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PARLIAMENTARY DEBATES

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HOUSE OF LORDS

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The following abbreviations are used to show a Member's party affiliation:

Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
Lab Co-op	Labour and Co-operative Party
LD	Liberal Democrat
Non-afl	Non-affiliated
PC	Plaid Cymru
UUP	Ulster Unionist Party

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House of Lords

Wednesday 20 July 2022

3 pm

Prayers—read by the Lord Bishop of Carlisle.

Oaths and Affirmations

3.06 pm

Lord Remnant took the oath, and signed an undertaking to abide by the Code of Conduct.

Retirement of a Member: Viscount Ullswater

Announcement

3.08 pm

The Lord Speaker (Lord McFall of Alcluith): My Lords, I should like to notify the House of the retirement, with effect from today, of the noble Viscount, Lord Ullswater, pursuant to Section 1 of the House of Lords Reform Act 2014. On behalf of the House, I thank the noble Viscount for his much valued service to the House.

Leaseholders: Service Charges

Question

3.08 pm

Asked by ***Lord Kennedy of Southwark***

To ask Her Majesty's Government what steps they propose to take to ensure service charges paid by leaseholders are fair and reasonable.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so, I declare my interest as a leaseholder.

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, by law, service charges must be reasonable and, where costs relate to work or services, the work or services must be of a reasonable standard. Leaseholders may make an application to the appropriate tribunal to challenge the reasonableness of their service charges. We are committed better to protect and empower leaseholders by giving them more information on what their costs pay for. This will help them to challenge their landlords more effectively if they consider their fees unreasonable.

Lord Kennedy of Southwark (Lab Co-op): My Lords, leaseholders are seriously disadvantaged in disputes with freeholders and management service companies about the service charges, ground rent or any other aspect of their tenure. The present arrangements are not fit for purpose. When will the Government take action on this matter?

Baroness Bloomfield of Hinton Waldrist (Con): The Government do indeed recognise that the existing statutory requirements do not go far enough to enable leaseholders to identify and challenge unfair costs. The Government have said that they will take forward further legislation on leaseholds in the next Session.

Lord Young of Cookham (Con): My Lords, would not the problems mentioned by the noble Lord, Lord Kennedy, and other problems faced by leaseholders be addressed by the promised leasehold reform Bill, originally planned for this Session but now delayed until the next? On 20 June, my noble friend Lord Greenhalgh told me that the delay would be used to draft the Bill. Would it not expedite the eventual passage of the Bill if it was published in draft and subjected to scrutiny by this House?

Baroness Bloomfield of Hinton Waldrist (Con): I can only agree that it would indeed expedite the eventual passage of the Bill. I know that my noble friend appreciates that the former Secretary of State said that it was unlikely, and that my noble friend Lord Greenhalgh also said that a draft Bill would be ideal but was dependent upon the capacity of parliamentary counsel. Everyone is looking forward to this legislation, and it has already been announced for the next Session. I can only relay to the department the oft-stated opinion of many Members on all sides of the House that this draft Bill will be welcomed.

Baroness Uddin (Non-Afl): My Lords, what are the Government doing to ensure that not only experts on these matters in this House but long-suffering leaseholders and their representative organisations are consulted prior to any draft Bill being published?

Baroness Bloomfield of Hinton Waldrist (Con): A number of consultations have taken place, including that of the noble Lord, Lord Best. As to the specific consultation to which the noble Baroness refers, one may well be happening but I am not aware of it. I will write with further clarification.

Viscount Hanworth (Lab): My Lords, management companies are buying up leaseholds in order to impose exorbitant charges. At what stage does this become a criminal activity?

Baroness Bloomfield of Hinton Waldrist (Con): As I have said, service charges are governed by law and must be reasonable. I do not think I can go much further in that regard.

Baroness Fookes (Con): My Lords, can my noble friend help with a particularly invidious situation? A leaseholder may feel that he is being charged extortionate fees for gas and electricity by his supplier, but the supplier also happens to be his landlord.

Baroness Bloomfield of Hinton Waldrist (Con): My noble friend makes a very good point. Tenants who purchase their gas and electricity from their landlords, including when it is bundled with other service charges, are protected from excessive charges by the maximum resale price provisions from the regulator Ofgem. The provisions prevent landlords reselling energy to tenants at a higher price than they paid to the licensed energy supplier. Tenants are entitled to receive a breakdown of the landlord's costs, on request. That should include details of the cost of electricity and/or gas, standing charges and the VAT paid.

Lord Best (CB): My Lords, exorbitant and disproportionate fees, charges and commissions were a key reason why the Government's Regulation of Property Agents Working Group, which I had the pleasure of chairing and which reported three years ago almost to the day, wanted there to be a regulator for property agents, including the managing agents of leasehold property. The Government have specifically promised this on many occasions. Is somebody within the Department for Levelling Up, Housing and Communities specifically working on the creation of a regulator for property agents? If someone is, I live in hope. If not, I go away very frustrated.

Baroness Bloomfield of Hinton Waldrist (Con): The noble Lord asks a very good question. I am not sure whether somebody is working on that specific point, but there is a large group within that department that works on all ways of raising professionalism. We are looking at the report of the noble Lord and his working group on the regulation of property agents and are continuing to work with industry to improve best practice. I will take his plea for a regulator back to the department.

Baroness Thornhill (LD): The report of the working group chaired by the noble Lord, Lord Best, provided significant evidence of what I call the theft of moneys from leaseholders. These same companies are about to be handed huge sums, as they are responsible for the remediation of vast numbers of blocks of flats post-Grenfell. This area is ripe for exploitation and dubious practices, as outlined in the report of the noble Lord, Lord Best. Does the Minister share my concerns and those of that working group? If so, what needs to be done about it? Does she agree with me that this is white-collar crime affecting tens of thousands of ordinary leaseholders?

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, this is one of the reasons why the Government have brought forward a suite of legislation: to stop these sorts of practices, regulate agents and landlords more effectively and help leaseholders manage large one-off major bills which may be a source of corruption when they are given to a company associated with the freeholder. The existing Section 20 consultation process in the Landlord and Tenant Act 1985 means that where leaseholders are contributing to the upkeep and maintenance of a building, they have sufficient input into how their money is spent. The report by the noble Lord, Lord Best, set out proposals for improving the existing processes, and we are considering those recommendations.

Lord Campbell-Savours (Lab) [V]: My Lords, is not the reluctance of some freeholders and their agents to provide information to leaseholders about their identity, along with their refusal to discuss leasehold and wider services charge issues, a flaw in the system? Why cannot the law be amended to allow greater transparency over freehold, leasehold and sublease title ownership issues, going further than the proposed Bill mentioned by the noble Lord, Lord Young of Cookham? Without greater access to such information, leaseholders lack leverage and are often powerless to influence service charges.

Baroness Bloomfield of Hinton Waldrist (Con): I commend the noble Lord on his often interesting suggestions for the department, particularly on leasehold. I note that in the last series of questions, he suggested rolling up unaffordable services charges for vulnerable groups, and I undertake to take the idea of a debenture against property title back to the department if it has not already been considered. As for his question today, there are a number of existing ways in which leaseholders can obtain details of their landlord. A written statement of the landlord's name and address must be given on request under the Landlord and Tenant Act 1985. Failure to comply with the request is an offence. In respect of information about service charges, any ground rent or service charge demand must include the name and address of the landlord. If that address is not in England and Wales, it must include an address in England and Wales at which notice may be served on the landlord by the tenant. Her Majesty's Land Registry can also provide a copy of the relevant lease for a property for a fee.

Lord Bellingham (Con): My Lords, does it concern the Minister that there is evidence that some insurance companies are charging excessive and non-transparent commissions?

