduate provision. 40 per cent of students in the UK studying at undergraduate level study part-time. Part-time students do not apply through UCAS; they apply directly to the university of their choice. Part-time applicants often apply very late in the cycle: typically, half of part-time applications are received in the three months before the autumn term starts. This, of course, is not lack of planning—it can typically take part-time students two or three years to move from first inquiry to application—but it is the necessary caution of mature students waiting to see if work, family and money issues make it possible to study. I would like, at this stage, to declare a past interest, in that I studied part-time for a professional accountancy qualification by attending evening classes while working full-time, so I know the sort of pressures that that generates. It took me about three years and a couple of false starts to get going and then it took me six years to complete my course. A six-year commitment is not one you undertake without considerable reflection and thought.

Part-time students are mostly not in school or college when they apply, so frequently they apply unsupported and without detailed knowledge of the system. They are less likely to have traditional qualifications, such as A-levels. They rely heavily on the university they apply to for information, advice, guidance, support and, perhaps most important of all, confidence. Part-time students are more likely to come from the most non-traditional and hard-to-reach groups. They are often not geographically mobile and so usually apply only to one local university.

I am grateful to Birkbeck College which gave me the following information about its current student cohort, which is, I think, very interesting. The college, as I am sure many noble Lords will know, has 20,000 students, with a very small minority of these on full-time courses, and the rest studying part-time. The majority of these—75 per cent—combine their studies with work. Some 50 per cent work full-time alongside their studies. The college recently carried out a survey of its year students, and some of the headline results are that the majority of part-time students are women—64 per cent at Birkbeck—and the majority are aged over 30. The majority of students stated that they could not afford to give up work, which means that, for most students, the alternative to part-time study is not full-time study, but not studying at all. Career development and personal development were stated as the main motivations for studying and compensating for having missed out earlier in life was also stated as a reason by a significant number of respondents.

As part-time fees are currently unregulated, each institution can set its own fees. Birkbeck College tells me that for entry in 2011 the fee range is £2,478 to £3,090. Those courses which have additional costs—laboratory work or field trips—or with high student demand or strong career outcomes, such as financial courses, fall into the higher tiers; it is really a market-led solution. Part-time students are not confined to part-time provider institutions, such as the Open University or Birkbeck. In many modern universities, over a third of students study on a part-time or a flexible basis. In the modern universities, both part-time and full-time study is based on modules and credits. There are 120 credits in an academic year.

4.30 pm

Under the Bill, part-time course grants will be removed and part-time students will be entitled to fee loans—but not maintenance loans—if they study at 25 per cent intensity or more per annum. Presumably, that means more than 30 credits in a year. Part-time student fee loans will have the same conditions attached to them as for full-time students, but only for three and a half years of study. In other words, loans will attract RPI plus interest at 3 per cent. Thereafter, part-time students whose earnings rise above the earnings threshold of £21,000 will be required to start repaying loans at RPI plus 3 per cent of earnings. Part-time students will therefore be subject to different repayment regimes compared to their full-time peers. So there is not much parity there.

Many universities have adopted a single fee of £9,000 for the 120 credits required for a full-time course. Others will be choosing fees, for example, of £6,000 for 120 credits. The current proposal will mean that there could be a different price per credit depending on whether individuals studied full-time or part-time

[Lord Stevenson of Balmacara]
at the same institution for the same course. This can only invite perverse behaviour.

The Bill proposes to give the Secretary of State the power to specify in regulations the maximum tuition fee that higher education institutions may charge part-time undergraduate students in a given year. There is a query about what these figures are. The upper fee amount is now specified as £6,750. The lower fee amount has been given as £4,500. In fact, we now know the detailed regulations for this.

I do not think many people on the Committee will know this, but the student support statutory instruments 2011 were tabled in Parliament on 9 August 2011 and came into force on 4 September 2011—slightly odd to do that in the deepest Recess. I would like to quote them:

"The amount of a fee loan in respect of an academic year of a designated part-time course must not exceed the lesser of (a) the fees payable by the student in connection with that year; and (b) the maximum amount. For the purposes of this regulation, the "maximum amount" means £6,750 where the current part-time course is provided by a publicly funded institution, and £4,500 where the current part-time course is provided by a private institution, other than on behalf of a publicly funded institution".

I wonder whether the Minister could explain a little more about this and give us some context. Why is that particular figure of £4,500 based on an ostensible private provider, and what relevance has that got to the normal vision of part-time courses in the country?

Can the Minister also confirm that this means in practice that the same fee levels as for a full-time student will apply but on a pro rata basis, and that while it will be for each institution to set their own fee levels, loans for part-time students can only be available up to 75% of the maximum full-time loan, namely £6,750?

If that is correct, then I deduce that the situation is that part-time fees are set to go up from about £1,000 per annum—these are Department for Education figures—to £6,750. Part-time students will not be eligible for maintenance loans or grants as they have been in the past, but such students will in future have to borrow to pay the much higher fees that they are going to be charged. That seems a bit like *Alice in Wonderland*.

This may be of benefit for the institutions, who will clearly benefit from the additional cash, but for many part-time students, particularly those who already have significant borrowing or other financial commitments, this does not seem to be a good deal.

So my questions for the Minister are: why are they introducing a different approach for part-time students to that for full-time students? If the university is setting a fee which they think the market will bear, and the Government are prepared to extend the voucher system to part-time students, why cap these loans at 75% of the maximum for full-time courses?

The intention is that students on full-time courses become liable to repay their loans the April after they finish or leave their course. So with a full-time course of three years, you are eligible to repay 3.5 years after you start that course. Comparable part-time undergraduate degrees obviously take longer than full-time—in many cases four or five years, in my case six years. But for part-time loans the Government have proposed that repayments must commence 3.5 years after the loan is taken out. This means that part-time students will begin to repay their loans while they are still studying. In some cases, they could be repaying their loan for nearly two years while they are still studying. Full-time students only repay when they have completed their studies.

Surely the Minister would agree that it is logical and fair for all students to start repayment of loans six months after they have finished or leave the course, thus allowing the student to benefit from an improved job or salary before being asked to pay the loan.

The former Minister, the noble Lord, Lord Henley, kindly wrote to me and other noble Lords about this group of amendments. He says that the 3.5 year repayment due date is,

"consistent with the current average time when full-time borrowers studying a three year degree course reach their repayment date".

Consistent? Such sophistry demeans the case. Surely the consistency we want is around the point when you complete the course. If full-time students have the opportunity to complete their studies before they have to start repaying the loan, why on earth is this logic not also applied to part-time students?

In his letter, the noble Lord also makes the point that if the repayment date were delayed by a year or more, students may accrue more interest, as that period could be charged at RPI plus 3 per cent. Well, we knew that, and the Committee will know from the previous amendment that I would not have started from here in this discussion. In any case, this hardly outweighs the absurdity of a part-time student having to repay a loan before benefiting from the course for which he or she has taken out the loan in the first place.

Can the Minister confirm that loans will not be available to part-time students who are studying for an equivalent or lower qualification than the one they already hold? Many students may be studying to change career, or acquire skills in an area they are currently working in, which may be unrelated to their previous qualification. In fact—if I can again plead my case—when I was considering taking a course, I already held a degree in chemistry, but I wanted to requalify as an accountant, as that was more relevant to my then job as an administrator. Under these rules, I would not have been eligible for a loan.

If the intention of the scheme is to improve the quality of the workforce in the UK by encouraging study and training, why are you putting barriers in the way of those who want to train for gain? Can the Minister explain why such students are being excluded from access to the scheme? I believe that the proposals for part-time students in the Bill are not fair, and will not achieve the aspirations of either the Browne report or indeed the coalition agreement.

There surely ought to be much more parity between full-time and part-time provision, while reflecting the very different circumstances of those who study part-time. In particular, the concept of students borrowing to pay their fees in the latter stages of courses, while at the same time being asked to repay the loans they have already taken out for the earlier years, is not only completely daft, but has the feel of a Ponzi scheme.

What is proposed in this clause simply does not seem to help those students who take part-time courses for career development, or as compensation for having missed out earlier in life. I hope it is not too late for the Government to think again. I beg to move.

Baroness Brinton: I speak to Amendment 148, which is very different in approach to Amendment 145G, but I believe there are some similarities, as it is essential that we truly believe that part-time students have access to loans to cover fees, and should be on a par with full-time students, pro rated of course to give them the same opportunities that full-time students have had for years. I am delighted that the coalition Government are offering loans for fees for part-time undergraduates for the first time.

After fees were introduced for the first time in 1997, it was always iniquitous that the previous Government did not provide any access to loans for fees for part-time students, many of whom came from backgrounds where they were often the first person in their family to go to university, and came from a low-income background; exactly the sort of group that we should be encouraging. With over 40 per cent of undergraduate students in the UK studying part-time, this is not just a small group of students being disenfranchised from the previous system; it is close to half of them.

The current BIS adverts are rightly trying to set out the real financial arrangements for the new student finance system. They have the snappy phrase, "Start to repay when you graduate", which is a very important message about the new system that many do not understand. I am very grateful to the noble Lord, Lord Henley, who wrote to me on 3 September setting out the details of the thinking behind the two issues that we raise in our amendment.

First, it does seem extraordinary that part-time students might be charged a different rate of interest from full-time students, and therefore I am grateful to the noble Lord for making it clear in his letter that it is the present Government's intention that rates of interest for part-time and full-time students will be the same. This is good news. My amendment would make this plain in the Bill, and I am happy with the Minister's assurance.

The second part of the amendment, though, addresses an anomaly which remains. The proposal to implement part-time fee loans risks undermining the principle of equity which I thought the coalition Government agreement had aimed to achieve. It should be noted, however, as has already been raised, that this equity is only on fee loans, because part-time students are still not eligible for means-tested maintenance loans and grants. The real difficulty with the Government's proposals is that part-time students should start to repay their loans from the April three years after they commence studying, if their earnings reach £21,000.

While I think this is probably a fairly small group of students, I do know from my experience in higher education that mature students often make the decision to study while working either part-time or full-time, and while an income of £21,000 sounds like a good deal for a 21 year-old, it is not necessarily a high salary for someone in their thirties or forties with home and family responsibilities to juggle alongside their study. In particular for single parents, often but not always mothers, it can be a very fine decision about whether they can afford to study alongside work.

But there is also the fundamental question of equity. A full-time student undergraduate on a four-year course, whether an engineer or a linguist, for example, will not start to repay until they finish their course—four and a half years. Part-time students, though, are asked to start repaying at three and a half years, regardless of the number of modules they are taking, and over what period. Simply by virtue of being part-time students, none of them will have concluded their course by three and a half years.

The noble Lord, Lord Henley, expressed some concern to me about an open-ended commitment if we change the arrangements to ensure that no part-time students start to repay until they finish their course, which might be 10 or even 15 years on, which is unlikely. I accept the point that the noble Lord, Lord Stevenson of Balmacara made about six years, but that is also unusual. I understand that the vast majority of part-time students have completed their course by the fifth year.

I am not arguing for a complete deferral, but a move to defer the repayment starting at four and a half years has the merit of including the majority of part-time students concluding by that time, with only a very few going on beyond five years of study.

Additionally, this arrangement may also impact on those adults taking Level 3 courses part time, who are now eligible for loans for fees. These part-time students are 84 per cent of the total currently taking Level 3 courses. I ask the Minister for reassurance that these students would also not start repaying before they complete in the same way that I am arguing for part-time undergraduates.

I have recently received a copy of a letter that the Minister for Universities and Skills has written to million+, responding to another problem in the arrangements for regulating fees for part-time students in universities. Because it is so recent, and because it is highly technical, I am not asking the Minister to respond today, but would be grateful for a written response in due course. Because it is a highly technical one, my view is that it is not appropriate to have it on the face of the Bill, but it does need to be aired, because it is in the regulations, and may cause some chaos.

The proposal aims to restrict part-time fee loans on 75 per cent of a £9,000 fee in an academic year. This is a completely arbitrary cap, and I worry that to have drafted it shows little understanding of the academic framework, or that part-time and full-time study alike is based on the 120 credits required for a full-time course, rather than on a percentage of intensity.

In practice, there is a good deal of flexibility, which reflects the differing circumstances of part-time students, for instance in terms of work and family commitments and the number of modules that students have been able to study in previous years. It is not 25 per cent, 25 per cent, 25 per cent, 25 per cent; it can often be 20 per cent, 50 per cent, 20 per cent, 10 per cent. Students simply do not study in modules which are nicely linked with percentage intensity, and the proposal

[Baroness Brinton]
will create unnecessary and avoidable administrative complexity in universities, with the potential for part-time students to be levied different charges, part of which the noble Lord, Lord Stevenson, referred to earlier.

The BIS proposal is not even linked with the 75 per cent of the full-time fee charged, but with 75 per cent of a £9,000 fee—the higher fee cap. This has the effect of undermining the principle of equity of treatment for full-time and part-time students, and allows part-time students to be charged proportionally more that their full-time peers, according to the full-time fee levied in the university. It will also undoubtedly restrict the potential to incentivise more flexible learning opportunities in the context of part-time study.

This is not only a Government aspiration, but is also in the Exchequer's interest, because part-time students, unlike their full-time counterparts, are not eligible to claim means-tested maintenance grants or loans.

In the letter to million+ from the Minister, David Willetts, he talks about regulation, but there is no reason to regulate part-time fees, other than to ensure that fee loans are available on a basis which does not exceed pro rata of the full-time fee. I fear that the real reason why this system is being proposed is made clear in the last paragraph, which reveals that officials have already given a brief to the Student Loans Company to design a system that fits within the 75 per cent proposal set out by BIS. The letter says,

"The Student Loans Company is also now sufficiently advanced in its systems design that a change of this size could not be implemented without putting the launch of the service at risk. We will though, of course, monitor the rollout of this new system, and respond as necessary if clear evidence of needs emerges".

These proposals are perpetuating policies and funding regimes which treat flexible and part-time learning as a percentage of full-time, missing the opportunity to align flexible learning with the credit system and the needs of students—all before the legislation has been passed or the debate on the primary legislation has concluded in Parliament. I repeat: given the short notice and the technical nature of this issue, I do not expect the Minister to reply today, but I hope that she can help with a written reply in due course.

Let us give a cheer that at last the Government propose equity of experience for part-time students, but the interest rate, the time when students start to repay or the financial arrangements for taking modules are all at risk because of some of the detailed small print that sits behind the Bill. I hope that the Minister will be able to help us provide that equality of access that the coalition Government seek and which those of us on these Benches wholeheartedly support.

4.45 pm

Lord Sutherland of Houndwood: I wish to support Amendment 148. I am afraid that I cannot support Amendment 145G, for reasons that I think are fairly obvious. If you have students in this position and you want a degree of equity they should be contributing pro rata to their colleagues in full-time education. However, I congratulate the Government on moving on this issue and moving part-time students into the arena of those who will be given loans against fees.

The arguments already put in favour of Amendment 148 are strong and powerful. I suspect there has been some oversight here; there is a much broader discussion to be had about the place and funding of part-time students, but that will come perhaps after the consultation on the White Paper is finished and it is brought back here. For the moment, we need as near an equitable position as we can and four and a half years as the period at which repayment is required seems to me a reasonable compromise for the moment.

Baroness Howe of Idlicote: I would also very much like to support Amendment 148. As has already been said, not only does it address the important move of part-timers into access to loans, which is crucial, but for me it also sets out in parts 1 and 2 the right way in which it can be sorted out so that students can have completed their studies. I am also aware from my own experience and from what the noble Lord, Lord Stevenson, has said that there will be a huge number of women in this situation. For those reasons too it is very important that they have this new opportunity to study at a later stage in life; to catch up after what was often bad or lack of the right information about the courses they might have thought of studying when they were younger.

So I hope very much that the Government will see the sense in Amendment 148 and will be able to accept it in its entirety. It certainly takes me back to the many occasions when I have discussed this, particularly with the noble Baroness, Lady Sharp. I will not go any further than that, but I hope the amendment can be supported.

Baroness Sharp of Guildford: Very briefly, I entirely endorse what my noble friend Lady Brinton has said about Amendment 148. It is a very good compromise and I hope that the coalition Government will listen to what we have been saying here. As the noble Baroness, Lady Howe, has just mentioned, I have fought for a long time for equity for part-timers and it is splendid that we are almost seeing equity now. It would be very nice if it were rather fuller equity. I hope we shall see this.

The Earl of Listowel: My Lords, may I ask for an assurance from the Minister on a small detail? Many social work students will be studying part-time and if they are doing a degree-level qualification, that fee will be waived. It is very welcome that the Government are raising the threshold of entry into social work and it is now becoming more expected that students will have Level 3 qualifications, so I would appreciate a reassurance that they will not be charged when they are at further education college doing their Level 3 qualifications. It is a point of detail; maybe the Minister could write to me on that.

Baroness Verma: My Lords, I would like to respond to the amendments of the noble Lord, Lord Stevenson, and of my noble friends Lady Brinton and Lady Sharp, in turn. I know that many noble Lords, like me, welcome the extension of loans to eligible part-time students studying at publicly funded institutions to cover the full cost of their tuition. Upfront tuition costs were identified by Lord Browne in his independent

review of higher education as the primary barrier to students who want to study on a part-time basis and we have removed that barrier.

I thank the noble Lord, Lord Stevenson for introducing his amendment, which raised a debate in this Room about the extension of loans to part-time students. The introduction of caps on tuition charges for part-time courses is an important part of our higher education reform. It will enable the Government to provide, for the first time, loans to eligible part-time students to cover the full cost of their tuition at publicly funded institutions, just as it does for full-time students. The Government agree with the overarching principle of Lord Browne's independent review that those who benefit most from higher education should make a larger contribution to its costs. This holds true for those who choose to study part-time as much as those who pursue it full-time.

The Government's reforms mean that while the teaching grant for the Higher Education Funding Council for England is being reduced or stopped completely for some subjects, universities will have access to a steady income stream from subsidised tuition loans and will get the future of sustainable funding that they need. We would be reluctant to limit to £1,000 per year the amount that institutions can charge for part-time courses. Such a limit would pose a serious risk to the financial sustainability of the part-time sector, as it would restrict a now primary source of funding. This would place part-time students at a significant disadvantage to their full-time counterparts and I am sure that the noble Lord is not advocating that.

Amendment 148 seeks to ensure that the amount of interest that could be charged on loans for part-time students should not be higher than the rate charged for full-time students. My noble friends raise an important point and one with which I agree wholeheartedly. Part-time students should be treated in exactly the same way as full-time students in the way in which interest is applied to their loans. We have never intended that full-time and part-time students should be treated differently in this respect. I hope that the indicative regulation published when this clause was in the Commons will also reassure my noble friends on this point. The regulation showed that student loans will bear interest at RPI plus 3 per cent until the individual becomes liable to repay. From this point, we will introduce a progressive system whereby low earners—again, regardless of whether they studied full-time or part-time—will be protected and accrue interest only at the rate of inflation. Those with an income of £21,000 or less—below the repayment threshold—will not need to make any repayments and will accrue interest at RPI only, which will maintain the value of the loan in real terms. For anyone with income greater than this, the rate of interest applied will increase gradually with their income, reaching a maximum of RPI plus 3 per cent at an income of £41,000. Those with incomes of £41,000 or more will accrue interest at a rate of RPI plus 3 per cent.

I hope that that has reassured my noble friends on those points. As it is our intention to apply our proposals to both full-time and part-time students and the individual's mode of study has no impact on how the rate is calculated, it is therefore unnecessary to set this out in primary legislation.

Moving to the second point in this amendment, I understand the concern about the date that part-time students become liable to repay, though it is important to remember that whether they will actually have to begin to repay will depend on their income. Under our current proposals, part-time students become due to repay on 6 April following the third anniversary of the start date of their course, even if they continue to study. We have chosen this date as an equivalent to the time when a full-time borrower studying a three-year degree course would reach their repayment date. However, it is important to remember that no one will have to repay if their income is below £21,000. The added benefit for those part-time students who have incomes less than £41,000 is that they will at this point see a reduction in the interest that they are charged. Once part-time students become liable to repay, their interest will be dependent on their income, whereas students who have not yet reached their statutory repayment due date will be charged interest at RPI plus three per cent.

I know that some higher education institutions feel that delaying the repayment point by a further year would benefit their students, particularly those studying the equivalent of a three-year course part time over four years. I can see that this might be the case at least for those part-time students earning more than £21,000. However, the converse would be true for many other part-time students, particularly those earning under £21,000. They would be charged a higher interest rate for a further year but would not be required to repay during that year. However, I have listened to the argument very closely and I think that it would be prudent of me to go back to my right honourable friend David Willetts and raise these points with him again and commit to writing to noble Lords about these concerns. This is a very valid point and one that we need to consider very seriously.

Lord Foulkes of Cumnock: On that particular point, the Minister has been very helpful. But I am not absolutely clear about whether she will go back to the Minister with a view to accepting this amendment? What I understood by the very eloquent speech of the noble Baroness, Lady Brinton, was that the administrative scheme that has already been promulgated anticipates the legislation even though the legislation has not yet gone through this House, which is a very serious situation. There is no point in going back to David Willetts if this has already been decided by an administrative scheme.

Baroness Verma: I can reassure the noble Lord that it has not been set in stone. I have listened very carefully to the argument today. It is a very valid argument. It would be a great benefit to go back to my right honourable friend and raise with him genuine concerns. While I cannot commit to the exact amendment as it is, it is worthy of a revisit with my right honourable friend.

I would like to finish by responding to a couple of the points made by the noble Lord, Lord Stevenson, about the loans available to part-time students. I think

[Baroness Verma]
I have covered it in my presentation. I will reiterate in case it has not been made clear. Part-time students will meet the amount charged subject to the passage of this clause. The introduction of regulations to cap fees at the level the noble Lord has indicated means that there may be institutions that do not choose to raise fee-charging to the maximum level. We are making an assumption that that is what is going to happen, but we must not because there may be institutions that do not follow that path. For equivalent and lower qualifications, my right honourable friend the Minister for Universities and Skills has in the past indicated his regret that loans cannot be offered for a second qualification.

I am sure that, when the noble Lord's party was in Government, they also had the same regret. But, unfortunately, budgets are limited. We have to work within our means so that those who have not got a first-time qualification be given that opportunity. The noble Lord's Government agreed with that principle; we are following it through. I hope that the noble Lord will be reassured—as my noble friends are—that we have taken this very seriously. I have promised to take away what my noble friend Lady Brinton has raised. We hope to come back to it on Report with some findings.

5 pm

Baroness Brinton: Before the noble Baroness concludes, I thank her very much for the response and for taking the matter back to the Minister for Universities and Skills. We would be very grateful if we could participate in that meeting, particularly on the two technical points that I raised, that I said I did not need answers to today, because obviously it will take a lot of time to write back on them.

Baroness Verma: Absolutely, and I would encourage any other noble Lord who would wish to be at that meeting to indicate that they would like to be present, so that we can offer an invitation to whoever wishes to be there.

Lord Stevenson of Balmacara: My Lords, me too. I would like to come to that. It would be fascinating. I am sure the noble Lord, Lord Foulkes would be present in spirit even if his considerable bulk was not present in fact at the occasion. We will bear in mind his useful and helpful interjections during the debate on these two amendments.

Baroness Verma: He has indicated not.

Lord Stevenson of Balmacara: I thank the noble Baronesses, Lady Brinton and Lady Sharp, for their amendment, which has won the day. The speech of the noble Baroness, Lady Brinton, was indeed very eloquent, as has already been said. One point which I would like to finesse back to the Minister was that in considering the question of the timing for which loans should be available for part-time equivalent to full-time study for degrees, she also made the point—which I tried to make, but did not make it so well—that institutions have a long and distinguished history of setting good levels of fees for part-time courses. It is not clear at all to me why the Government feel they need to regulate.

The documentation I have seen suggests that there is a fear that if the new loan system comes in, institutions cannot be trusted to restrict the level of fee, when it comes down to it. Again, that might be worth waiting for, to see, and to have the power to intervene if necessary. As the Minister said, there may be a number of institutions who, for good and persuasive reasons, decide to cap fees much lower down the scale, in which case the figure of 75 per cent of £9,000 is otiose, and we should bear that in mind as we go forward.

I also thank the other speakers in this debate, because although mine was a probing amendment, I did want to raise the points that have been raised. I think they were picked up. I am delighted that the Minister has reassured the Committee about the equivalence of interest payments between full-time and part-time students; that is important. I am delighted that she is going to take back the arguments we made today, and I hope that at Report or earlier, we will be able to have some good news. On that basis I would like to withdraw my amendment.

Amendment 145G withdrawn.

Clause 73 agreed.

Amendment 146

Moved by ***Lord Lucas***

146: After Clause 73, insert the following new Clause—

"Disclaimer of eligibility for student support

(1) Any student over the age of 18 (or if under that age, with the consent of the student's parents or guardian) may disclaim the right to such financial support or arrangements as may from time to time be offered by or on behalf of the Secretary of State to such students.

(2) Such a student may then apply to be admitted to a university as if he or she were a candidate from outside the European Union, and shall for all purposes be considered to be such a candidate.

(3) A student who has made such a disclaimer may withdraw it at any time, but not in respect of any course to which he or she has been admitted as if he or she were from outside the European Union."

Lord Lucas: I beg to move Amendment 146 and speak to Amendment 147A. My objective is to nudge the Government gently in the direction of common sense and fairness in these two amendments. One of the effects of the Government's policies over the last year or two, particularly with regard to the Office for Fair Access, which looks set to reduce the number of students going from high-performing English schools to Oxford and Cambridge by about 500 a year, and as an effect of the fees increase, has been a very considerable rise in interest in the prospect of going to university overseas.

At the cheaper level, it costs about a couple of thousand pounds plus living expenses to get a very decent university education in the Netherlands. That is becoming an increasingly popular destination, notably for the leafier end of the state school system. I thoroughly recommend Maastricht as a university, begging the pardon of my more sensitive colleagues on these Benches.

It is actually a very fine and innovative university, and for those parents who would intend anyway to repay their children's debt, and not leave them with that hanging over them, it represents a very considerable saving.

To have our children going abroad anyway is probably quite a good thing for this country, and over the long term it should increase our understanding of the world outside our shores, and bring us added understanding, if not prosperity. At the higher end, principally affected by the changes being made in OFFA, we are seeing very substantial increases in numbers of students interested in going to the United States. The rate of application is up by about 30 per cent this year. Fees in the US are extremely substantial. There are some good scholarships available. Some of the brighter state comprehensives have been picking up one or two of them, and long may that continue. However, a lot of this outflow will be children who have gone to independent schools, whose parents see that they have the qualifications that would formerly have taken them to top universities, but who have now been squeezed out—so they are off to America, Canada, Australia or, indeed, China. You can get to some very high-ranking universities in Hong Kong for not much more than the cost of a British degree. Indeed, one of them is a subsidiary of Nottingham University. So you can pay to go to a British university overseas. It seems a bit daft to me that our own universities, which are strapped for cash enough as it is, should see this flow of students going out to pay high fees overseas and not be able to bring them back and have those fees for themselves. Why should we deny our universities that benefit? Why should our students find that the only universities in the world that they cannot pay a fee for are our own universities and why should our universities find that a natural flow of students is denied to them? So I hope, while not expecting any immediate comfort today, that the Government will think along those lines.

I would like to see some progress today on Amendment 147A. It has long been the practice of universities, when students were largely funded by the Government, to rob Peter to pay Paul—to take money that was notionally allocated to students studying humanities degrees and use it to fund courses being pursued by those studying science degrees, in particular. That is all very well when it is just reallocating government money, but when you are taking money that a student has invested themselves and transferring it away from that student to some other student's course, I think that that becomes morally indefensible. I would very much like to see any such activity done openly and with a proper disclosure of what a student is receiving in return for their fees and where the money is being spent by the university. Then a student who is looking to go on what has been traditionally a rather underprovided course with few contact hours can see whether or not they are being offered a reasonable bargain in return for their £9,000 a year. I beg to move.

Baroness Perry of Southwark: My name is also on Amendment 146 and I very much support what my noble friend has said. I shall add one or two other arguments to the powerful arguments that he has already made.

My noble friend said that losing some of our good students to go abroad for their studies might be a good thing. Yes, it would be good for a few. International education, whether at undergraduate or graduate level, is a well established tradition among the brighter and best students, and that is a good thing. But it is a very foolish country that stands aside and watches a very large number of its brightest and best students being lost, particularly since those who go to the United States tend to stay. There are good statistics showing this. We lose some of our best talent if we allow them to go and finish their undergraduate and postgraduate study there and then be snapped up by American companies.