Baroness Bloomfield of Hinton Waldrist (Con): It does indeed concern the Government, which is why we have renewed our guidance on insurance. We are aware that some buildings are currently unable to secure adequate and affordable building insurance. The department has called on the Financial Conduct Authority and the CMA to review buildings insurance premiums. The FCA published an interim report on the buildings insurance review on 10 May, and we are exploring all possible interventions to resolve the crisis in the building insurance sector which is affecting a large number of leaseholders.

Baroness Fox of Buckley (Non-Afl): My Lords, the Minister has said several times that service charges must be governed by law and must not be unreasonable, but they are unreasonable. They are going up exponentially and leaseholders are tearing their hair out. To give the Government credit, some real progress was made under the noble Lord, Lord Greenhalgh, and Michael Gove when he was the Secretary of State, but leaseholders now feel abandoned. At the very least, could the Minister assure leaseholders from the Dispatch Box that they have not been forgotten? Platitudes saying that service charges are reasonable and within the law do not work. Leaseholders are now having to pay far beyond their means.

Baroness Bloomfield of Hinton Waldrist (Con): I can of course give that reassurance, and I shall try not to take the noble Baroness's comments personally; I endeavour to take issues such as this back to the department. By law, if leaseholders feel that their service charges are unreasonable, they can take their case to the appropriate tribunal, which is the First-tier Tribunal (Property Chamber) in England and the Leasehold Valuation Tribunal in Wales. Even if they have already paid their service charge, they can still make an application to that tribunal. Of course, the problem is that the lease will often dictate that if a leaseholder takes a case against their freeholder, the leaseholder is still liable to pay the freeholder's fees even if they win the case. Again, we are looking to legislate against that.

Emergency Services Mobile Communications Programme

Question

3.19 pm

Asked by ***Lord Harris of Haringey***

To ask Her Majesty's Government what is their current estimate of the total cost of the Emergency Services Mobile Communications Programme; how this compares with the original estimate; and when they expect the Emergency Services Network will be rolled out fully.

Lord Harris of Haringey (Lab): My Lords, I refer to my interests in the register and beg leave to ask the Question standing in my name on the Order Paper.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the estimated cost from 2015-16 to 2036-37 is £11.3 billion. This includes £1.6 billion for programme costs, compared with the original estimate of £1.2 billion. The current Airwave system costs about £450 million annually, compared with £250 million for the emergency services network, delivering around £200 million of annual savings after Airwave shuts down. This could vary depending on the outcome of the current CMA investigation. The 2021 business case expected ESN transition in 2024, with Airwave shut down in 2026. However, changes to programme delivery arrangements may impact timelines.

Lord Harris of Haringey (Lab): My Lords, I am grateful to the Minister for that Answer. The original business case said that the cost of the programme would be £5 billion. We are now talking about £11.3 billion and delivery probably nine or 10 years later. This was cutting-edge technology that would, we were always told, be world beating—we have heard that before—but in fact, as the National Audit Office pointed out, it has never been proven in real-world conditions. Who exactly is responsible for this fiasco? When this fiasco is finally delivered, will it ever deliver the capability expected? Near-instant calls at the push of a button are vital for emergency services and policing. Will they be provided?

Baroness Williams of Trafford (Con): The answer to the final part of the noble Lord's question is yes. The estimated cost of programme delivery has increased since 2015, as I outlined. The primary reason for the increase is additional coverage costs being much higher than originally anticipated. The additional coverage relates to things such as build work for extending ESN into remote areas, to the London Underground and into the air. The noble Lord knows that I remain concerned about the delivery of this programme, but when it is delivered it will achieve that which we have set out.

Baroness McIntosh of Pickering (Con): My Lords, does my noble friend agree that the delay to masts piggybacking on the emergency services mobile network in North Yorkshire is regrettable? I welcome the fact that they are coming online within the next six or nine months. Will my noble friend ensure that there is no further delay? These are the emergency service communications enabling North Yorkshire Police to communicate with each other in the very remote terrain of North Yorkshire.

Baroness Williams of Trafford (Con): On the back of the point from the noble Lord, Lord Harris, that is precisely the sort of capability we are looking to achieve. We are also building 292 masts in some of the most rural and remote parts of Britain, known as the extended area service or EAS. I am confident. I pay tribute to the noble Lord, Lord Harris, because when he pointed it out to me all those years ago, it was a huge concern. It remains a huge concern, but we are very much determined to deliver it.

Lord Ponsonby of Shulbrede (Lab): My Lords, in preparation for this Question I googled the emergency services network and saw that the director role was advertised in April, with a closing date in May. First, is the new director currently in place? Secondly, while this is clearly an ambitious programme with a lot of scope for overruns, in terms of both delay and cost, does the Minister agree with me that the reliability and interoperability of the emergency services network should be the new director's number one concern?

Baroness Williams of Trafford (Con): I totally agree with the noble Lord's latter point, because unless that is the case it will completely undermine what the emergency services are trying to do. I assume the new director is in place. I will double-check, but I think the answer is yes.

Baroness Doocey (LD): My Lords, I was a member of the Metropolitan Police Authority when the current Airwave radios were introduced. The whole thing was fraught with difficulty because of time delays, cost overruns, batteries that did not last long enough and a lack of bandwidth. The list just went on and on. Can the Minister reassure the House that at least some of the lessons have been learned, because we have just been told that we still have cost problems and time delays with this one, and that not all of the problems I have outlined will happen again with these radios?

Baroness Williams of Trafford (Con): The noble Baroness points out the reason why we need the new system. Airwave is expensive and out of date, and will start to become obsolete towards the end of this decade. It uses old technology and has only voice and slow text-based data services so, yes, that is entirely the aim of the new system.

Lord Vaizey of Didcot (Con): My Lords, this network programme is much needed and has to be the right solution. As I understand it, one of the benefits of the new programme will be that the emergency services can send out text messages. Those were very useful during Covid and would perhaps have been useful yesterday, during the heatwave. Can my noble friend outline which services will have access to the text-messaging programme and what kind of use cases are envisaged?

Baroness Williams of Trafford (Con): I totally agree with my noble friend. It would have been very useful yesterday and it should be available across all emergency services networks: fire and ambulance, and in the Underground as well.

Lord Blunkett (Lab): The noble Baroness knows that I have a great deal of sympathy with the situation, given the appalling dealings we had with the tech system all those years ago. In the transition period between now and 2026, what discussions will take place with the College of Policing about preparatory work for that transition? Crucially, what reskilling will there be of the workforce to be able to take this on?

Baroness Williams of Trafford (Con): The noble Lord makes absolutely the correct point because the transition cannot have any gaps in it. In other words, when Airwave is turned off and the new emergency services network is turned on, there must be full capability across the piece and for those wh1o are using it, so we are regularly engaged with the policing community.

Baroness Wheatcroft (CB): My Lords, the advertisement for the new deployment director included this in the job description:

> "You will … ensure that the Programme delivers its deployment requirements in a timely manner to enable users readiness to transition according to the agreed timeframes".

The Government's website no longer includes any timeframe for this project, so can the Minister tell us what the timeframe for the deployment director is?

Baroness Williams of Trafford (Con): The timeframe for switch-on of the new emergency services network, as I said in my initial response, is 2026. I shall be working to make sure that that timescale is met, if I am still in post.

Lord Harris of Haringey (Lab): My Lords, the noble Lord opposite talked about the importance of text in this, but what is actually crucial in an emergency situation is voice communication at the point concerned. The worry that many within the emergency services have is that that is being treated as secondary to text and data. What consultations will there be to make sure that these new arrangements and this new system are fit for purpose in the eyes of those who will use it?

Baroness Williams of Trafford (Con): I can assure the noble Lord that the new system will not be switched on and up and running until there is that user confidence in it, which goes to his point.

Lord Kilclooney (CB): My Lords, why is the system restricted to Great Britain and not extended to the nation as a whole?

Baroness Williams of Trafford (Con): I do not know the answer to that question. I have been focusing on England and Wales, but I shall get an answer to the noble Lord.

Scottish Parliament: Independence Referendum

Question

3.29 pm

*Asked by **Lord Foulkes of Cumnock***

> To ask Her Majesty's Government what is their current policy in respect of any request from the Scottish Parliament for a further referendum on independence.

The Parliamentary Under-Secretary of State, Scotland Office (Lord Offord of Garvel) (Con): My Lords, Her Majesty's Government are clearly of the view that now is not the time to talk about another independence referendum in Scotland. People across Scotland want to see both our Governments working together on the issues that matter to them: tackling the cost of living, protecting our long-term energy security, leading the international response to Russia's invasion of Ukraine and growing our economy so that everyone has access to opportunities, skills and jobs for the future.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, I am grateful to have a Scottish Minister answering this Question so well, but will he acknowledge that Boris Johnson, the candidates for the leadership of the Tory party and, even more importantly, Keir Starmer have all ruled out a second referendum, so there will not be one? Yet the Scottish Government are employing 20 civil servants and printing and producing party-political propaganda, using UK taxpayers' money, in their campaign to break up Britain—Nicola Sturgeon is taking the UK Government for fools. So will the Minister take up his strong Scottish arm and ask the Prime Minister and, more importantly in this context, the head of the Civil Service to get the Scottish Government to stop this illegality and start spending the money that they get from British taxpayers on the services for which they are now responsible?

Lord Offord of Garvel (Con): The noble Lord referenced the £20 million that the Scottish Government have ring-fenced and the 20 civil servants put together for

this referendum. The minute the First Minister announced that she wanted to publish a prospectus for independence, the Secretary of State for Scotland said:

"right-minded Scots would agree that using civil service resources to design a prospectus for independence is the wrong thing to be doing at this time."—[*Official Report*, Commons, 8/9/21; col. 289.]

In the meantime, there have been a number of glossy documents, the first of which was *Independence in the Modern World. Wealthier, Happier, Fairer: Why Not Scotland?* The SNP has been in power for 15 years, and we can see that Scotland is not wealthier, happier or fairer. We can go through the list: our education system—where I was educated—has gone from outstanding to average, there are record queues in the NHS, 20% of children live in poverty, and ferries are rusting on the Clyde while people cannot go on their holidays. The UK Government are firmly of the view that the Scottish Government should focus on the matters that Scottish people want them to deal with, which is how to make their lives better, and not fuss with another, pretend referendum.

Baroness Fraser of Craigmaddie (Con): My Lords, does the Minister agree that the best response to the First Minister's request for a second independence referendum is to ensure that the next leader of the Conservative Party makes sure that we are a Government for the entire United Kingdom and implements the recommendations of the Dunlop report in full?

Lord Offord of Garvel (Con): I thank my noble friend and agree with her that the next leader has a great responsibility to protect the union. I note that they will be the 56th Prime Minister of the United Kingdom. So far, we have had 55, of whom 11 were Scots, so that is a healthy 20% representation, which is one of the reasons why this union has been so successful: Scottish voices have been heard. We must ensure that that continues, which is why the recommendations of the Dunlop report—I share my noble friend's admiration for it and its author—have formed the basis of the new inter-ministerial group architecture, which resulted in 440 inter-ministerial group meetings in 2021 alone.

Lord Campbell of Pittenweem (LD): My Lords, is Minister reinforced in his view that an independence referendum is not required by fact that the Lord Advocate —Scotland's senior law officer—has ruled that an independence referendum would not be within the legislative competence of the Scottish Parliament?

Lord Offord of Garvel (Con): This is obviously now on its way to the Supreme Court. The UK Government are very clear that this is outside of competence—this is a reserved, not a devolved, matter. This now goes to the Supreme Court, which will adjudicate on it in the autumn. However, in the meantime, they press ahead: we have another glossy document called *Renewing Democracy through Independence*, which a professor at the University of Edinburgh, who is not party-political, described as "dismal, negative, uninspiring" and "utterly fanciful". We still have no details on how Scotland will fund itself without a currency, how it will operate a hard border with England and how it will make the country more successful. This is thin gruel and, as the bard said,

"Auld Scotland wants nae skinking ware
That jaups in luggies".

Lord McAvoy (Lab): My Lords, in endorsing the Minister's statement, I urge the Government to be very careful in the language used in response to the SNP, to avoid giving the SNP any excuse for further anti-Englishness. I hope we can have a response from the Government which is positive while, at the same time, outlining that there is no mandate for a series of referenda in Scotland on this issue.

Lord Offord of Garvel (Con): I thank the noble Lord and take his point that this is as much about tone as it is about content. My observation is that the Scots have been happiest in this union when we demonstrably punch above our weight: we have 8% of the population and 33% of the geography of the UK, but as Scots we have a duty to ensure that whatever we do is more than 8% and heading towards 33%. In recent times, the Scots would perhaps feel that their voices have not been heard; sometimes they look at Westminster with some consternation. The next Prime Minister has an opportunity to change this perception and show that we really do care by creating a positive narrative for Scotland inside the union.

The Earl of Kinnoull (CB): My Lords, there are four voters on the register at home in Perthshire and I kept the election communications that came through the door in May last year: two booklets from the SNP and one booklet from the Scottish Greens. There are many reasons that those booklets list for voting for the SNP and Scottish Greens, respectively, but not once is there any mention in them of an independence referendum. Does the Minister feel that this too is a relevant factor?

Lord Offord of Garvel (Con): Yes, I do, and I agree with the noble Earl. This might be recognised in the 2021 election for Holyrood: the First Minister was trying to persuade Scots to vote for her on her Covid record, but the minute she got into power, her campaign went back to being a mandate for a referendum.

I agree that we have a lot of weeping, wailing and gnashing of teeth the whole time, but we must look at what this is actually based on. The population of Scotland is 5.3 million, of whom 4.3 million are eligible to vote. In the 2014 independence referendum, 3.6 million Scots voted—an extraordinary percentage of 84%, the highest in any country other than Australia, where it is mandatory to vote. Noble Lords should compare this with the 2.6 million Scots who voted in the EU referendum; so 1 million more Scots voted for the UK union than for the European Union. The point is that, in the 2019 general election, 1.3 million Scots voted for the nationalists, against the 1.6 million who voted in the referendum. As they are in territory of around 1.3 million or 1.4 million votes out of an electorate of 4.3 million, I do not believe that this is a mandate for independence.

Lord McNicol of West Kilbride (Lab): My Lords, Scotland deserves better. There are over 700,000 Scots on NHS waiting lists, and over 10,000 children and young people waiting for mental health appointments.

[LORD MCNICOL OF WEST KILBRIDE]
There are almost 20,000 fewer businesses in Scotland today than there were before the pandemic began. For households across Scotland, it does not feel as though the crisis is over. Does the Minister agree with Labour that the Scottish Government would be better served looking after and focusing on the people of Scotland than concentrating on an independence referendum?

Lord Offord of Garvel (Con): I think we should always turn the argument back on them. They claim that they want to make Scotland wealthier, happier and fairer, but they have not given us any arguments as to how they can do that. We believe that we can do that much better within the union and with a positive narrative for Scotland inside the union: we have a strong currency and 300 years of family binds that bring us together; we support each other, as we have just seen during Covid through furlough. We are all better together, therefore I endorse the noble Lord's opinion.

Baroness Bennett of Manor Castle (GP): My Lords, surely there is another view: the parties proposing an independence referendum won a majority of seats and votes in last year's Scottish Parliament election. That is the standard definition of a democratic mandate. If the Government have decided on another definition, could they please tell your Lordships' House what it is? Or have the Government simply decided that the people of Scotland will not be allowed to make such a decision for themselves?