The other argument that has always seemed to me quite powerful is that we have and recognise in this country, without much debate, that we have private schools as well as state schools. We know perfectly well the way in which private school fees have been accelerating in recent years. Many parents are now paying £12,000 or £13,000 per year for day schools, if they are lucky—some more than that—and, for boarding schools, at least double that. It has always seemed very strange that those same parents whose children go on to higher education are suddenly released from what many of us see as the burden of school fees to a very much reduced sum of money. I have many times dwelt with friends on one anecdote from my time as head of a Cambridge college. One of my fresher students came bouncing up to me in the first week of term and said, "Oh, come and look at what my daddy has given me as a present for coming up to university". It was a brand new BMW 7 Series, which would have accounted for at least three years of fees at £9,000 a year plus, or her maintenance. I thought, yes, Daddy is celebrating because he does not have to pay your very high school fees any longer. I am sure that my college and university could have done with that money and made good use of it.

It seems quite extraordinary that we do not allow parents—who could very well afford to continue to pay the fees—simply to opt their children out of the entire loans company system and, therefore, to have their children treated like overseas students, where the university can set their fees and they are outwith the quota for those eligible for loans. Putting these very bright students off-quota and giving them the encouragement and opportunity to go to our best universities would be to their benefit and hugely to the benefit of the country. Therefore, I wholly hope that the Government will seriously consider this possibility of having private students who would be off-quota but who of course would have exactly the same entry requirements as those who are eligible for loans. As my noble friend says, we do not expect an answer today. This is not a backdoor route for people to buy their way into higher education. Their access arrangements and entry requirements would have to be exactly the same. But it would enable us to keep some of those very bright young people here in British universities.

Lord Foulkes of Cumnock: My Lords, I was hoping that the noble Lord, Lord Lucas, was going to refer to what has been the most discriminatory and unfair decision in relation to student fees ever, anywhere in

[Lord Foulkes of Cumnock]
the United Kingdom. This is the decision by the Scottish Government to charge students domiciled in England, Wales or Northern Ireland who choose to study at Scottish universities fees of up to £9,000 a year. As the professor, my old principal, will know—though he was not principal when I was a student; he is not that old—if the Scottish Government are allowed to go ahead with what they are planning, English, Welsh and Northern Irish students will have to pay £36,000 for a four-year degree course at a Scottish university. It is really outrageous. It is particularly outrageous because of the rules of the European Union, whereby students coming from other countries in the European Union—whether it be Lithuania, Poland or any other country in the European Union—will get a free education just like Scottish students. I do not understand how anyone in England can sit back and accept this. I do not know why people are not rioting in the streets at this kind of discriminatory decision.

However, there will be an opportunity to put it right. I have tabled an amendment to the Scotland Bill, which means that this sovereign United Kingdom Parliament would make it illegal for the Scottish Administration to charge discriminatory fees. We are still the supreme Parliament. The Scottish Parliament is a devolved Parliament. I hope that all noble Lords will talk to their colleagues and that, for once, I might get support from all sides of the House—that would be a novelty—so that we can end the discrimination that is being proposed by the SNP in the Scottish Parliament.

5.15 pm

Lord Sutherland of Houndwood: My Lords, I am not rising to the bait of the noble Lord, Lord Foulkes, other than to add a fact that he may find interesting and so may the Committee. The Scottish Government's budget presented roughly two weeks ago requires the universities to raise roughly £60 million in fees from students from the rest of the United Kingdom. On my own estimate, two years ago the cost of students from the European Union was £85 million a year. These are frightening figures and they raise a quite separate issue, but this is not the place to do it. I want to speak to the two amendments.

I appreciate the spirit of Amendment 147A: the spirit is openness and reassuring students that the money they pay for their education is actually being used for their education. That is absolutely right; as well as funding universities, that was the whole point of fees introduction. I support the principle, but I think the mechanism and the detail in subsection (2) would frighten the wits out of anyone running a university to provide that degree of information for every student.

I feel more strongly in support of Amendment 146. I simply want to add the fact that this is already in practice in a very select group of cases. The select group is of students who are taking a second degree, having already had the benefit of the first degree. The obvious case is veterinary studies, which was well represented in the university of which we have been speaking. The university found it possible to admit additional full-paying students on non state-funded places. Therefore, it seems the principle has been operating and has been conceded. In which case, there is a way of pushing it forward as in Clause 146.

Lord Stevenson of Balmacara: My Lords, these are two slightly different amendments, raising different points, which are slightly oddly grouped together. However, they raise good points and I look forward to hearing what the Minister will say about them. On the first point, following the noble Lord, Lord Sutherland, and stepping sideways around the noble Lord, Lord Foulkes—a difficult task I know—architecture is another subject where you would have the benefit of having done a first qualification and then come back in and done further study, for which again these would not count.

Lord Sutherland of Houndwood: On a point of information, it is not because veterinary studies required an earlier qualification, it is because many students want to take it, whose parents can afford to pay the extra fee. They take it, if they are admitted, whatever their background.

Lord Stevenson of Balmacara: Which is the point I was about to make. The sheer serendipity of being able to do this does not make it right. Earlier points on other amendments, which were about the need of the whole country to work out how we pay for higher education, and to make sure that those who benefit from it also contribute back, do not get caught by this amendment. However, it may be worth further discussion, and I look forward to hearing what the Minister says.

On Amendment 147A, as has already been said, this is presumably the first of a number of points to be discussed as we get more to the market that the students will be dominating in future places, because in order to do that they will need this sort of information. I agree with the noble Lord, Lord Sutherland, that this is a tad more difficult and complex than any standard university secretary would be able to respond to. However, it gets the right message across, which is that there is not very much information available for students to judge what sort of university they are going to. The courses are beyond their experience by their very definition, but as for the way in which they are taught and the amount of student contact, there is already enough circulating to make this an interesting area, which we will track with interest.

There has been a report in the papers today that comments from students that have been surveyed about what they thought about university courses in relation to fee levels of £9,000 were distinctly unflattering. If that is the way this is going, then this sort of amendment may well be something we need to discuss later.

Baroness Verma: My Lords, the recently published Higher Education White Paper places students at the very heart of the higher education system. Our goal is a system that offers students better information and opportunity, is more responsive to student choice and helps to improve social mobility. We will ensure funding follows the student, is progressive and fair, and better responds to their situation and choices.

The amendment of my noble friend, Amendment 146, seeks to allow home and EU students to opt out of their eligibility for student support. First, let me make it clear that there is no requirement for students who have already been offered a place in higher education to draw down their entitlement to student support. At the moment, we have to control student numbers overall because we must control the costs to the public purse.

This amendment would mean that students who could afford to pay up front the full cost of their courses would then be at an advantage because they could pay. In effect, it has bypassed our student number controls. On the face of it this may appear attractive, but there would be a strong perception that wealthier students or their families would be able to buy a university place.

The Prime Minister has made the Government's position absolutely clear on this. University access is about the ability to learn and not the ability to pay. There is no question of people being able to buy their way into university, however attractive that proposal looks. The Government are interested in expanding employer or charity sponsored places outside the quota system and are committed to freeing up the controls on student numbers in general.

In the Higher Education White Paper, we have committed to increasing such opportunities, provided that they do not create a cost liability for Government and that they meet three key principles: there should be fair access for all students applying, regardless of their ability to pay; the places must be genuinely additional; and there must be no reduction in academic standards in recruitment. The Higher Education Funding Council for England is looking at options to incentivise more sponsorship and will include this in its consultation this winter. This is a sensitive issue and we will consider carefully the outcomes of both these consultations before introducing further changes to the system.

On Amendment 147, I absolutely agree with my noble friend Lord Lucas that students need accessible, accurate and reliable information that clearly shows what they expect from their courses, helping them to make informed choices. We are doing a great deal of work in this area. It is our intention that by September 2012 all higher education institutions will publish key information sets for each course on their website. These sets will provide the information that students request the most, together with information about course charges.

The White Paper encourages good practice in institutions to allow students to become more discerning in understanding how their tuition charge is spent. It recommends that institutions provide the sort of material that local councils offer their residents to demonstrate where council tax is being spent. We have therefore asked the Higher Education Public Information Steering Group to consider whether this sort of data should form part of the future wider set of information we ask institutions to provide for prospective students.

I hope that I have reassured noble Lords, but before I conclude I would like to respond to the question of the noble Lord, Lord Sutherland. He mentioned that students taking their second first degrees would be outside the student number controls and would be able to pay for their courses. He is correct, but the Government, like the previous one, is regulating students' first degrees. I hope that answers the noble Lord.

Lord Sutherland of Houndwood: May I just ask what the point of the regulation is? Is it to save money, because the students in question will not cover the full cost of the fees; or is it because the Government have a pre-set notion on, for example, how many vets we need and how many should be eligible to take a veterinary studies degree?

Baroness Verma: I think the bottom line is, of course, that it is all down to affordability. We need to be clear on that. Universities have a finite budget too.

I will not fall into the eloquent spider's web of the noble Lord, Lord Foulkes. I shall just say to him that Scotland has a devolved Administration and therefore sets its own agenda. Steering neatly away from that, I take this opportunity to thank all noble Lords for their contributions on this Bill today, given that this was my first outing in higher education. It has been quite a baptism, but I am hoping that when I come in on higher education matters in the future, I will be there from the beginning and will understand a little more clearly the temperaments of noble Lords.

This is the final group of amendments, but I understand very clearly that there will still be questions that remain outstanding. Therefore I am happy to meet noble Lords, be it after this meeting in Room 16 on the Principal Floor, or in future. I have very much an open-door approach to the way I do my business in the House.

I give this opportunity to all noble Lords to come and speak to us. We want to make sure that the legislation, when it goes from this House, is in its best form, and noble Lords are there to ensure that with me. The Welfare Reform Bill is about to commence, so on that note I will sit down and allow the noble Lord to withdraw.

Lord Lucas: My Lords, I thank my noble friend for that answer. To be disappointed by my noble friend, and encouraged by the noble Lord, Lord Foulkes, is indeed unusual. I hope that we will have at least the second part of that again. I shall now take an interest in the Scotland Bill.

I am grateful for what my noble friend said on Amendment 147A. I will read it carefully and come back to her on that. Because there is so much past practice in this area, this is something we need to take carefully.

As for Amendment 146, I find this an odd position for us to be taking. There are an awful lot of people in this country who pay for education from the ages of five to 18, and indeed before that. To suddenly cut that off at 18, as if it was in some way dirty, seems to me to be odd. If we are conducting things so that we are not displacing poorer children from the education they might otherwise receive, but are increasing the amount of money which is available to the institutions which are educating those poorer children, then that seems to me to be a sensible and constructive way to go.

I do not know how my right honourable friend the Prime Minister's dictum should be applied to his alma

[LORD LUCAS]
mater, but perhaps one day I will be able to listen to him on that. For the moment I beg leave to withdraw the amendment.

Amendment 146 withdrawn.

Amendments 147A and 148 not moved.

Clauses 74 to 79 agreed.

Bill reported with amendments.

The Deputy Chairman of Committees (Viscount Ullswater): My Lords, the Grand Committee will now adjourn until 17.42, when the Committee will begin consideration of the Welfare Reform Bill.

5.28 pm

Sitting suspended.

Welfare Reform Bill

Committee (1st Day)

5.42 pm

Relevant document: 17th Report from the Delegated Powers Committee

The Deputy Chairman of Committees (Viscount Ullswater): If there is a division in the Chamber while we are sitting, this Committee will adjourn as soon as the Division Bells are rung, and resume after 10 minutes.

Lord Foulkes of Cumnock: I was hoping that I was not going to have to get up and that the Whips would immediately get up. I raised at the beginning of the Committee the problems that will be faced by Members of the House with severe disabilities getting down to vote in the Division Lobby if there is a Division in the House. I was assured by the Whip that there would be an indication that some arrangements had been made through the usual channels to ensure that that could be dealt with appropriately.

Lord Shutt of Greetland: My Lords, this looks like two bites at the same cherry, because I believe that this has been dealt with. There will be 10 minutes, and that the Chairman has discretion to extend that time. I understand that there has been a usual-channels agreement that there will not be voting downstairs today, but who knows—things can change. That, I understand, is the agreement for today. However, if ultimately there were to be a Division, there is the 10 minutes, and there is discretion to extend that.

This would be an extreme position for today only. A paper is about to be brought to the House, prior to the next meeting of this Committee on Thursday, saying that Members with mobility problems who are in this Room will be able to vote in the Room, and the votes will be taken downstairs. But because that paper has not yet gone to the House, today is different. If there were to be a vote today, and there is real need, that 10 minute period would be extended if Members had difficulty in getting down to vote.

Lord Foulkes of Cumnock: I am grateful to the Whip for that explanation. I had heard through what I should probably call unusual channels that these discussions were taking place. There are a lot of questions arising from it. Is it just for the consideration of the Welfare Reform Bill in Grand Committee, or will it apply for every Grand Committee taken up here in the future? A number of other questions also arise.

I think it is very difficult to have started the Welfare Reform Bill Grand Committee in this totally inadequate Room, dealing with something that is so important when it should have been dealt with much more appropriately on the Floor of the House, and it is going to create tremendous difficulties not only for people with mobility problems but for all of us with regard to 10-minute Divisions and a number of other things. The Whips, particularly the Chief Whip, who propelled us into these arrangements, should have thought rather more carefully about how it is going to be dealt with in practice before making such statements to the House.

Lord Shutt of Greetland: My Lords, this is not the first time that a Grand Committee has taken place in this Room. I recall meeting here on a Northern Ireland Bill, when a Minister accepted an amendment of mine, as it happens. So it is not the first time that we have met here. It is sufficient to the day. I have spoken about what will happen today. Later we will have a paper which I believe will refer to subsequent sessions in this Room. It will be up to the House to consider whether these arrangements apply to other Bills in this Room—I suppose that that is quite likely—but, as I say, it is sufficient to the day as far as that is concerned. As for the general position of using this Room, do not forget that this is a matter that was taken to the House and the House decided that we would meet in a Grand Committee and not in the Chamber.

As it happens, there are 62 places for Members in this Room. I think, unless some more people have crept in, that there are fewer Members in the Room than there were at the end of the Education Committee, which I just witnessed. There is certainly more space for people who need to use wheelchairs and, indeed, more space for members of the public. So as for Grand Committee being held in this Room as opposed to the Moses Room, the general belief among all those who have been consulted and who have seen the position here is that this is a better Room for these meetings. I hope that we can now proceed with the arrangements in this Room.