Lord Offord of Garvel (Con): In the last Holyrood election, the SNP failed to get a majority. If we add in the 28,000 Green votes, it got to 50% of the popular vote, but it was still only 1.4 million out of 4.3 million voters. It is stuck at that 1.3 million to 1.4 million. You can decide what a mandate is, but it seems to me that common sense would say that it would need to get to 2 million, because the unionists took 2 million—so that is a gating item. If you go to 60% of that, you have 2.5 million, so I think it is a long way off.

Gambling White Paper

Question

3.40 pm

*Asked by **Lord Foster of Bath***

To ask Her Majesty's Government when they will publish the Gambling White Paper.

Lord Foster of Bath (LD): In asking my question on the Order Paper, I declare my interest as the chairman of Peers for Gambling Reform.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Lord Parkinson of Whitley Bay) (Con): My Lords, Ministers and officials have worked tirelessly on the Gambling Act review for 18 months. We remain committed to delivering our manifesto commitment and will publish the White Paper as soon as possible.

Lord Foster of Bath (LD): My Lords, sadly, the Minister is back-tracking on his usual reply, which is "within weeks". He will know that there are already one or more gambling-related suicides every single day, and that 60,000 children are already classified as gambling addicts. The consultation on measures to reduce those figures began over two and a half years ago. The resulting White Paper has been delayed five times; it has already been approved by the Cabinet on two separate occasions. Does the Minister accept that each delay is costing lives and sets more young people on the road to becoming addicts? Will he press for the rapid delivery of the White Paper, full and undiluted, as the former Gambling Minister, Chris Philp, intended?

Lord Parkinson of Whitley Bay (Con): I take the opportunity to pay tribute to my honourable friend Chris Philp, who led a lot of the work on the preparation for this White Paper. There will be a new Prime Minister in place in a matter of weeks, and we want to ensure that the hard work that has gone into the review sees its speedy publication. We have not waited for the review to take action where it is needed to address the sorts of harms that the noble Lord points to. For instance, we have banned gambling on credit cards; tightened restrictions on VIP schemes; strengthened the rules for how online operators identify and interact with people at risk of harm; and updated the advertising codes of practice to make sure that content that has a strong appeal to children is banned.

Lord Vaizey of Didcot (Con): I congratulate my noble friend the Minister on his appearance at "My Fair Lady" last night, indulging his passion for musical theatre. It was a great pleasure to see him. I also congratulate him on the real progress that he has made in publishing the Government's response to the call for evidence on loot boxes. I congratulate the Government on adopting a light-touch regulatory but vigilant approach on the use of loot boxes in video games—and could he tell me when the video games body mentioned in that response will be established?

Lord Parkinson of Whitley Bay (Con): It is always a pleasure to see my noble friend at cultural events. To quote the musical:

> "Every duke and earl and peer"

was there last night. We are committed to ensure that video games are enjoyed safely by everybody, and we undertook the call for evidence to look at loot boxes. We believe that the games industry can and should go further to protect children and adults from the risks of harm associated with loot boxes. If that does not happen, we will not hesitate to consider legislative change. As my noble friend points out, we will pursue our objectives to get better evidence and research and improved access to data through the technical working group led by DCMS and through the development of a video games research framework.

Lord Watts (Lab): My Lords, many people are disappointed by the Government's decision to defer this matter again. The Lords committee that looked at this made some strong recommendations, which I

think that most people agreed with, and which struck a balance between allowing people who want to have a flutter to do so and protecting vulnerable gamblers. Will the Minister look at whether the Government can use their existing powers to implement some of those changes now?

Lord Parkinson of Whitley Bay (Con): I had the pleasure of serving on the committee which the noble Lord mentions. As I say, we have not waited for the publication of our review—the most extensive review of gambling laws since 2005—to take action where needed, including banning gambling on credit cards and raising the age for playing the National Lottery. We are taking action while making sure that we give the issue the thorough consideration that it deserves.

The Lord Bishop of St Albans: My Lords, I declare my interest as a vice-president of Peers for Gambling Reform. We should be shocked at the statistics that the noble Lord, Lord Foster, gave—60,000 young people not just gambling but addicted to gambling. How many children who should not be gambling at all are caught up in this? This is damaging lives and families every day of the year. Surely we need to take some firm action, such as addressing this ubiquitous advertising on sports occasions which is normalising gambling instead of encouraging people simply to participate and enjoy sport for its own sake. When will the Government take some action on this?

Lord Parkinson of Whitley Bay (Con): The right reverend Prelate is right to point to the need for better data. We welcome and encourage work to build the high-quality evidence base which is needed to inform policy. As he knows, that is an area we looked at through the review, as is the question of advertising. We have considered the evidence on that carefully, including the different risks of harms associated with certain sports and on children. We will set out our conclusions in the White Paper.

Viscount Colville of Culross (CB): My Lords, the government response on loot boxes says that all players will have access to spending controls. Will this involve a compulsory cap on spending for young people and, if not, why not?

Lord Parkinson of Whitley Bay (Con): The Government's response makes clear that the purchase of loot boxes should be unavailable to all children and young people unless they are enabled by a parent or guardian, and all players should have access to and be aware of spending controls and transparent information to support their gaming. That is the right approach to address this issue.

Baroness Merron (Lab): My Lords, as noble Lords have already pressed home, each delay to the long-awaited gambling White Paper potentially puts people at greater risk of falling into problem gambling, with all the human and societal costs that it brings. Does the Minister recognise that, in addition to the delayed review of gambling, the online safety agenda has stalled again, broadband targets are constantly watered down, and creatives are still waiting for support initiatives to come on stream? Why does DCMS struggle so much with delivery?

Lord Parkinson of Whitley Bay (Con): My Lords, the noble Baroness is being a little unfair, particularly on broadband. Our rollout of gigabit-enabled broadband continues apace, bringing connectivity to many more households across the country. The department is still hard at work on all six Bills that we have this Session. I enjoyed speaking to her this morning about the Online Safety Bill and look forward to debating that and other measures in your Lordships' House.

Lord Kirkhope of Harrogate (Con): My Lords, the right reverend Prelate is quite correct in what he says, and I support fully his remarks. I had responsibility in the Home Office in the 1990s for gambling and the Government at that time were extremely cautious about allowing the development of gambling, particularly its effect on young people. I remain deeply concerned about what is actually being talked about. My noble friend also must take into account the views of the responsible gambling organisations, which actually feel just as strongly as the rest of us that gambling should be properly regulated and that we should be careful to ensure that it does not do untold damage to young people in particular.

Lord Parkinson of Whitley Bay (Con): My noble friend is right. Through the work that we have done on the review of the Gambling Act we have, of course, engaged with lots of people, including from the industry, many of whom have been taking forward important actions to make sure that people can gamble safely, fairly and without a problem. All the thoughts we have had through that consultation will be reflected in the White Paper.

Baroness Symons of Vernham Dean (Lab): The Minister has said that he needs better data. What better data does he require than the fact that 60,000 children in this country are addicted to gambling? Surely, for most of us, that data is sufficient for the Government to be taking far stronger action than he has outlined.

Lord Parkinson of Whitley Bay (Con): We are also looking at the way that we can collate data from the industry and from academia to make sure that we have proper evidence-based data such as the noble Baroness suggests fed into the review, which will be published in the coming weeks.

Lord Austin of Dudley (Non-Afl): My Lords, one problem gambler is of course one too many, but the vast majority gamble safely. Will the Minister make sure that any affordability checks do not force customers to provide intrusive personal information such as pay slips and bank statements? Will he also tell us what modelling DCMS has done on requiring customers to consent to companies accessing private financial data? That would cause—as it has in Europe—an exodus of gamblers from the regulated industry to the growing, unsafe, unregulated, online black market.

Lord Parkinson of Whitley Bay (Con): The noble Lord is absolutely right to point to the dangers of taking action that would drive people further into the black market, which is unregulated, pays no taxes and does not have protections for people. He is also right to say that the vast majority of people who gamble do so safely and legally. We have conducted the review to take all these issues into account, which will be reflected in our White Paper.

Regulated and Other Activities (Mandatory Reporting of Child Sexual Abuse) Bill [HL]

First Reading

3.50 pm

A Bill to mandate those providing and carrying out regulated or other activities with responsibility for the care of children to report known and suspected child sexual abuse; to protect mandated reporters from detriment; to create a criminal offence of failing to report prescribed concerns; and for connected purposes.

Baroness Grey-Thompson (CB): My Lords, I draw your Lordships' attention to my registered interests, including a number of sporting and youth interests in the sector.

The Bill was introduced by Baroness Grey-Thompson, read a first time and ordered to be printed.

Remote Observation and Recording (Courts and Tribunals) Regulations 2022

Motion to Approve

3.51 pm

Moved by ***Lord Bellamy***

That the Regulations laid before the House on 27 June be approved.

Relevant document: 9th Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 19 July.

Motion agreed.

Money Laundering and Terrorist Financing (Amendment) (No. 2) Regulations 2022

Motion to Approve

3.51 pm

Moved by ***Baroness Penn***

That the Regulations laid before the House on 15 June be approved.

Relevant document: 6th Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 19 July.

Motion agreed.

Merchant Shipping (Additional Safety Measures for Bulk Carriers) Regulations 2022

Motion to Approve

3.52 pm

Moved by ***Baroness Vere of Norbiton***

That the draft Regulations laid before the House on 21 June be approved.

Considered in Grand Committee on 19 July.

Motion agreed.

Chemicals (Health and Safety) Trade and Miscellaneous Amendments Regulations 2022

Motion to Approve

3.52 pm

Moved by ***Baroness Stedman-Scott***

That the draft Regulations laid before the House on 23 June be approved.

Considered in Grand Committee on 19 July.

Motion agreed.

Contaminated Blood Scandal: Interim Payments for Victims

Commons Urgent Question

The following Answer to an Urgent Question was given in the House of Commons on Tuesday 19 July.

"I thank the right honourable lady for her question. I note that she does not appear to be seeking the full debate that I recently wrote to her in support of, and I would commend my recent letter to her, wherein I suggested that perhaps a full debate would be in order when the House resumes, if the Leader of the House will agree. I frequently pay tribute to her, as she knows, for her long-standing work on this issue, and I ask her to accept from me that other people are also working hard on it, including my officials and officials from across Whitehall. She has been a resolute advocate for her constituent—also through her all-party parliamentary group on haemophilia and contaminated blood—and I am seeking also to support the wider community of people who have been affected by this appalling tragedy.

The specific question that the right honourable lady raises today concerns the compensation framework study. This was produced by Sir Robert Francis QC and was commissioned by my predecessor in her then capacity as sponsor Minister for the infected blood inquiry. I can tell the House that it was delivered to me as the current sponsor Minister for the infected blood inquiry only in March. Sir Robert had been asked to give independent advice about the design of a workable and fair framework for compensation for victims of infected blood that could be ready to implement upon the conclusion of the inquiry, should its findings and recommendations require it.

The Government published Sir Robert's study some six weeks ago on 7 June. Sir Robert then gave evidence about his work to the inquiry last week, on 11 and 12 July. His evidence was quite detailed, quite lengthy, quite technical and forensic. As honourable Members will appreciate, Sir Robert's study is a comprehensive and detailed one. It reflects the contributions of many victims and their recognised legal representatives, and of the campaign groups who have been representing the infected and affected communities so well. In total, Sir Robert makes no fewer than 19 recommendations that span the full spectrum of considerations for the creation, status and delivery of a framework, including non-financial compensation, for victims—both individuals who were infected by contaminated blood or blood products and those whose lives were affected after their loved ones or family members received infected blood or infected blood products.

The Government are grateful to Sir Robert for his thorough examination of these complex questions and the detailed submissions, and I wish to assure all those who have taken part that the Government are focused on making a prompt response. One of Sir Robert's recommendations, and the focus of the right honourable lady's question today, is that the Government should consider making interim compensation payments to infected blood support scheme beneficiaries before a compensation scheme is established, in the interest of speeding up justice and giving some level of assurance and security to those who may not live to see the end of the inquiry. My colleagues and I are particularly and keenly aware of this reality. After all, it was this Conservative Government, under my right honourable friend the Member for Maidenhead, that launched the inquiry in the first place and it was this Government under the current Prime Minister that commissioned the compensation framework study last year.

To conclude, I can confirm to the right honourable lady and the House that officials across Government are making haste to address this as quickly and thoroughly as possible. However, responsible government requires proper and careful consideration of how complex and important schemes can and should work, and it will take a little more time for the work to be completed."

3.53 pm

Baroness Smith of Basildon (Lab): My Lords, we are in the slightly strange position that the House has not heard the Minister's response. I think it would be helpful if the House were to return to hearing the Answer to an Urgent Question repeated before we ask questions on it. I think Members of this House would agree that, had we heard the Answer, we would think it embarrassingly unacceptable.

I pay tribute to the Haemophilia Society for the work that it has undertaken and its support for those affected by contaminated blood. The scale of this is staggering: over 3,000 people have died, including over 400 in the five years since the public inquiry was called. The Government do not seem to be in any hurry to respond to the recommendations in the report that they received four months ago.

I want to press the Minister on just one issue. She will be aware of the advice and recommendations on compensation and interim payments. She will also understand the impact that delays in addressing this have had on the victims and their families. Many are dying while they are waiting for this to be resolved. The deadline for responses on the specific issue of interim payments is Friday, when Parliament is in recess. Can the Minister give an assurance that this will not be any excuse for delay? What work is being planned now to address this and the other recommendations in the original report? If necessary, will she write to noble Lords and others with a statement and an update during the recess?

Baroness Penn (Con): My Lords, I join the noble Baroness in paying tribute to all those who have campaigned over many years on this issue, including her honourable friend Diana Johnson MP, who asked this Question in the other place and has been a great campaigner on the issue.

I reassure noble Lords that the Government are incredibly cognisant of the time pressure: we are working as fast as we can to work through the report that was delivered to the Government—Sir Robert's study—including the recommendation on interim payments. We need to do that work thoroughly, but we are cognisant of the need to do it as quickly as possible. On the noble Baroness's point about the deadline for responses being when the House is in recess, I reassure her that that relates to the work of the inquiry, the timetable for which is set independently of government. The Government will consider any recommendations the inquiry makes on this matter. My right honourable friend in the other place has committed to updating MPs as this goes along, and I am sure that the recess will not be a barrier to any updates we would wish to make.

Baroness Featherstone (LD): My Lords, my sister's son, a haemophiliac, died from contaminated blood aged 35, leaving a 10 month-old baby daughter. All victims have a terrible story to tell. The interim payments should be made immediately, but what eats away at my sister and others is their quest for the truth against a government cover-up that resulted in thousands of further infections and deaths that could have been prevented. When the inquiry finds there was a cover-up, as it clearly will—a cover-up that has been denied by every Government over decades—will the Minister commit the Government to come to both Houses to publicly admit that cover-up and finally give all involved that longed-for admission of guilt?

Baroness Penn (Con): The noble Baroness is absolutely right that it is extremely important that all those who have suffered so terribly get the answers that they have spent decades waiting for. The chair of the inquiry, Sir Brian Langstaff, has made clear his determination to complete his work as quickly as thoroughness allows. Many of the infected will not live to see the inquiry's conclusions. When that work is complete, I am sure that Ministers will want to return to the House to reflect on the outcomes of the inquiry.