Amendment 1

Moved by ***Lord Kirkwood of Kirkhope***

1: Clause 1, page 1, line 7, leave out "universal credit" and insert "working age entitlement"

Lord Kirkwood of Kirkhope: My Lords, I preface my remarks in the slightly Foulkesian vein of exhibiting some displeasure, not about the logistics of the Committee Room—I understand that there are arguments about that—but because I certainly did not find it easy to prepare amendments, talk to colleagues and pressure groups and get here today to start what is one of the most significant pieces of social security legislation that I h0ave ever come across in this way. Starting at

the fag-end of an afternoon is not the best way of making progress. There are colleagues, also, at the Conservative Party conference on bona fide political business that denies them access to the first two sessions on the Bill, and I do not think that that is correct. There are also pressure groups at the party conference at Manchester who would like to be here but cannot because they have commitments, and I have found this very difficult.

I was dealing with very helpful duty Clerks trying to table amendments from afar; admittedly, we were all afar because we were on Recess last week, so tabling amendments by Friday was very difficult. I say to my noble friend the Deputy Chief Whip that the usual channels—the blame is not all pointed at the Government and I am not expecting him to respond to this—need to give some consideration to how Members approach their work, particularly with a Recess coming before the start of this Bill. For my money, it would have been much more convenient to start this proceeding on Thursday at the least, if not the week after, which was when it was originally booked to start. We need a little consideration for those of us who are technically engaged in this important legislation. I hope that that will be borne in mind. It is completely out of order so I will say it quickly, but this is a consequence of far too much legislation. The usual channels should get themselves together and get this sorted out, otherwise we will all struggle to devote the appropriate level of time and depth of analysis to what we are being invited to look at.

I shall explain what I hope will be for the convenience of the Committee. I have spoken at length to the Government Whips Office from afar, some of the conversations being more successful than others. I got some pretty tart replies in the early stages but at last I got some sense out of them. This is what I propose to do. Colleagues will notice that I have tabled a big group of amendments. Group 3 consists of a whole range of amendments. That was during a phase when I thought: "Golly, if everybody else is having the trouble that I am having, there will be no amendments to Clause 1". Dilatory tactics are an honourable parliamentary tradition, so in 10 minutes I amended Clause 1 in every way I could. That is what the group beginning with Amendment 3 is all about.

However, having calmed down and talked to the Government Whips Office, I had it suggested to me that we begin with a broad-ranging debate on clause stand part. To some, that might appear to be putting the cart before the horse, but in this situation I am convinced that if we have a general discussion—we have some important amendments about the inclusion of council tax which I hope we come to on Thursday—then we can spend what is left of the day inviting colleagues to look at clause stand part and Amendment 1.

That would give us the broadest attempt at understanding some of the Second Reading-ish areas, or areas not contained at all in the first 30 clauses. Universal credit, the first clause, opens the gate to Chapters 1 and 2. The first 30 clauses are all about universal credit. The consolation that I can offer colleagues, to whom I apologise, and who have done a lot of research and homework on the group beginning with Amendment 3, is that they are all perfectly admissible by definition in a clause stand part debate because they are all amendments to Clause 1. So it is not for me to encourage anybody to do anything, but I wanted to make clear that I did not want to sell people short and feel they had been short-changed. That is what I think is best for the Committee, and I hope that colleagues find it acceptable.

I want to mention two things about what I hope to get out of this Committee stage. Amendments need to be made to the Bill, as I said at Second Reading. This Bill is not perfect. I am particularly concerned about the level of Treasury claw-back in the benefits section. It is absolutely true to say that universal credit will produce new income for low-income households, particularly those going into many jobs and the like. We all understand that, but there will be a reduction of existing levels of benefit, particularly in areas like housing and the universal household cap, which will really, really hurt the households that it affects.

My mission in this Committee is to robustly press the Government on the 10-ish or 12-ish issues where that particular concern applies. I understand that this is a long and technical Bill, and I want to make a point about regulations in a moment, but for me, politically, I say this to pressure groups and others outside this place who have been informing and advising us so well: they should concentrate their fire. We need priorities, and we can get changes if we are clear and if this Committee sends a signal to the department. That signal might also get noticed by the Treasury, and it would be a perfect circle if we could make that join and get some improvements by Report in a way that would make people like me more comfortable and think of supporting the changes.

I mentioned regulations. Obviously regulations are at the cutting edge of the implementation of the Bill. In passing I want to pay tribute to the Minister of State and the Bill team for making themselves endlessly available and offering us all kilograms of paper, some of which are informative, some of which are just heavy. Whatever you might think about their other approaches to the Bill, the accessibility of the Minister and the Bill team has been exemplary. I hope that that will continue.

Maybe the Minister could say something about how he proposes—subject to the availability of the information—to make draft regulations available. Obviously, some of the areas under discussion cannot be dealt with. For example, passported benefits are currently under consultation by the Social Security Advisory Committee. That is perfectly sensible but the committee will not report until later. I am not asking for every draft regulation before we can make sense and see the universal credit come into focus, but I am still struggling with what is quite a fundamental change in the way that we do these kinds of things.

What's in a name? It just occurred to me that "universal credit" does not mean anything very much. It is certainly not universal to any social security advocate or specialist, because "universal" is something that is not means-tested and no one can say that universal credit will not be means-tested. "Universal" is not the right word—and it is not a credit. Credits were all stolen by the former Prime Minister when he

[Lord Kirkwood of Kirkhope]
was Chancellor. He took them away from the department and created tax credits. It was a successful policy—until it all fell into very difficult administrative difficulties—but the department did not have any say over it. Credits went to the Treasury. Universal credit is coming back to the department, which I am in favour of, but there will be confusion about what a benefit is and what a credit is. I notice that some of the titles in the Bill mention working-age benefits in Part 2.

So, the name is very important because it sends a signal about what the benefit is for. I am not seriously suggesting at this stage that we change the name, because I am sure that thousands of pounds have been paid to consultants to craft the artwork around universal credit. But this is a working-age entitlement, which is what I understand it to be, what it should be and what I hope that it is. We are stuck now with "universal credit", which I think came from dynamic benefits and the Council for Social Justice report that informed a lot of the philosophy behind universal credits. We need to think carefully and clearly. There was a big attempt when tax credits came in to differentiate working tax credits, which were for work, and child tax credits, which were for family support. That did not work. Thinking more clearly about the name in the future would be helpful.

I want to make a couple of other quick points under the clause stand part debate. The one thing that does not appear in the first 30 clauses is the word "employer". For this new administrative system to work, employers have to engage and to contract employment with employees. We are concentrating here on the supply side, all the time trying to get employees into a better situation. I am in favour of that and I understand it, but—I am a board member of the Wise Group in Glasgow, so I know this—you cannot do that successfully unless you are working really hard, extensively and sustainably with employers. If you do not encourage them to take on people who, prima facie, are not ideal employees, they will run a mile. You have to get a close relationship with employers. I know that the Government have done some work at a high level with some of the big employment confederations and on a regional basis, where they were getting people to sign up. That is very welcome, but we need to think about small-scale employment as well. I was going to refer to the omission, although it is not really an omission because it would not really fit the legislation. I just make the point that the elephant in the room for the first 30 clauses is going to be employers, and we must not forget that.

6 pm

My second point concerns a philosophy of participation in tax rates, iron triangles and tapers. In my experience, people do not decide to go into low-paid work on the basis of marginal tax rates. If they go into low-paid work in those circumstances, they surrender the security of a regular payment—not a giro cheque; that is old-fashioned now—which is absolutely guaranteed. For many households, the security of knowing that that money will always arrive on time, and it usually does, far outweighs the uncertainty that they will face even with a universal credit. Therefore, there are other factors that I do not think the philosophy of universal credit has properly captured, and we need to bear that in mind as well.

I want to make two other quick points before I finish. First, I said that regulations are important. The Social Security Advisory Committee is going to have to work very hard. I came into this area of public policy because I had the confidence of having access to Social Security Advisory Committee reports. Whether they are working in the field of legislation or secondary legislation or with the Delegated Powers and Regulatory Reform Committee or the Merits Committee in this House, both of which do excellent work, ordinary Members who are perhaps not as interested in a subject as others can have the confidence that, if they read the stuff that has been analysed by the SSAC, as well as the committee's recommendations, they will have a basis from which to draw an opinion and make points.

I know that the Social Security Advisory Committee has other things to do. It is supposed to be an adviser to Ministers and I hope that it will get a chance to do that. However, for me, the priority for the SSAC over the next two years and more will be to give serious consideration to these regulations. Indeed, if it would be helpful to colleagues, I have in mind some amendments that we might table to make sure that the committee's involvement is absolutely secure.

My final point concerns our use of language in conducting the rest of these Committee proceedings. I get very nervous when Ministers make aerated speeches about "welfare". It is a horrible word. So far as I am concerned, we have a system of social security in this country. Welfare is different and it is now being tagged as a term of opprobrium: people on welfare are somehow feckless and do not pull their weight. The tone of the language that we use is very important in all this. I get even more worried when I find Ministers of the Crown—the Minister of State is not guilty of this—talking about withdrawing benefits for all sorts of reasons. That would be completely unconscionable because it would undermine the confidence of people who are already in difficult circumstances and whom we are trying to help. I think that the Bill will go a long way towards helping them to get some positive support. I hope that it will, but we must not start categorising and stigmatising people.

I understand that there will be better take-up with universal credit, and we need to be more understanding about social protection being worth investing in. If people are prepared to take a positive step towards the system, I think that we can make a really big impression. The Minister of State keeps saying that we have a chance to change the culture and I think that that is true. However, we will have less of a chance if we use language that puts people into boxes that are not comfortable for anyone. That would be not only contrary to natural justice but bad policy.

I hope that we will have a fairly robust debate on whether the clause should stand part and I beg to move.

Lord McKenzie of Luton: My Lords, I think that the noble Lord, Lord Kirkwood, has got us off to a really good start to our considerations on this important

Bill. I do not want to dwell on the issues of the Room and where we are meeting. It is a matter for other channels; the usual channels. I think the Government did make a mistake in putting everything in Grand Committee, but having done that I think they have worked quite hard to configure this Room so that hopefully we can have sensible debate on this important measure.

We have added our name to the noble Lord's clause stand part debate, but let me start with his Amendment 1. We have a great deal of sympathy with this, because he is technically correct in saying that this is not a universal credit. It is not a universal benefit; it is a means-tested benefit. It is not universal in the sense that it is a substitute for all other means-tested benefits, either. Council tax sits outside it, as does the partially means-tested child benefit. Other non-means tested benefits rightly sit outside it—DLA and its replacement, the personal independence payment, in particular.

As the noble Lord said, though, "What's in a name?". But what we are dealing with is the integration of a number of benefits through this system. I so agree with what he said about the use of language and how careful we need to be. One of my questions to the Minister is that, since we read in the newspapers that Secretaries of State are scurrying around Manchester and other places at the moment trying to dream up ever-more draconian conditionality to the welfare benefit system, is there anything in particular that the noble Lord anticipates bringing forward in that respect, as amendments to this Bill?

As I said at Second Reading, we always seem to end up in a place where those on benefits are benchmarked—in an adverse way—against a hard-working family who pay their taxes, not recognising that that hard-working family themselves could, next week, be availing themselves of the benefits system, because they have lost their jobs, or there has been an accident, or they have suffered ill health. We need to get away from that. I exonerate the Minister, who I have never heard adopt that language, but frankly some in his party do, pandering to the tabloids, which is, sadly, what this is about.

Universal credit is something which we, in principle, support. It covers those in work and those out of work, and therefore potentially removes the fear that entering work will cut away a support system. The prospect of one source of support rather than fragmented sources, from HMRC, DWP, and local councils, is broadly to be welcomed. The clear and significant income disregards and a common taper add to its attractions for improving work incentives. But this is not a panacea.

It is still going to be complicated, and there are problems with work incentives, for example for second earners in a couple. There are still very significant unknowns, more detail about which we will seek to elicit in the upcoming weeks, as we scrutinise the clauses in the Bill. Whether the universal credit can lay claim to making all people better off in work depends crucially, of course, on support for childcare costs. We will press for clarity on this matter, as we know others will as well.

There are gaps around passported benefits, treatment of the self-employed, and payment of rents. The SSAC, referred to in the presentation by the noble Lord, Lord Kirkwood, published a response to the White Paper on the universal credit, and highlighted issues such as, for example, whether the DWP has modelled the potential impact of second earners moving out of work. Perhaps the Minister can let us know on that issue. It makes reference to MDRs actually increasing for working households paying income tax and national insurance but which do not receive housing benefit or council tax benefit. Perhaps the Minister can also say something about the other complexities that have been pointed out about how the universal credit will deal with situations where, for example, one member of a couple is employed, the other self-employed; or a household comprising persons employed by a number of different employers.

Of course, the overriding issue is the deliverability of proposals. If the *Telegraph* is to be believed, Treasury officials have told Ministers that these reforms are,

"in serious danger of arriving late and billions of pounds over budget".

Can the Minister please tell us whether a team of senior Whitehall officials and industry experts has been assigned to investigate the development of the universal credit? Is it true that the DWP rather than the MoD is now at the top of the Treasury's risk register? I accept it might be the HMRC's bit that is causing this to happen and not the DWP, but is it true? It seems that we are being asked to rush through a Bill where there are major gaps in how it is intended to work and concerns at the very top of Government about the timing and costs of its delivery.

I refer the noble Lord to HMRC's *Improving the Operation of Pay As You Earn: Collecting Real Time Information*, the summary of responses that was issued on 30 September. The ability for these systems to deliver that is crucial to the universal credit and in a number of places both employers and software providers have raised real concerns about the challenging timetable for introducing it. In particular, they say in paragraph 3.13 that:

"Of those respondents who expressed a view on the proposed timescale for the introduction of RTI, as set out in the consultation document, 75 per cent thought it unachievable. Views from those attending consultation meetings echoed this. The timetable for the introduction of universal credit means there is no flexibility in terms of the ultimate go-live date of RTI. HMRC's priority is therefore to migrate the largest number of employments into RTI as quickly as possible—a necessity for the introduction of universal credit—whilst putting in place a migration approach which will protect the overall robustness of the system".

We will come back to this issue with subsequent clauses in the Bill but at this juncture, at the start of our deliberations, we really ought to have an update on what is happening on deliverability in light of these particular comments and publications of HMRC.