Lord Watts (Lab): My Lords, are the Government considering introducing a similar system to that introduced for miners' compensation? That took away the need for individuals to make claims and speeded the process up. Have they looked at that as a potential model?

Baroness Penn (Con): My Lords, the purpose of asking Sir Robert Francis QC to work on the compensation framework while the inquiry was ongoing was so that we did not to have to wait for the results of that inquiry to do some of the thinking in this area and look at the right approach for these specific circumstances. I believe that that work produced 19 recommendations that the Government are now working through and looking at closely.

Baroness Berridge (Con): My Lords, as the noble Baroness pointed out, we are a little bit in the dark, not having had the Answer repeated. Will my noble friend please outline whether this is a situation where it would be appropriate for a low-level interim payment of a modest amount to be paid across the board, obviously not reflecting blame? It is clear that time is of the essence here for people, and paying out a few tens of thousands would make an enormous difference to most families.

Baroness Penn (Con): One of Sir Robert's recommendations, and the focus of the Urgent Question in the other place, is that the Government should consider making interim compensation payments to infected support scheme beneficiaries before a compensation scheme is established, in the interests of speeding up justice and to give some level of assurance and security to those who may not live to see the end of the inquiry. My right honourable friend in the other place, the Minister for the Cabinet Office, and all colleagues in government, are keenly aware of that reality. We are working carefully to consider the recommendations in the report, and making haste to address this as quickly and as thoroughly as possible.

Lord Cormack (Con): My Lords, my noble friend keeps using the word "quickly". Some of us were around when this terrible scandal broke many years ago—I heard heart-rending stories in my own constituency surgery. We really need to get things sorted out within this year, at the very latest. Can she give an assurance that, by the end of this year, everything will have been dealt with, in so far as it can be?

Baroness Penn (Con): The assurance I can give noble Lords is that we are extremely cognisant of the time pressures in this scenario. We know that those infected and affected have been waiting for decades, so we are aware of the time pressures and are working as quickly as we can on the recommendations from Sir Robert's study. The work of the inquiry continues, and its chair has made it clear that he is aware of the need to conduct it as quickly as the thoroughness that is needed will allow.

Baroness Sanderson of Welton (Con): My Lords, we all agree that the victims of the infected blood scandal have waited far too long for justice. Interim payments are important but, as my noble friend has said, many other elements of the inquiry are important too, not least the official recognition it gives people of what they have been through, through no fault of their own, and the chance for all those infected and affected finally to be heard. Would my noble friend agree that, in this, Sir Brian Langstaff's inquiry is fulfilling an essential role that had been ignored by many Governments for many decades previously?

Baroness Penn (Con): My noble friend is right about the nature of the tragedy for those affected and that they have waited far too long for recognition of that. I hope that the process of starting the inquiry and going through it provides some of the recognition they deserve. I am glad that it was my right honourable friend Theresa May who initiated the inquiry in the other place. That work needs to conclude so that they can get the full results and the full truth of what happened at the time.

The Lord Speaker (Lord McFall of Alcluith): My Lords, we now come to the next business, which will include a valedictory speech by a much-loved and respected Member who has made a major and sustained contribution over many years to this House, government and society. As noble Lords will know, I refer to none other than the distinguished former Lord Chancellor, the noble and learned Lord, Lord Mackay of Clashfern.

Seafarers' Wages Bill [HL]

Second Reading

4.03 pm

Moved by ***Baroness Vere of Norbiton***

That the Bill be now read a second time.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, earlier this year, P&O Ferries shamefully sacked almost 800 members of its workforce, without notice and without consultation. At that time, the Transport Secretary responded with a nine-point plan, aiming to prevent companies from benefiting further from such underhand and unacceptable moves. This legislation is part of our response. It is important to stress that this is but one part of the plan, which covers much wider aspects of seafarer welfare that do not require legislation.

This Bill delivers on the Secretary of State's commitment to deliver on the first point of the nine-point plan: changing the law so that seafarers with close ties to the UK are paid at least an equivalent to the UK national minimum wage while they are in UK waters. Quite simply, it is unacceptable for companies such as P&O Ferries to lay off hard-working employees, with no notice and no consultation, only to replace them with less costly workers. This legislation will remove the incentive for other operators to follow suit and ensure that all seafarers will receive the equivalent of the national minimum wage in UK waters, preventing a race to the bottom that would damage this vital industry.

Under the existing national minimum wage legislation, not all seafarers who regularly call at UK ports are currently entitled to the UK national minimum wage. It cannot be right that seafarers who frequently work in the UK are not entitled to the same remuneration as other workers simply because they work on an international, rather than a domestic, service. In every

practical sense, the seafarers who work on routes such as Dover to Calais are working in the UK, and they should not face exploitation by unscrupulous employers who seek to use this gap in the law to avoid paying fair wages.

The purpose of the Bill is to right this wrong. It will do this by making access to UK ports conditional on operators of frequent services providing evidence that the seafarers on board are paid a rate equivalent to the UK national minimum wage for time spent in UK waters. This will bring hundreds of millions of pounds of extra pay to thousands of seafarers over the next 10 years.

It is important to note that this legislation does not amend the National Minimum Wage Act. It instead refers to "national minimum wage equivalence". I should point out that the Bill has been the subject of a public consultation, where we invited views on both its scope and the proposed compliance process. We have taken enormous care to consider the consultees' views and have taken these into account in designing the new legislation.

The legislation will apply to services calling at UK ports at least once every 72 hours, on average, throughout the year. This equates to 120 times a year. The operators of such services will be required to provide a declaration to the relevant harbour authority that they are paying their seafarers no less than a rate equivalent to the national minimum wage. This rate will be calculated according to regulations made using powers in the Bill.

This scope definition has been carefully designed to ensure that it includes those seafarers who have close ties to the UK. We listened to those in the industry who told us that inclusions or exclusions based on service type would create market distortion and ambiguity. Fishing and leisure or recreation vessels are therefore the only specific exclusions retained on the face of the Bill. Our analysis shows that this definition captures, for example, the vast majority of ferries on the short straits, without including services such as deep sea container services or cruises. These less frequent services remain out of scope as those seafarers cannot be said to have as close a link to the UK. This definition has been formulated to account for the complexity of categorising vessel and service types, and to ensure that those seafarers with the closest ties to the UK are captured. We will continue to engage with industry throughout the passage of the Bill, and through consultation on the subsequent secondary legislation and guidance.

Ports are our main contact point with these vessels. In order to keep focused on this domestic link, the legislation will make access to ports ultimately conditional on compliance with its requirements. Harbour authorities will be empowered to request declarations from operators within scope that confirm they will pay their seafarers a rate equivalent to the national minimum wage. If they do not comply with the requirement, harbour authorities will be empowered to levy a surcharge against those operators, or they may be directed to do so by the Secretary of State. The purpose of the surcharge is to ensure that not paying the national minimum wage equivalent is not a financially viable option for the operator.

We intend to consult on regulations and guidance on the framework within which the level of the surcharge will be calculated and the exercise of the harbour authorities' powers in due course. The harbour authority may retain such money as may be raised in this way for the discharge of its functions or for the provision of shore-based seafarer welfare facilities. We are clear that this will not be a profit-making exercise.

On non-payment of a surcharge, the harbour authority will be empowered to deny access to the port, either of its own volition or by direction from the Secretary of State. We intend these powers to provide sufficient deterrent to ensure compliance by operators. We have engaged extensively with the ports industry on this role, and while we accept that this will be an extra administrative burden on ports, we are satisfied that it is proportionate and effective, particularly taking into account the resources and capabilities of the ports and their existing transactional relationship with visiting vessels.