I agree with the noble Lord, Lord Kirkwood, that this is not a perfect Bill. We will certainly have common cause with those who wish to press on some of the issues, not particularly around universal credit but some of the other issues around housing benefit and benefits caps generally, and under-occupation, which frankly I see as wicked in some respects. I hope that we can have common cause not only in having a rhetoric which we would support but actually translating that into voting to change this measure.

[LORD MCKENZIE OF LUTON]

To conclude, I echo what the noble Lord said about thanking the Minister and the Bill team for being available on a very consistent basis so that we can actually get fully to grips with what is a very significant change to the system. I hope that in the next amendment we will open up this issue of what the universal credit should be for. Perhaps I should deal with my comments there rather than in response to this first group of amendments, but we also need to reflect on the process that everything is driven by work incentives and everybody who is on benefits lacks a motivation to work. I do not believe that to be true but I will seek to expand on that when we consider the next amendment. Having said that, if the thrust of the universal credit could be made to work and deal with the issues about which we have concerns, I think that would be a real gain for our country, but we are a long way from that and there are too many unanswered questions. I hope that during our deliberations we can get some further information on at least some of those very vital points.

6.15 pm

Baroness Campbell of Surbiton: My Lords, I do not wish to comment on the overarching universal credit and associated issues, but I commend the noble Lord, Lord Kirkwood, on raising the issue of language. Language is absolutely essential not only to the dignity and self-worth of people who receive benefits, but also to what our message is to the world about those who survive because of the support they receive from what will be these welfare reforms. I remember writing about three years ago a very important article entitled *Sticks and Stones, But Words are Hurting!* It was about the issue of language as it pertains to disabled people. I remind noble Lords that disabled people have spent the last 25 years trying to get away from welfare and talk about rights. I would like us to think about this as we go forward.

I, too, will be raising the issue of language when we come to personal independence payments. Noble Lords will recall from the Second Reading debate that I have questioned the term, because it does not fit with what we perceive to be the original and, what we thought would be the enduring, intention of disability living allowance. So language is important and I thank the noble Lord, Lord Kirkwood, for raising the issue at this point. Welfare versus rights is something that we disabled people talk about all the time.

Baroness Hollis of Heigham: My Lords, like others, I thank the Minister and his Bill team for being so accessible and helpful; I genuinely congratulate them. When we can get the material in hardcover rather than on email, I shall be even more enthusiastic and enduring in singing the Minister's praises, which I am sure we all want to do.

I want to make two points, both of them triggered by the remarks of the noble Lord, Lord Kirkwood, and my noble friend Lord McKenzie, which I thought were spot on. First, the main thing is to talk about language. The noble Baroness, Lady Campbell, is exactly right. Until recently, when we introduced a Bill like this it would not have been a welfare reform Bill, it would have been a social security Bill. The gap between social security and welfare is precisely the gap between entitlement and stigma. We forget, when using words like "welfare reform", what is the structure of who pays and who gains in our welfare state. We all know that a very substantial part of "benefit expenditure" is actually a redistribution of resources through people's lifetimes, particularly from the working years to retirement. Our pension work falls into that.

A second key group of redistribution is what we would call the category benefits. They go to children and to disabled people. There are more methods of redistribution than merely from rich to poor. Instead, they go from those without children to those with children; they go from those who are in good health to those in poor health. That is something that all civilised societies would sign up to. Only the third category of benefits, those which are means tested, reflect a straightforward redistribution from rich to poor. They have been allowed to dominate and cloud the language and to stereotype claimants in ways that portray them as dependent on handouts and the good will of others. We should return instead to the more appropriate, all-inclusive language of social security. Apart from the very lucky few, who are probably white millionaires, male and in very good health indeed, all the rest of us will need recourse to the welfare state, to the social security state. We should all hold that firmly in mind and refuse to engage, wherever it is spoken, in language that seeks to make distinctions between the deserving and the undeserving poor—or, as the Victorians would have said, God's poor, poor devils and the devil's poor.

The second point I want to make, which follows that, is the point made rightly by the noble Lord, Lord Kirkwood. I strongly support the principles and much of the structure of the Bill, although, like others, I have real concerns about what I regard as the pressure points. In dealing with the Bill, we must not only be concerned with the question of language, but we must encourage the Minister to respond to those adjustments we need to make, particularly where the language of the amendments run by the Minister, or his replies, may suggest what I call the econometric model of the Treasury, which is that people have to be pained or punished into work, because the only stimulus that they will respond to is an economic one.

What many of us said in our Second Reading speeches, and what I hope we will all remember, is that when we ask people to move from being on benefit to coming into work, whether they have a disability, whether they have been a lone parent, whether they have struggled for a long time with being chronically unemployed because of the demography and the economic structure of their region, the issue for them is not just about whether they are better off; it is primarily about risk. Unless people understand—and I fear that too often the Treasury does not—the issue of risk and the abatement of risk that needs to go on, we are not going to make a success of the Bill. I think that the Minister understands this perfectly well. I think and I hope that he will accept arguments and that where, in future amendments, we seek to abate risk as well as reward work, he will understand that this is in order to make a philosophy that so many of us sign up to work today.

Lord Wigley: My Lords, I pick up that point, which is very relevant to the debates we will be having regarding the concept of risk. I suppose there is never a right time to introduce legislation such as this, and everybody agrees that legislation and changes are needed, but we are having this legislation at a time of considerable economic uncertainty. There is interplay of social security, as I still prefer to call it, with not just those who are out of work, people who are disabled and all the rest, but those who are in work and who have to face a question of risk if they are going to be mobile in terms of their labour contribution. My fear is that the uncertainty that comes along with the Bill—uncertainty to some extent is inevitable in the structure of a Bill where so much of the detail is to be provided by regulation at a later stage—will dampen down labour mobility at the very time when the economy wants to maximise labour mobility in order to get things moving.

A person who is in work who is uncertain as to his or her future and whether, if they move to another job, there is a safety net there, will not take the risk. They will batten down and stick with what they have. Therefore, in our discussion of this legislation it is immensely important that it becomes as transparent as is possible to people outside, within the restrictions of legislation that is so dependent on regulation, so that they understand that there is still a safety net there to provide security in some of the decisions that they have to take for themselves and on behalf of their families.

Lord Newton of Braintree: My Lords, since I appear to be one of a relatively small band of Conservatives in the Room, I think one of us ought to say something. I intend to do so briefly. I was grateful to my noble friend Lord Kirkwood for recognising that some of us might have been in Manchester. If anyone wants to know why I am not, I think I have been to 40 party conferences, and have done my time.

On the main points, I join in the thanks to the Minister and the Bill team who have been great. I support the approach of my noble friend to a debate that comes at the end of a recess, and his suggestion about how we should handle it, which seems to have been tacitly accepted. I endorse his point about the doubtfulness of trying to use withdrawal of social security benefits as a punishment for offences that have nothing to do with social security. I can see that if you have been in benefit fraud then withdrawal of benefit might be appropriate. If your kids do not go to school or even if they burn down warehouses, I am not sure that it is an appropriate punishment to withdraw benefit from the family.

I share the concerns about the language in various ways, both on the use of welfare rather than social security and on the universal credit terminology. We probably cannot do anything about the latter, but the fact is that tax credits in their terminology were always a bit of a con, in my humble opinion. This was reflected in the fact that, although they were classified as tax, it was agreed that appeals should continue to go to social security tribunals not to tax tribunals because the tax tribunals knew nothing about it. That really gave the game away. Whether or not we can change the language, the thought is an important one.

Concerning the remarks of the noble Lord, Lord McKenzie, I emphasise the importance of childcare costs in the whole debate about making it practical for families to work. I hope we shall hear something about that.

I share concerns, in light of some of the reports in the press, that if the IT does not work then to judge from our experience—for example, with the Child Support Agency—you have a potentially difficult situation on your hands. If there is not complete confidence that the IT systems necessary to make this system work will be delivered in time, then the Government should slow down until they are sure that the IT will work.

I have two more points, which will probably be a bit less welcome to my noble friend. I still want to know more about the interaction between the proposals in the Bill and the Legal Aid Bill, which we have yet to come to, and the Localism Bill, all of which have important ingredients, which impact on the same people. I am not clear that there has been joined-up government in considering the combined impact of these proposals.

Lastly—and here I get on very dangerous ground—there was a brief reference in the remarks of the noble Lord, Lord McKenzie, to child benefit. I have already indicated to the Minister in a less formal way that I would like to know how the child benefit changes are going to be dealt with, because I had thought they were going to be in this Bill, and they are not. As I understand it, although I am not sure about this, they are likely to be treated as being in a Finance Bill, which will, of course, severely restrict the ability of this House to say or do anything about them. If that is to be the case, I think we need to know fairly soon.

Equally, we need to recognise that the proposals on child benefit—which I notice the press has suggested that Ministers may be reconsidering, but that is no more than speculation—could be subject to change. I hope that they will be for reasons that I do not wish to go into and it would be wrong for me to develop at length. However, I should flag up that the child benefit proposals, in combination with everything else in the Bill, are one of the things that worry me about an overall policy, which I otherwise strongly support.

6.30 pm

The Earl of Listowel: My Lords, I would like to join my thanks to those made this afternoon, and to speak briefly about the importance of involving employers, about the governance of Jobcentre Plus, and briefly about housing.

I thank the Minister for the help of the civil servants. There were a number of very helpful briefing meetings which were most welcome, and I am sure this will continue.

The noble Lord, Lord Kirkwood, raised the issue of involving employers, and if I might I will give an example of how effective that can be in terms of reaching the most hard to reach people out there.

There is a programme, started by the National Grid utility about 10 years ago, led by their chairman, Sir John Parker, which employs young people from within the criminal justice system, and has reduced the

[The Earl of Listowel]
reoffending rates among those young people from 70 per cent to below 7 per cent. National Grid has brought in a number of other partners, such as the engineering firm Skanska and another engineering firm Morrisons, and other businesses have been joining in such as software businesses. Because this has come from businesses they have been able to build trust among other employees, and while it would seem most unlikely that many of these companies would wish to employ people from the criminal justice system, in fact they found that because they have made the effort to recruit these young men—they have given them the training and the promise of employing them if they complete the training—those young men have become loyal employees, and have actually risen quickly up the managerial ladders of these companies. They are filling a gap, because these companies have an aging workforce and they need young people to enter their firms.

That is a very important point, and it brings me again to think about whether employers are firmly enough plugged in to the governance of Jobcentre Plus. I hope to table an amendment later in the Bill which will look at how one might perhaps involve more of the stakeholders in the running of Jobcentre Plus. I will not expand too much on this now, but if you look at the example of the Youth Justice Board, which has proved so successful since its introduction about 10 years ago, its chairman is a former chief executive of a local authority, so she can go to chief executives and directors of children's services in local authorities and explain to them how important it is that they provide employment and find housing for these young people who leave young offender institutions if they are not to reoffend, cost the taxpayer huge sums of money, and ruin their own lives. So I will bring that amendment later.

I am certainly very concerned about housing, but I am grateful for the signals from the Government, who listen very carefully to concerns, and I look forward to that debate. I will sit down at this point, but I am very grateful to the noble Lord, Lord Kirkwood, for allowing this opportunity for a broader debate at the beginning of the Bill.

Baroness Howe of Idlicote: My Lords, I shall comment briefly on a couple of the speeches that have been made. The way the noble Lord, Lord Kirkwood, introduced the whole of this absolutely explained my frustration and irritation at the short amount of time any of us have been given to do anything at all with this Bill. The noble Lord's hard look at the use of language was very illustrative too, and that has of course been added to as far as things like social tax and other points that have already been made.

Above all, I hope that it will help us, because the atmosphere has not been particularly good regarding the whole of the way in which this has been arrived at between the usual channels. To have a little debate like this, setting the scene, will I hope influence how we all approach what we are going to be dealing with. I will leave it at that, but I have been very impressed, let me put it like that, particularly by what the noble Lord, Lord Kirkwood has said, and by the way he set the scene for the opening.

Baroness Campbell of Surbiton: I am sorry, my Lords, I wish to make an addition to my comments. In my eagerness to thank the noble Lord, Lord Kirkwood, I forgot two very important things. One was that I wanted to thank the Bill team and the noble Lord, Lord Freud, for all their help that they have given to me personally and to people who I have been working with in trying to get my head around this very complex Bill. I am sorry that I forgot my thank-yous.

The other is that the Committee will know that I was one of the people who complained bitterly about coming into this Room. I am afraid that I am not happy that we are here. Yes, I love this lovely desk and the fact that my PA is able to help me to drink, but three important things were forgotten. First, no one asked me what it was going to be like for me to participate in this Room. No one came to us, and that is the lack of consultation that we often complain about outside this building to local authorities. In the Disability Discrimination Act, the number one rule is that you must consult, but no one consulted me personally.

Secondly, it is a good job that I have an Olympian, the noble Baroness, Lady Grey-Thompson, next to me, because she can reach to push the button on this microphone. There is no way that I can do that. No one asked me, and I do not particularly like having to ask every time that a thought comes into my head and I wish to intervene.

Thirdly, the reason why I have that office on the Principal Floor, probably three minutes away from the Chamber, is that at any moment I may have to leave the Chamber and go to my room where I might be assisted to breathe properly. It is dangerous in this Room.

I wanted Members to think about that and remember that consulting the person who experiences impairment is the number one rule. I do not want to shame noble Lords, but I have to tell them this because it is important that we in this House remember equality for all. Sorry about that.

Lord McKenzie of Luton: I am very disturbed to hear what the noble Baroness, Lady Campbell, has just said about lack of consultation. In our dealings with the Whips Office we made it clear that what might be satisfactory to us would have also to be satisfactory to the noble Baroness and her colleagues. We made clear that we could settle on an alternative room only if it had the noble Baroness's agreement. If that has not happened, it is a real failing. Perhaps we cannot do anything about it now, but I ask the Minister to take that issue back as we had assurances to the contrary.

Baroness Thomas of Winchester: My Lords, I would like to add a brief word. I hope that the Committee does not mind if I do not rise to my feet, as it would take rather a long time. I, too, am disturbed by what the noble Baroness, Lady Campbell, has said, but I think that the people who have done the work in this Room have done a terrific job and I commend them. They have worked extremely hard to make the Room as comfortable as they possibly could, and they have done a much better job than a lot of us thought they

would be able to do. I am sorry that the noble Baroness, Lady Campbell, was not consulted but they have done a good job in making the Room comfortable.