I am clear that this is not an enforcement role for the harbour authority. Beyond accepting declarations, they will not be responsible for checking that operators are complying with the requirement to pay national minimum wage equivalence. This enforcement role will be fulfilled by the Maritime and Coastguard Agency, or MCA, which will undertake inspections and investigations. It will also be empowered to prosecute operators who are found to be operating inconsistently with a declaration or who do not comply with investigations. Those found guilty of an offence will be liable to a fine on summary conviction.

As I stated earlier, this Bill is only one part of the Government's nine-point plan to improve seafarer welfare. We are clear that this legislation will not solve all the issues brought to light by P&O Ferries' actions, but it is an important step, and it is the right one to take given the parliamentary time available. The Bill is inevitably of limited application as we cannot legislate outside UK jurisdiction and therefore cannot make provision for time spent outside UK waters. This is why we are discussing bilateral minimum wage corridors with other countries to encourage the payment of fair wages on the entire route. As part of the plan, the Department for Business, Energy and Industrial Strategy will bring forward a new statutory code on so-called fire and rehire when parliamentary time allows. The Department for Transport is also taking steps to encourage more ships to operate under the UK flag, and to improve the long-term working conditions of seafarers beyond pay protection. So, although this legislation is concerned only with wages, the Government remain focused on the whole gamut of seafarer welfare and taking non-legislative steps to make much-needed improvements. This legislation is vital as part of our efforts to ensure that hard-working seafarers, who play a critical role in our economy, can no longer be mistreated or exploited by unscrupulous employers.

In closing, I also recognise that some noble Lords may have a slightly more nuanced reason for participating in today's proceedings: a hugely experienced and deeply committed parliamentarian and public servant will be making his valedictory speech. I know that this House, and so many people beyond it, hold my noble and

[Baroness Vere of Norbiton]
learned friend Lord Mackay of Clashfern in the highest esteem, and we are incredibly grateful for his many years of service to our country. I am looking forward to contributions from noble Lords on the retirement of my noble and learned friend and, of course, to their wise words on the Bill before your Lordships' House today. I beg to move.

4.13 pm

Lord Hacking (Lab): My Lords, if I may, I should like to speak in anticipation of the valedictory speech of the noble and learned Lord, Lord Mackay of Clashfern, before I move to the terms of the Bill. Like all Members of the House here present, I very much look forward to hearing his valedictory address, but, like them, I do so with sadness that this is the last time we will hear the noble and learned Lord speaking from our Benches.

I am in rather a special position—although I think I see at least two noble Lords who were here 43 years ago in 1979. They are both nodding, so I am correct in that assumption. However, I am the only person who has put his name down to speak in this debate who was here when the noble and learned Lord arrived 43 years ago in 1979 as the new Lord Advocate, coming, as I recall, from being Dean of the Faculty of Advocates in Edinburgh.

Moreover, very shortly after his arrival in this House, I had the honour of working very closely with him on the Protection of Trading Interests Act 1980—I think the noble and learned Lord will remember it. It was quite tough on him to take on that Act, which was a complicated one, so soon after his arrival in the House. I believe that the then Lord Chancellor, Lord Hailsham, funked taking on that task, although the noble and learned Lord has never used those words to me. The nature of that Act was to protect a major UK company from the ravages of US anti-trust law. The entry into the area of US anti-trust laws did not deter the noble and learned Lord, with his swift intellect. I had just come back to this House after four and a half years practising law in New York; I knew something about anti-trust law and I hope I was helpful. Later, I remember working with the noble and learned Lord, when he was Lord Chancellor, on another very complicated Act, the Human Fertilisation and Embryology Act 1990. Once again, such an Act needed his great intellect.

My clear memory of the noble and learned Lord throughout his time in this House was of his great intellect and great stamina. At no time was this exhibited more clearly than during the passage of the Courts and Legal Services Act 1990. It started with a Green Paper for debate on a Friday—I suppose it must have been in early 1990. I will explain the circumstances of that in a moment. The Thatcher Government, after sorting out the trade unions, somewhat bravely decided to sort out the legal profession. It was agreed that the beginning of this sorting out should take the form of a Green Paper—a discussion paper—which was put before the House. Therefore, on this Friday sometime in early 1990, we convened at 10 am and must have gone on past 10 pm or 11 pm, or perhaps just after midnight. The beginning was quite eventful because the Bishop was not here, and the noble and learned Lord had to say Prayers before we could start our business that day. Thereafter, he sat on the Woolsack down there for almost the whole day, never leaving it, always listening to the argument, not even taking any notes but patiently listening to all that was said. He was there for 12, 13 or 14 hours and ended up giving a brilliant extempore summing up very late at night—using, as I mentioned, hardly a note.

It was not altogether an easy debate for the noble and learned Lord. The legal profession on the Bar side was furious with the provisions proposed by the Government of the day, and so were many members of the judiciary. As it happened, exactly on the Bench where the noble and learned Lord, Lord Judge, is sitting, I was sitting next to Lord Geoffrey Lane, the then Lord Chief Justice. He rose as I sat beside him and turned on the Lord Chancellor, saying that he had not even had the courtesy to write to him about these measures before introducing the Green Paper. However, Lord Lane had not taken into account the enormously good memory of the noble and learned Lord, Lord Mackay. He remembered that sometime earlier, when the Green Paper was being produced, he had received a handwritten letter from Lord Lane to say that he did not think it was appropriate for the Lord Chief Justice to be involved the discussion of these proposals. That placed Lord Lane in rather an awkward position. However, the noble and learned Lord, Lord Mackay, with his characteristic kindness, raised that issue very tactfully only in his final summing up, just referring to having received that letter.

Not only was the noble and learned Lord under attack from Lord Lane, he was under greater attack from Lord Donaldson, who actually used the words, "Take your tanks off my lawn". Again, the noble and learned Lord received that with great good temper and wisdom.

I remember having the privilege of seeing the noble and learned Lord when he was finishing as Lord Chancellor. It was sometime in 1997, as the general election result had been announced. He very kindly agreed that I could have a brief word with him before he departed from office. Thereafter, he moved to where he is now sitting, the Bench immediately behind the Ministers. It is a Bench that he has used over many years—for 22 years of which I was not here, but I saw him there from 1997 until I left in 1999 and saw him there again when I returned to your Lordships' House.

Every so often, the noble and learned Lord stands up and give some words of wisdom. I am a bit worried now for the Government and Ministers, who will no longer have those words of wisdom to guide them through their business. I fear they must just live with that, because the noble and learned Lord is leaving us.

I should like to bring everything up to date, because on Monday the noble and learned Lord was sitting in exactly the same place throughout the rather long debates on the Schools Bill. He did not intervene, but he was still sitting there.

It is about time I turned to the Bill itself. I was in the Royal Navy and I remember that the noble Lord sitting opposite was also a national serviceman in the Royal Navy with me. He may have been guilty of a sin, the information thereon I should like to pass on to the

House. I remember that in the Royal Navy we saw a lot of commercial ships, and we saw the seaman coming off at various ports all around the world. We all wondered how well they were being treated, what their wages were and whether they were being kept in difficult or squalid circumstances.

I look towards the noble Lord, Lord Geddes, because he was out in the Far East, and I was not, so I was not guilty of this sin, but it was said that in the Far East the Navy was considered not very good with its washing, and Chinese personnel were taken on board our ships while we were out in the Far East. They may have been taken on board the ships on which the noble Lord was an officer; I give him an opportunity to reply. They were kept there, not in very good quarters—I do not know anything about their pay—and then they were dumped when the ship returned from the Far East.

Although my Navy days are long over, the Bill's terms seem sound and it should be supported.