Baroness Morgan of Drefelin: My Lords, it is important that we in this Room remember that we are being observed by the world outside. How we respond to the needs of disabled Members of our House reflects more widely the respect that we show to disabled people in our society. Getting this Committee right is important, not just for noble Lords who wish to participate but for building confidence among communities outside this House that they are being taken seriously and that their concerns have been raised and heard within this House too. I am sure that the Minister is well aware of that. I know that there have been concerns about the way that we are conducting this Committee, and we are doing that in public, rightly so.

The Earl of Listowel: I hope that the Committee will forgive me; I omitted to declare my interest when I spoke about the work of National Grid Transco. I have received hospitality from them on a number of occasions and I have declared that.

Baroness Grey-Thompson: I was asked yesterday morning to come into this room and check for accessibility. I came in at 2.15 pm to check that there was enough room and we are fortunate that a huge amount of work had gone on to make sure that there was enough space for wheelchair users who might come to speak or to deal with various colleagues' needs. On the point about voting, my personal view is that it is incredibly important that if I take part in a vote, I actually walk, or push, through the Lobby. As much as being able to see my name in a list, it is important to me that Members of your Lordships' House see which way I push. If there is a Division—I hope not today—I will be going to vote and that is something important that we should all have the opportunity to do.

I know that not all my fellow Peers feel as strongly about walking down one of the Lobbies as I do, but it is very important in terms of democracy.

Baroness O'Loan: I have a brief point in support of the noble Baroness, Lady Campbell. As we later consider the disability living allowance and the PIP which will replace it, we need to bear in mind that our understanding of the consequences of living with disability is limited. We demonstrate that by the way in which we conduct our business. People will judge the extent of our understanding in the discussion we have about social security arrangements for them. It is a hugely important issue.

Baroness Meacher: I support that strongly. If one of our Members is actually at risk, maybe the usual channels need to reconsider whether this Committee can be held in this Room. I do not believe that any work can be done by this House if a Member is at risk and feels that they may not be able to breathe. I urge the usual channels to revisit that issue.

Could I ask the Minister three quick questions. One is strongly in support of the point made by the noble Baroness, Lady Hollis, that risk is more important than the idea of getting an additional 24p in the pound—or whatever it is—for every pound one might earn in employment. I know the Minister is as conscious as I am about the special needs of people with mental health problems in relation to risk.

This is a group who may desperately want to work, but who are locked out of employment because of the understandable concerns of employers about taking them on. I know this is much in the Minister's mind. Has a real assessment been made about the impact of this Bill, geared to economic incentives, on that large group of claimants, particularly on ESA, in terms of the risk that they face? I have been talking about this Bill to a lot of service users, patients, in east London and they all refer to being terrified. Understandably, this might not have been fully taken on board by the drafters of the Bill, the Bill team and all the other people involved. Is the Minister satisfied that the depth of that issue and its importance to a very large group, something like a third or more of claimants in the employment service, on ESA, has been taken on board? That is the first question.

The second one concerns the point raised by the noble Lord behind me about the IT system. We all know about the NHS IT system: it was all going to be wonderful and we were looking forward to it. It was about integrating databases, computers and suchlike. It failed and failed and failed and cost billions. Does the Minister have an estimate of the timeframe for the integration of the Inland Revenue and DWP computer systems? I think that that is the project: obviously he will correct me if I am wrong. Also, what confidence does he have in that estimated timeframe and what is the evidence for his confidence if he has it?

My third point concerns DWP staff training. Can the Minister, again at this early stage of the Bill, give some assurance to the Committee about the level of funding going into the training of DWP and other relevant staff to ensure that they can understand the complex issues around capacity to get into employment? I have mentioned this story before. In conversation with a Jobcentre Plus manager, I asked how they dealt with people with mental health problems. The answer was: "We don't". I asked what happened and the answer was: "They become homeless and go back into hospital". As somebody responsible for a mental health trust, I would be interested to know whether the Minister is satisfied that in future DWP staff and others will be adequately trained. Our trust and others will not be able to finance large numbers of people coming into hospital who at the moment do not do so.

6.45 pm

Baroness Campbell of Surbiton: I should like to intervene quickly to put noble Lords' minds at rest. On a point of information, I am not putting myself at great risk, so noble Lords should feel quite relaxed. I promise that I will not ask them to perform CPR. I will just make the point that it is a risk I am happy to take, and my responsibility. I take it every time I attend a meeting that is quite far away from my room. My issue was that I was never asked personally: that is all. It is a simple point.

The Deputy Chairman of Committees (Baroness Gibson of Market Rasen): My Lords, before we continue, perhaps I may explain something to noble Lords that may help our sound broadcaster. The Room has been set up so that nobody needs to touch anything. Noble Lords do not have to switch anything on or off. The Room has been set up so that we can all speak without anybody having to touch anything. I offer that explanation to noble Lords.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): My Lords, before I deal with the amendment, the stand part debate and the clause, I have to take on board what the noble Baroness, Lady Campbell, said, and her expression of concern. I do not have an answer for her now, but I will go back and get one and make sure that her concerns are addressed in the most thorough way possible. If things have not gone appropriately, I apologise unreservedly.

Before I turn to the amendment in the name of my noble friend Lord Kirkwood, let me talk a bit about the universal credit. Clause 1 establishes universal credit as a new benefit under the provisions of Part 1 of the Bill. This is a modern, simplified benefit, available both to people who are in work and those who are out of work, instead of claiming a number of benefits and tax credits from different sources, as happens currently.

As the Committee will know, the Government are determined to reform the welfare system to make it fairer and more affordable while addressing the problems of poverty and dependency on welfare. Universal credit is at the heart of this strategy. I welcome the support from the noble Lord, Lord McKenzie, for the principle of universal credit. While I am on that point, a number of noble Lords have thanked my Bill team for their accessibility and requested that that continue and I can again give an assurance that we will lean over backwards to continue that accessible approach. The reason is entirely one of self-interest, and when I say self-interest, I mean the interest of the governance of this country. It is vital that we have a proper debate on this very important Bill. A number of noble Lords have pointed out that this is a really important, transformative Bill and it is important that we address the issues properly and with full knowledge. That is why we have this very accessible approach.

We are currently updating the impact assessment—we have been working with a rather out-of-date one—and I am hopeful that we will be publishing that soon.

Baroness Hollis of Heigham: Could the noble Lord help us a little more? Some of us, in our amendments, are relying quite heavily on the impact assessment figures and we would not want to mislead the Committee by using figures that will be replaced quite quickly.

Lord Freud: Yes, I think that they will be replaced quite quickly. I cannot give the actual date or time now, but I think I am safe to say, "Soon".

Baroness Hollis of Heigham: A week? A month?

Lord Freud: "Soon" is closer to a week than a month.

Baroness Hollis of Heigham: Thank you.

Lord Freud: We will get a code. But even the current impact assessment shows the transformative effect of universal credit when it is fully implemented. The combined impact of take-up and entitlements may lift hundreds of thousands of individuals out of poverty, including as many as 350,000 children. The vast majority of gains from universal credit will go straight to the poorest households.

I shall pick up the point made by the noble Lord, Lord Wigley, and the noble Baroness, Lady Meacher, on risk. By combining, effectively, out-of-work benefits and in-work tax credits, we effectively de-risk moving from one category to the other and that is a very powerful incentive for the poorest people to take a risk. One other aspect of it which I have been very conscious of as we develop the whole approach is that it is the best way of dealing with fluctuating conditions. You can move, take a risk and work for some months without being terrified that, if it does not work out, you have lost your benefit support structure, because you are just moving up and down the taper. So, from the aspect of risk, universal credit has huge advantages and it is one of the main drivers of our expectation to see many fewer workless households.

Baroness Meacher: I agree with the Minister that that is one of the great things about the universal credit—on the assumption, and this is the second point that I made, that the systems are properly integrated. As I understand it, this wonderful moving in and out of work, with your benefit going up and down as your earnings do the opposite, depends on the integration of those computer systems. My concern is that if the Bill goes through and the universal credit comes in but the IT systems are not ready, then I would have thought that the whole thing would be undermined. I would be interested to know the Minister's response.

Lord Freud: I thank the noble Baroness. I will leave that till a little later; a number of noble Lords have raised concerns about the IT infrastructure.

To return to the structure of the universal credit itself, the single taper on earnings means that claimants will clearly see how the universal credit award decreases as income from earnings rises, making work financially rewarding for everyone. Alongside the work programme, universal credit will ensure that claimants have a route out of poverty through work rather than a lifetime on benefits—or on social security, depending on language; I will touch on language in a minute as well. I hope, and I hear from noble Lords in terms of principle, that there is general support for this approach.

The participation tax rate assesses the proportion of earnings that are effectively lost through tax and benefits on starting work. The dynamic effect of universal credit means that over 1 million fewer households will face participation tax rates over 70 per cent.

We will also tackle the issue of high marginal deduction rates, which undermine the incentive to increase earnings or hours once someone is working. Under the current welfare system, people in work can gain as little as a 4p increase in their take-home pay for

every £1 increase in earnings, and people on out-of-work benefits could see a pound-for-pound reduction on their benefit.

On the questions raised in this area by the noble Lord, Lord McKenzie, regarding the numbers of people who face higher and lower marginal deduction rates, the impact assessment confirmed that 2.1 million individuals will have higher rates under universal credit but that the median increase will be comparatively small, at about 4 percentage points, and many of those will be households with above-average income for universal credit claimants, moving from a marginal deduction rate of 73 per cent to 76.2 per cent. Some 330,000 second earners will face higher rates, compared with 140,000 with reduced rates. The median increase is higher for this group, reflecting the fact that second earners already tend to have lower marginal deduction rates. As the Committee will know, the impact assessment also addressed the issue that some second earners might move out of work, but we are still expecting the net effect to be a large reduction in those who are workless.

On my noble friend Lord Newton's concern about child benefit and the debate around that, the best that I can do today is to commit to taking that up with Treasury colleagues and find out what the process is. Again, I will revert.

I return to the universal credit. The way that it will tackle the problem of very high marginal deduction and participation rates is to have a consistent taper of 65 per cent. Overall, this produces substantial improvement in those marginal deduction rates. About 700,000 people who currently have rates above 80 per cent will benefit from it. I turn to IT.

7 pm

Lord McKenzie of Luton: On the impact of the taper rates, does the Minister agree that, if you have council tax benefit or its replacement outside the system, you simply cannot be sure what the effect of the withdrawal and taper rates will be? Can you include that benefit?

Baroness Hollis of Heigham: I reinforce my noble friend's point. As every council tax taper will differ from district to district, and there are some 300 to 400 of them, it will be impossible for anyone to predict who gets what.

Lord Freud: We will have a debate on this matter rather soon, but maybe not today. The only way I can respond is to point out that, depending on how we adjust the system to have what is effectively a tax rebate system outside the universal credit, we could see different effects. Rather than prejudging this, I will reserve that information for another day. We will have plenty of time to deal with it.

I have been asked about IT by a number of noble Lords, including my noble friend Lord Newton, the noble Lord, Lord McKenzie, and the noble Baroness, Lady Meacher, among a few others who have some concerns. We have gone through a huge process of external assessment by the Major Projects Authority, which is a continuous process in stages. The most recent independent review stated a high level of confidence that the expert teams that we have assembled will see us deliver the programme. The review team said that we had made an impressively strong start.

The programme is on time and on budget. It is being developed in a radically new way to government programmes. The difference is that in a traditional government programme the whole system is built, trialled for a few months and then introduced. This system is being built in layers so that we can trial each layer as it develops and test it with customer insight. That process is happening. One of the things that we can do today is take some particular claimant types through the system. I am planning a demonstration for noble Lords later this month to take them through this process, because when they start to see the different elements coming together there will be a much better basis for understanding.

In my confidence, I can quote only these external sources; my own views are perhaps less relevant. The external sources are holding the programme up as an exemplar of how the Government should develop IT. We will be getting these external reviews regularly at each of the difference gateways, so it will be monitored externally very carefully. I have no knowledge of where this is on anyone's risk register, so I cannot answer that particular question put by the noble Lord, Lord McKenzie. Obviously, though, any big programme is going to be looked at to ensure that it is being done to time and to budget. That is just governance.

I think there is a lot of confusion in the external world between what is an appropriate level of governance and external monitoring of an important, big programme, and the fact that there are always risks involved in developing it. I responded to the article in the *Telegraph*, saying that this was a programme on time and on budget. Basically, the article was misleading and I stand by that letter.

Baroness Meacher: I wanted to turn the question around another way. The Minister rightly says that there are always risks in these things. If, in fact, the IT system is not ready when the plan is for this Bill to be implemented, will the Minister give an assurance that there will then be a delay in the implementation of the Bill until the IT system is ready? If not, I go back to my other point about the risks, fears and so on. If there is a lot of change and reassessment, which we know are going on anyway, it would be helpful to have an assurance that, as he says, they would then have a system that would deal with a lot of the problems of the current system. It would be extremely helpful if the Minister could give us that assurance.

Lord Freud: I thank the noble Baroness, Lady Meacher, for that. I am at a slight loss at how to respond, in case it is an "Am I beating my wife?" question. I am getting some help from the Box. The universal credit will be built on a computer system, or rather a pair of medium-sized computer systems. We have a careful introduction process. One of the options we had, if I can explain it in layman's terms, was that we could have picked everyone up electronically out of current

[LORD FREUD]
systems, moved them over and dropped them into the universal credit, with effectively a Big Bang approach—go for it.

That would have been the conceptual framework in which the noble Baroness asked her question. We are not doing that. We are moving people into the system over an extended period. We will start with the flow in October 2013, and then as we get the system working we will have some managed migrations over a four-year period. It is not the Big Bang approach—where you wait for the thing to go, and then you throw everyone in—that one might envisage. It is a much more considered, steady, incremental approach. Indeed, we are developing the actual IT by using elements and units of what we have much more incrementally than it might seem from outside. That is one of the things that I will try to show noble Lords when we have the presentation; indeed, it will be a wider presentation for all parliamentarians. I see that a few in the Room may be very interested.

Baroness Howe of Idlicote: I am trying to visualise in my mind what you are doing with your groups. What worries me is the older group, who may not be quite as alert to the modern methods of IT and may find it not as easy to move around and get the right information via an IT system. It would be helpful if you could answer that point, or take it into account when setting up your demonstration.

Lord Freud: Yes. Picking up on that point from the noble Baroness, Lady Howe, one of the most complicated areas in practice is not the development of the IT system; it is the interface between the user and that system. We must develop, and are developing, a sophisticated set of gateways. There are a lot of issues to get right surrounding identity assurance, ease of use—which we are doing a lot of work on—and where you go to get access when you do not have broadband in your home or do not necessarily understand how to use programs. Getting that help right and balanced is something that we are spending a lot of time and energy on. I accept the noble Baroness's point: that is one of the key issues to get right.

Lord McKenzie of Luton: The noble Lord is clearly impressively knowledgeable around all this. He said that the systems were being built in layers, and that he would be able to demonstrate to us that some of them are actually working now. Are they working on the basis of collecting real-time information for the individuals represented in those layers?

Lord Freud: No. I shall explain to the noble Lord, Lord McKenzie, exactly how this works. We are building a system so that certain types of people can apply and run their universal credit. That is not a small trial; that is the mainframe system equivalent. The first type is a simple claim; I think he is personified as "Tom"—I forget his surname. We have pulled in a lot of Toms and run a customer insight with them to run through how they would interrelate with the system. The next stage has been to work out how we have a joint claim. Yasmin and Liam are the two joint applicants. They are both committing as a joint claim because it is a household claim.

Noble Lords who are interested in this area—I suspect that quite a few are—will find this fascinating as we run through it. I am waving my hands to try to give the Committee an image, but I cannot do it. I much prefer to have a screen to run through things on.

I want to leave noble Lords with a reassurance that this is happening. The programme is going to time, and it is going to budget.

7.15 pm

Lord Newton of Braintree: I wonder if I could intervene from a sedentary position. I think all that the noble Baroness, Lady Meacher, was seeking was a simple assurance: if at some stage it becomes clear that the next bit will not work, will Ministers change the timetable? That is not a "beating your wife" question. It is simple and straightforward.

Lord Freud: It is never that black and white. When you build a system in stages, the issue is how partial or complete the system is. There is a decision to be taken around the level of partiality. If there were to be a delay—and as I say, there is not—clearly, one would have to be realistic. If there were some other problem and it did not work at all, again one would have to be realistic.

Lord Newton of Braintree: I will accept a commitment to be realistic.

Lord Freud: I am most grateful to my noble friend. I shall continue dealing with the questions. My noble friend Lord Kirkwood was interested in the interrelationship with the Social Security Advisory Committee, which, as he pointed out, has a statutory duty to examine all social security regulations. Any regulations for universal credit that rely on existing legislation—for example, those relating to claims, and awards and payments to joint claimants—will therefore be subject to full SSAC examination. I accept that there are large parts of the Bill that introduce new regulation-making powers. In these areas, the committee may not have its former role, but I assure noble Lords that we will continue to talk to the committee and use the arrangements currently in place allowing us to provide it with information on new powers and the regulations made, within six months of the commencement of those powers.

On the question raised by the noble Lord, Lord McKenzie, on how the system will cope with, for instance, a self-employed and an employed member of a household, any earnings received through the PAYE system will automatically be taken into account even though they may be from one or more PAYE sources. We will clearly need to take assessment of non-PAYE earnings through some other tool, and we are looking at developing a self-reporting tool to provide us with earnings information.

A number of noble Lords raised the issue of language, including my noble friends Lord Kirkwood and Lord Newton and the noble Baronesses, Lady Hollis and Lady Campbell. I have to agree that language is extremely

important. There are quite a few issues around it; some involve European legislation on exportability, so sometimes there are some constrictions. I see universal credit as a support for those who need it, whether they are unemployed, disabled, a lone parent or working for a relatively low income. We want universal credit to support as many people into work as possible.

I will come to the language issue around the name "universal credit". One of the things about the word "credit" is that it carries with it a sense of entitlement, and I know that a lot of noble Lords are concerned about that. There is some language around that, and that is why the term was chosen in the case of tax credits. There is a sense in which it is a credit; there is an entitlement there.

I was asked by the noble Baroness, Lady Meacher, about allowances for training of staff—clearly, one does not have a transformative project such as this without having properly trained staff. The total budget that has been set aside to fund the transition, including administration costs, is £2 billion. Training is a crucial element of that.

Amendment 1, raised by my noble friend Lord Kirkwood, would rename universal credit. His title, "working age entitlement", is a straw man, as he said. It is fair to ask where "universal credit" comes from. It has its origins in the financial dynamics paper, although the noble Lord will know if he remembers that paper well that there were two different credits. In this case, they were boiled down into a single credit for all people on working-age, means-tested benefit. That is where its universality resides: it captures everyone in that category.

One of the attractions of having one word to capture all working-age benefits is that we have two systems today, an out-of-work benefit system and an in-work tax credit system, and the differentiation between them has made it harder to move from one to the other. That is where the discrimination and the differentiation are; that is where the apartheid—if one wants to use an ugly word—lies. That is the gap that we are trying to remove. There is not a real gap, as noble Lords have pointed out today, between those who are unfortunate enough to be out of work, or those who have a disability or fluctuating condition that means that they cannot reliably go into work, and those in work. There is no hard line between the two, nor do we want there to be. We want people to be able to flow across easily. It is because we have two different systems that we have made it so much harder. That is what we are doing with the universal credit, and that is what lies behind our reason for calling it that. As the noble Lord said, what's in a name? It may seem rather a wide name—"universal"—but it reflects the fact that a whole range of needs will now be met through a single payment rather than by a piecemeal and confusing jumble of benefits and credits. I therefore urge the noble Lord to withdraw his amendment.

Baroness Hayter of Kentish Town: I have two questions arising from what the Minister has said. The first is on the current impact assessment—we look forward to the new one soon—of the number of children who will be helped. I think that the figure was 350,000. Was that figure reached before other changes to the benefits system were taken into account, given that the IFS has estimated that child poverty will rise in 2013? The second question, briefly, is on IT. I was involved with some of the IT systems for automatic enrolment with NEST. I should like the comfort of knowing that these two will also be well connected.

Lord Newton of Braintree: Before the Minister responds to that, may I chip in? The one thing that has not been touched on—I noticed that the noble Baroness, Lady Howe, was a bit agitated about this as well—is childcare costs. There was no comment on this.

Lord Freud: The noble Baroness, Lady Hayter, asked two questions. The child poverty impact that I cited from the impact assessment refers to the universal credit alone. It does not incorporate the other changes that there may be. On IT, we are working very hard to make these systems work together smoothly. The third issue, raised by my noble friend Lord Newton, was on childcare. I have had a supportive word from the Box, which I shall seize and use: I hope to be able to inform him and other noble Lords soon about our childcare arrangements.

Lord Newton of Braintree: What does "soon" mean?

Lord Freud: I think we have developed a code for "soon", which I need not go on about again.

Lord Newton of Braintree: On this occasion I will accept not just realism but good will.

Lord Kirkwood of Kirkhope: I am grateful to all colleagues who have taken part in this debate. I hope it has fulfilled its purpose of scoping out exactly where the Committee is going. I understand that colleagues want to finish at 7.30 pm. I cannot but welcome my mentor, the noble Lord, Lord Newton, who was Secretary of State for Health and Social Security under Margaret Thatcher and succeeded in spite of all these things. It is a particular delight. I should like the Minister of State to pay particular attention to what the noble Lord says because he knows what he is talking about. I know this because I have followed his career for many years.

We obviously need a code for this. An Enigma machine might be purchased so that we can understand what "soon" really means, and issues of that kind. That will help the Committee. I certainly want to sign up for the demonstration of Yasmin and Liam when it comes. Apart from anything else, I have a drink riding on this. If this system works, I owe the Minister of State at least a double whisky or whatever his poison is. I want to be deeply involved in all these processes related to IT.

I have two other very quick points. It is true to say, and reassuring to hear, that SSAC has that role, and that the Minister clearly understands its importance in this process. He will know that it has never had the same formal process of review over tax credits that it had over the benefits system. We need to be careful

[Lord Kirkwood of Kirkhope]
about that. If the Government are not careful and start hiding behind that technicality, it may be more difficult for SSAC to look at the successor benefits to tax credits and working tax credit, which would be a shame. I would not mind some reassurance on that.

Just for amusement, I discovered that the word "regulations" appears 380 times in the Bill.

Lord Freud: My noble friend asked for some reassurance in the area of tax credits. Under the universal credit, it will effectively become part of the responsibility of the DWP and therefore become overviewable and reviewable by SAC. Whereas I might have been a little coy in giving some other assurances today, I can absolutely uncoy about this one.

Lord Kirkwood of Kirkhope: There is no need for code for "coy". In the last minute available to me, the one thing I want to say is that if we are getting this level of co-operation from the Bill team, I am willing to do more work. We do not normally do it this way. With new, technical social security Bills, the default position is to table amendments to clarify and bring the thing into focus. Speaking for myself—I speak for nobody else—I am willing to do more of that work with the Bill team if they are available. As the noble Lord, Lord McKenzie, said, we often share rhetoric but we should, as a Committee, try to drill into the dozen issues that are the real hot spots. I think that is what the pressure groups are hoping for with this Bill. I am certainly up for that. That is a much better way to proceed than splattering amendments, as I did with Clause 1 and for which I apologise; I will not do that again. We will take the length of time that we need to take, but if we get the hot spots ironed out sensibly it will be to the benefit of not just the Committee but the whole House and the implementation of this policy, which it is so important that we get right.

Again, I am grateful to colleagues who have taken part and to the Minister for being so generous in responding. We are now a minute late. I now withdraw the amendment.

Amendment 1 withdrawn.

Lord De Mauley: My Lords, perhaps this might be an appropriate moment for the Committee to adjourn until 2 pm on Thursday.

Committee adjourned at 7.31 pm.

Written Answers

Tuesday 4 October 2011

Bats

Question

Asked by ***Lord Marlesford***

To ask Her Majesty's Government over which roads the Highways Agency has constructed bridges for bats in each year since 2008; what was the cost of each such bridge; and where further bat bridges are under construction or planned. [HL11760]

Earl Attlee: The table below provides detail regarding which roads the Highways Agency has constructed bat bridges over in each year since 2008, the respective cost, and where further bat bridges are planned.

Scheme	*No of Bridges*	*Total Cost*	*Status*
A38 Dobwalls Bypass	2	£300,000	Constructed
A590 High and Low Newton Bypass	1	£84,000	Constructed
A69 Haydon Bypass	1	£60,000	Constructed
A595 Parton to Lillihall Improvement	1	£34,000	Constructed
A11 Fiveways to Thetford Improvement		Not known until detailed design has been finalised	Planned

BSkyB

Question

Asked by ***Lord Myners***

To ask Her Majesty's Government, further to the Written Answer by Lord Strathclyde on 5 September (*WA 17*), whether they will answer the question of the involvement of Mr Andy Coulson in the decision to remove ministerial responsibility for News Corporation's bid for BSkyB from the Secretary of State for Business, Innovation and Skills. [HL11778]

The Chancellor of the Duchy of Lancaster (Lord Strathclyde): As has been set out, this was the Prime Minister's decision alone.

Cyclists: Accidents

Question

Asked by ***Lord Kennedy of Southwark***

To ask Her Majesty's Government, further to the Written Answer by Earl Attlee on 14 September (*WA 47*), what actions they will take to reduce cycling accidents. [HL11928]

Earl Attlee: We take the issue of cycle safety very seriously. Everyone who uses the highway has a responsibility to behave safely and with consideration for others. In May we launched the Strategic Framework for Road Safety (http://www.dft.gov.uk/publications/strategic-framework-for-road-safety), which sets out our approach to continuing to reduce killed and seriously injured casualties on Britain's roads. In addition the Government are also progressing measures with regard to improving European vehicle safety regulations, supporting Bikeability cycle training for the rest of this Parliament, raising the standard of lorry driver training, and promoting the Highway Code. There is also a range of measures that local authorities can take, for instance safer road infrastructure, cycle lanes, local safety campaigns, 20 mph zones and better traffic management. These will, however, depend on local decisions and need to reflect local priorities.

Disabled People: Cars

Questions

Asked by ***Lord Marlesford***

To ask Her Majesty's Government how many cars are currently provided at public expense to disabled persons. [HL11684]

To ask Her Majesty's Government whether the running costs, including fuel, insurance, licence and repairs, are provided at public expense to those disabled persons who have been provided with cars. [HL11685]

To ask Her Majesty's Government what has been the total cost to public funds of supplying cars to disabled persons in each of the past three years. [HL11686]

To ask Her Majesty's Government what is the policy for replacement of cars supplied to disabled persons, in terms of age of vehicle or miles travelled; and what is the method used for disposal of vehicles which have been replaced. [HL11687]

To ask Her Majesty's Government what restrictions there are on who is entitled to drive cars which have been supplied at public expense to disabled persons; and what restrictions there are on the purposes for which they are used. [HL11688]

To ask Her Majesty's Government what are the criteria for the supply of cars at public expense to disabled persons; whether a doctor is required to certify the need for a person to be supplied with such a car; and how frequently the need is reassessed in each case. [HL11689]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): The criteria for receiving a Motability vehicle is receipt of the higher rate mobility component of disability living allowance or war pensioners mobility supplement. Provided they have at least 12 months remaining of their award, recipients may choose to exchange all or part of that component for a Motability vehicle. Motability vehicles are therefore not supplied at public expense, and Motability is largely self-financed.

Motability is an independent charity and is wholly responsible for the policies and administration of the Motability scheme. Specific questions relating to the operation of the scheme should be directed at Motability and can be sent to: Declan O'Mahony, Director, Motability, Warwick House, Roydon Road, Harlow, Essex CM19 5PX.

The only direct funding the Department for Work and Pensions gives the scheme relates to the Specialised Vehicles Fund, which Motability administers on our behalf. The Department for Work and Pensions regularly meets Motability to discuss the performance of the Specialised Vehicles Fund. Information on the amount of funding allocated to Motability in respect of the Specialised Vehicles Fund and its administration in each of the past three years is contained in the table below.

Funding for the Specialised Vehicle Fund and its administration over the past three years

	Specialised Vehicles Fund (£'000s)	*Administration (£'000s)*
2008-09	17,036	2,960
2009-10	17,036	2,208
2010-11	17,036	1,208

Notes

1. The Specialised Vehicles Fund provides financial assistance to those severely disabled scheme customers who require complex vehicle adaptations to their Motability vehicle that allow them to enter a car as a passenger while remaining seated in their wheelchair or enables them drive their car whilst seated in their wheelchair.

Disabled People: Harassment

Question

Asked by ***Lord Morris of Manchester***

To ask Her Majesty's Government what steps they are taking to counteract disability-related harassment. [HL11844]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): Disability-related harassment is unacceptable and has no place in a civilised society.

The Government are working with disabled people and their organisations to improve the recording and reporting of hate crime. Schemes such as True Vision now allow people to report hate crime online without going directly to the police, and we are publishing central statistics on hate crime for the first time. Other work under way includes considering ways to enable more reporting of hate crime to third parties, ensuring an effective response to hate crime locally, and looking at ways to improve the handling of such crimes by the criminal justice agencies.

The report of the Equality and Human Rights Commission's inquiry into disability-related harassment sets out a number of detailed recommendations. We will respond to the report in due course.

Driving: Licences

Question

Asked by ***Baroness Smith of Basildon***

To ask Her Majesty's Government which countries issue driving licences that are recognised as valid in the United Kingdom; how long those licences are recognised as valid for; and which countries issue driving licences that are not valid in the United Kingdom. [HL11938]

Earl Attlee: Driving licences issued by European Union (EU) member states are recognised as valid until they expire.

Holders of driving licences issued in non-EU countries may drive small vehicles (motorcycles and motorcars) for a period of 12 months.

After 12 months, holders of driving licences issued in a country that has been designated in law for exchange purposes must exchange their driving licence for a British equivalent to continue driving in GB. The list of designated countries can be found at: http://www.direct.gov.uk/en/Motoring/DriverLicensing/DrivingInGbOnAForeignLicence

To continue driving beyond 12 months, drivers from all other countries must apply for a provisional driving licence and pass the relevant driving tests.

Government Departments: Procurement

Question

Asked by ***Lord Hunt of Chesterton***

To ask Her Majesty's Government, following the report of the Science and Technology Committee *Public Procurement as a Tool to Stimulate Innovation* (HL Paper 148), whether they will consider including the objective of improved innovation in public procurement in the job description of managers responsible for procurement in government departments and agencies; and if so, whether this will also include promoting such innovation to assist United Kingdom exports. [HL12006]

Baroness Garden of Frognal: The Government recognise the importance of building strong procurement capability, and the Cabinet Office has set up a Capability Improvement Programme, which aims to develop the skills of Civil Service procurement staff. The Capability Improvement Programme will raise the level of expertise across central government, ensuring that procurers have the right skills to deliver what is expected of them and are better equipped to foster innovative solutions where these deliver value for money.

Further details of this programme can be found in the Government's response to the House of Lords Science and Technology Select Committee's report, *Public Procurement as a Tool to Stimulate Innovation*, which can be found at: http://www.parliament.uk/documents/lords-committees/science-technology/publicprocurement/GovermentResponseAugust2011.pdf.

Government Departments: Staff

Question

Asked by ***Lord Marlesford***

To ask Her Majesty's Government what initiatives have been taken over the past 10 years to encourage government departments to ensure that the staffing of Ministers' private offices reflects the full diversity of the United Kingdom. [HL11817]

Baroness Garden of Frognal: The Government are fully committed to developing a representative workforce in all areas of the Civil Service. Respecting and valuing differences will help ensure that government policies and services reflect the needs and experiences of the people we serve.

In 2005, the Government launched "Delivering a Diverse Civil Service: A 10-Point Plan" to drive forward the commitment to diversity over the three years to 2008. This was an ambitious plan at the centre of Civil Service reform aimed at helping to achieve a more diverse workforce to make the Civil Service better equipped to deliver, adapt and innovate.

In 2008 "Promoting Equality, Valuing Diversity—A Strategy for the Civil Service" was launched. This strategy built on the 10-point plan and earlier achievements and reflected the drive to mainstream equality and diversity further into every aspect of government business. This strategy also enables the Civil Service to fulfil its data transparency requirements under the Equality Act 2010—including monitoring of age, sexual orientation and religion or belief; as well as race, disability, gender and gender reassignment.

The Civil Service is committed to various initiatives to address under representation issues, for example:

Leaders UnLtd launched in 2007. This is a Civil Service talent development programme aimed at women and black, asian and minority ethnic (BAME) staff at grades 6 and 7 with the potential to progress to the senior Civil Service; and

Whitehall Internship Programme launched in 2011. This comprises three complementary internship schemes designed for graduates, undergraduates, college students and secondary school students from under-represented groups, including BAME communities and people from socially disadvantaged backgrounds. These programmes offered a variety of work placements including opportunities in Ministers' private offices.

There are also departmental specific initiatives such as private office roadshows. These have been delivered in geographical areas with a high proportion of BAME staff and are intended to encourage staff from more diverse backgrounds to consider a career in private office.

To provide a full breakdown of all diversity initiatives across the Civil Service over the past 10 years could not be done without exceeding the disproportionate cost threshold.

Government: Agencies

Questions

Asked by ***Lord Hunt of Chesterton***

To ask Her Majesty's Government which executive and trading fund agencies have been since May 2010, or will be, re-organised and absorbed into government departments. [HL12001]

To ask Her Majesty's Government, where government agencies are absorbed into departments, what arrangements are made in respect of their chief executives and senior managers; and what arrangements are made to maintain the websites of those agencies. [HL12002]

To ask Her Majesty's Government, where government agencies are absorbed into government departments, how the public will be informed about the former agencies' activities on a regular basis. [HL12003]

Baroness Garden of Frognal: Since May 2010, three executive agencies have been reorganised and absorbed into government departments. Specifically, these are: the Defence Storage and Distribution Agency; the Service Personnel and Veterans Agency; and the People, Pay and Pensions Agency; all of which have been absorbed into the Ministry of Defence. No trading funds have been reorganised and absorbed into government departments.

On 3 October 2011, JobCentre Plus and the Pensions, Disability and Carers Service will formally have their agency status removed, and be absorbed into the work of the Department for Work and Pensions. There are a number of executive agencies whose status is currently under review, and which may be absorbed into departments in the future.

Arrangements for chief executives and senior managers, websites and performance reporting are a matter for individual departments. It will also be for departments to inform the public of the changes.

NATO

Question

Asked by ***Lord Ahmed***

To ask Her Majesty's Government whether they have made any representation to the Government of Pakistan regarding the death and injury to NATO personnel and the loss of NATO equipment and supplies within Pakistan. [HL11886]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever): The British High Commission conducts a wide-ranging dialogue with the Pakistani Government, including issues pertaining to British security interests in Pakistan and the role of International Security Assistance Force operations in Afghanistan.

News International

Questions

Asked by ***Lord Donoughue***

To ask Her Majesty's Government whether Mr Rupert Murdoch was granted permission to acquire *The Times*, the *Sun*, the *Sunday Times*, and the *News of the World* in 1982 in return for "guarantees" of his behaviour as proprietor to the Secretary of State and to Parliament; if so, whether those conditions were set out in the Secretary of State's consent; and whether they were laid before Parliament with a condition that breach of them was to be subject to serious penalty. [HL11999]

Baroness Garden of Frognal: News International acquired *The Times* and the *Sunday Times* in 1981. Under the previous merger regime provided for by the Fair Trading Act 1973, consent was given by the then Secretary of State to the merger subject to certain conditions. The conditions, which remain in force, related to the tenure of the independent national directors, editorial independence and future ownership structure of the Times Newspapers. These conditions, which are backed by criminal sanction for breach, were set out in the Secretary of State's letter of consent published on 27 January 1981. I am arranging for copies to be placed in the House Libraries. Any proposed changes by News International require the prior consent of the Secretary of State.

Asked by ***Lord Donoughue***

To ask Her Majesty's Government whether they intend to take action against Mr Rupert Murdoch in pursuit of allegations of breaches of the conditions of consent for his purchase of *The Times*, the *Sun*, the *Sunday Times*, and the *News of the World*; and if not, why not. [HL12000]

Baroness Garden of Frognal: The conditions relate only to *The Times* and *Sunday Times* newspapers. No formal allegations of breach of the conditions of consent have been made to the department that would require investigation.

Olympic and Paralympic Games 2012

Question

Asked by ***Lord Kennedy of Southwark***

To ask Her Majesty's Government, further to the Written Answers by Baroness Garden of Frognal on 20 July (*WA 332–33*), whether they have made a decision about the Government's ticket allocation for the Paralympic Games in 2012. [HL11956]

Baroness Garden of Frognal: The Government have bid for 1,150 Paralympic Games tickets in total, around half of which will be used to support the new School Games programme which is a key part of London 2012's sporting legacy. The Government will use their allocation for liaison with international and domestic political and business leaders, dignitaries and others with a close connection to the Games.

Parliamentary Constituencies

Question

Asked by ***Lord Kilclooney***

To ask the Leader of the House whether the House of Lords will consider the new constituency boundaries as published on 13 September by the Boundary Commission; and how he will ensure that Members have the information they require for that debate. [HL11851]

The Chancellor of the Duchy of Lancaster (Lord Strathclyde): The independent Boundary Commission for England published initial proposals for new parliamentary constituency boundaries in England on 13 September. Those proposals are now subject to extensive consultation. Once the commission presents final proposals to Her Majesty's Government, we will seek to give effect to them through a draft order subject to approval by resolution of each House. This will give the House the opportunity to consider the final proposed constituency boundaries, based on the draft order and its supporting documentation.

Population Growth

Questions

Asked by ***Baroness Tonge***

To ask Her Majesty's Government what assessment they have made of the impact on international development of a world population projected to reach 7 billion on 31 October 2011. [HL11747]

To ask Her Majesty's Government what assessment they have made of the effect rapid population growth has on international development. [HL11748]

To ask Her Majesty's Government what assessment they have made of the pace and scale of world population growth. [HL11749]

Lord Wallace of Saltaire: The UN's 2010 projections estimate that the global population will pass the 7 billion mark on 31 October 2011. Under a medium growth scenario, the global population will continue to rise throughout the 21st century, passing 9.3 billion in 2050 and 10.1 billion in 2100. Rapid population growth will mostly take place in the poorest countries where current fertility rates, if not reduced, will mean that populations in some countries are expected to double or triple by 2050.

In the absence of commensurate economic growth, this will place a significant strain on the ability of Governments to deliver basic services such as health and education. Even with economic growth, this increase in global population is likely to build additional pressure on natural resources with some regions of the world experiencing increasing water scarcity, food shortages and new challenges for sustainable energy supplies and land availability. Rapid population growth, particularly in sub-Saharan Africa, could also have an important role in shaping mitigation and adaptation responses to climate change, migration patterns and successful urbanisation policies.

The UK Government are working closely with others to advance a comprehensive understanding of the role of population dynamics (specifically the demographic dividend associated with declining fertility) in helping achieve increased economic productivity and rising per capita income in developing economies.

Public Procurement

Questions

Asked by ***Lord Chidgey***

To ask Her Majesty's Government what powers they have to support United Kingdom companies and United Kingdom-based companies so they are able to compete on equal terms financially with overseas competitors for public sector contracts. [HL11801]

Baroness Garden of Frognal: The Government of course want UK companies, including our small businesses, to be successful in public procurement. The best way to bring this about is for them to offer the goods and services we need at quality levels and whole-life costs representing value for money.

Through our membership of the European Union and as a signatory to international agreements, our contracting authorities are required to treat suppliers from Europe and various other countries on an equal footing with UK suppliers.

However, a review of public procurement is currently under way that is examining UK application of EU procurement rules. The review will consider any actions the Government need to take to help ensure that UK businesses can compete for Government work on an equal footing with their competitors.

Asked by ***Lord Kennedy of Southwark***

To ask Her Majesty's Government how consultants for the Thameslink rolling stock project were appointed; and, in particular, whether they were engaged after a competitive tender. [HL11802]

Earl Attlee: All consultants who have been employed on the Thameslink rolling stock project were appointed through competitive tender.

Railways: Intercity Express and Electrification

Questions

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government how many fewer bi-mode versions of the Intercity Express Programme train would be required if the electrified sections of the track were extended from (a) Cardiff to Swansea, and (b) Bristol to Weston Super Mare; and what would be the benefits to local travellers of this electrification. [HL11147]

Earl Attlee: Seven of the bi-mode trains could be electric only if the route between Cardiff and Swansea were to be electrified, and a further three could be electric only if the route between Bristol and Weston Super Mare were electrified.

A small number of services between Bristol Parkway and Weston Super Mare and between Cardiff and Swansea could be operated by electric multiple units in place of diesel multiple units if electrification were to be extended.

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government how many fewer bi-mode trains would be required to be built if the services between Paddington and Newbury and Paddington and Oxford were covered by electrical multiple unit trains and all services to the West of England via Newbury, beyond Oxford and those via Cheltenham continued to be life extended High Speed trains. [HL11149]

Earl Attlee: It is currently envisaged that rolling stock will be deployed as follows:

a mixture of electric Intercity Express Programme (IEP) and electric multiple unit trains for services between Paddington and Newbury and Paddington and Oxford;

new IEP bi-mode trains for services beyond Oxford, and those running via Cheltenham; and

life-extended vehicles from the current high speed train fleet for services to the West of England, via Newbury.

St Helena: Airport

Question

Asked by ***Lord Ashcroft***

To ask Her Majesty's Government what progress they have made with regard to the proposed St Helena Airport. [HL11795]

Lord Wallace of Saltaire: The Department for International Development is currently negotiating with a South African contractor on the basis of their tender for the airport submitted on 10 June 2011 to determine whether we can agree acceptable contract terms.

Transport: Heavy Goods Vehicles

Question

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government what assessment they have made of the finding in the report, *Longer Semi-trailers Feasibility Study and Impact Assessment*, commissioned by the Department for Transport, that introducing longer heavy goods vehicles would have no impact on either infrastructure costs or accidents. [HL11996]

Earl Attlee: The Government will shortly be publishing their response to the consultation on the case for an increase in the overall length of articulated lorries. That response will, in the light of the research and the

consultation contributions received, address the issues of infrastructure costs and accidents, and contain a revised impact assessment.

Treasure Act 1996

Question

Asked by ***Lord Hall of Birkenhead***

To ask Her Majesty's Government, further to the Written Answer by Baroness Rawlings on 20 October 2010 (*WA 186*), what progress has been made with the planned review of the Treasure Act Code of Practice and the definition of treasure contained in the Treasure Act 1996. [HL11989]

Lord Wallace of Saltaire: Preparations continue. Work to date includes some pre-consultation and preliminary drafting for the consultation document.

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