4.23 pm

Baroness Bakewell of Hardington Mandeville (LD): My Lords, it is a pleasure to follow the noble Lord, Lord Hacking. I look forward to the speech of the noble and learned Lord, Lord Mackay of Clashfern, and will certainly miss his knowledgeable interventions in this Chamber. I regret that I am delaying the House from hearing from him.

This rapidly drafted Bill is the Government's attempt to avoid a similar scenario to that witnessed earlier this year, when P&O dismissed nearly 800 of its crew with no warning to the Government and no consultation with its staff. The Government took swift action to condemn P&O. Peter Hebblethwaite, chief executive of P&O, told the other place that P&O intended to bring in a different operating model, employing fewer staff paid for only the hours they worked. This implies no holiday or sick pay. This averages at £5.50 per hour, down to a minimum of £5.15 per hour. The current national minimum wage is £9.50 an hour. P&O executives were shameless in their responses to questions in the other place, stating that they had knowingly broken employment law by not consulting unions, although they knew they were legally obliged to do so. In the words of Peter Hebblethwaite:

"We chose not to do so."

This was a clear gesture to the employment law of the UK—that it could be totally ignored and that P&O would operate its own conditions. UK employment law requires a company intending to make more than 100 employees redundant to give 90 days' written notice to the authorities of state where the vessel is registered, 45 days in advance of the redundancy date. The vessels concerned were registered in Cyprus, the Bahamas and Bermuda. At the same time as the crews were notified of redundancy, the letters were also sent to the authorities of state. This is not 90 days' notice, nor 45 days before the redundancy date. The way in which P&O operated was totally outrageous and I fully support the Government in bringing forward a Bill to attempt to prevent this happening again.

The Government have brought forward a nine-point action plan, as the Minister stated, to ensure that seafarers on ships using UK ports are paid the national minimum wage. Everything in the nine-point plan hangs under this first point. This is not a large Bill, but I fear that it may not be straightforward.

Clause 2 specifies what a non-qualifying seafarer is. It appears that a situation could arise where some of the crew on a ship qualify for the minimum wage and some do not. This is not likely to result in what could be described as a happy ship. Can the Minister please clarify this?

Clause 3(3) states that a qualifying vessel must enter a UK harbour or port on 120 occasions a year, which equates to three a week. This is obviously geared towards the ferry industry, where roll-on roll-off ferries operate several times a day on short hauls to France, Belgium and other countries, and on a daily basis to Spain. This is not likely to cover the huge cruise ships which visit far less frequently, at the most weekly, depending on their routes.

I turn now to the declaration of whether the crew are paid the national minimum wage and how it is to be implemented. The Bill stipulates that the harbour authorities in each area will implement the conditions of the Bill, check the authorisations and impose fines where necessary. These fines or surcharges are to be set by the individual harbour authorities and ports and must not exceed level 5 in Scotland and Northern Ireland, where this is £5,000. This figure is not likely to deter an owner operating a profitable route carrying thousands of passengers.

The Seafarers' Wages Bill brief was unequivocal: harbours and ports should not be involved in setting the fees or monitoring the declarations. Since many ferry operators own their own terminals, they are the harbour authority. In effect, they will be marking their own homework. There is definitely a conflict of interest here. Also, if different rates of surcharges are imposed around the coast, the owners of vessels will choose the ports with the lowest surcharge. The preferred option is for the Secretary of State to set a standard surcharge. It is unclear whether the surcharge is applied per vessel, per crew member on the vessel, or depends on the actual port used. This will need clarification in Committee.

A standard surcharge set by the Secretary of State takes away local discretion. I assume that any surcharges collected would be for the harbour authority to spend on improving services for those visiting the port, and infrastructure projects. Perhaps the Minister can clarify this. I look forward to the Minister's response. Now, your Lordships can hear from the person you have all really come to hear from.

4.29 pm

Lord Mackay of Clashfern (Con) (Valedictory Speech): My Lords, as I rise to address your Lordships for the last time, I am standing immediately behind the place from where I made my maiden speech in 1979, moving an amendment in a Scottish criminal justice Bill—which, I am glad to say, was accepted. A short distance may make a big difference in status, as your Lordships have noticed.

I thought, if your Lordships will permit me, it might be of interest to give a summary of the responsibilities I had in the two offices I held, which have now completely changed. Before doing so, I wish briefly to

[LORD MACKAY OF CLASHFERN]
support this Second Reading. For most of the time since 1972, I have been a member of a lighthouse authority with concern for the vital importance of seamen and their terms of service. Our legislation can regulate these for seamen who serve within our territorial waters but, if part of that service is outside those waters, special provisions will be required. This Bill deals neatly with such a case and I give it my full support.

With your Lordships' permission, I now come to say a little about the two offices I held. The first was the Lord Advocate of Scotland, with the first two responsibilities I will mention shared with the Solicitor-General for Scotland. The first was the representation of the Government in the courts of Scotland, advising the Government on Scots law and, in conjunction with the Attorney-General, on European law, which applied throughout the United Kingdom at that time. To assist in that responsibility, there was a staff of lawyers and other civil servants in the Lord Advocate's office in London. We had responsibility for drafting Bills for Scotland and those parts of United Kingdom Bills that required special attention to conform with Scots law requirements.

My second responsibility was for the prosecution service in Scotland, consisting of the Procurator Fiscal Service throughout Scotland, the Crown Office in Edinburgh staffed by members of the Procurator Fiscal Service, the Crown Agent at the head of that service and advocates who are appointed from the Scottish Bar to make judgments on the most important cases. Two Members of your Lordships' House—the noble Lord, Lord Campbell of Pittenweem, and the noble and learned Lord, Lord Hope of Craighead—were in that team. I personally took some of the fatal accident inquiries and prosecution litigations that were the responsibility of my office. That concludes the responsibilities that I shared with the Solicitor-General for Scotland.

I was invited by a number of departments to assist in this House with their legislation. The noble Lord, Lord Hacking, earlier gave at least one example of that happening. This gave me an opportunity to know those departments extremely well and I cherish that experience. I was also nominated by the Attorney-General, then Sir Michael Havers, to represent the Government in cases in this House and in the Court of Justice of the European Union. In representation in this House, in one case I had the advantage of having the noble and learned Lord, Lord Brown of Eaton-under-Heywood, as my junior. Needless to say, we won. As I said, I was invited by a number of departments to assist in this House with their legislation and that was important for developing my chances in later times.

After five years in the office of Lord Advocate, I was nominated by the then Secretary of State for Scotland to be a judge in the Scottish courts. When that became known in this House, I happened to be paying my bill in the Peers' Dining Room and Lord Elwyn-Jones said to me, "James, I've just heard that you have been appointed a Scottish judge. I'm very sorry; I had hoped for better things for you."

I was appointed a Lord of Appeal in Ordinary in 1985 and served in that capacity until October 1987, when I was invited to become the Lord Chancellor as my predecessor and excellent friend, Lord Michael Havers, had resigned on the ground of ill health. So I become the Lord Chancellor, an unprecedented experience for a member of the Scottish Bar who had not been a member of the English Bar.

The first responsibility of that office was to officiate in this House, and that I did for almost 10 years. This involved taking part as the Lord Chancellor independent of the Government when I sat on the Woolsack or stood in front of the Woolsack, but it also involved representing the Government, and when doing so, I stood two steps to the left. It was the Liberal Democrats who were there at that time. Things have changed in that respect, as your Lordships know.

In the House, the Lord Chancellor presided. He represented the House on ceremonial occasions, taking part where appropriate. He received new Members on their introduction, first in his office and then in the House in a ceremony while wearing a hat that Matthew Parris described as a Cornish pasty. He received and visited foreign Speakers of Parliament, Presidents, Prime Ministers and senior judges. He attended meetings of Commonwealth and European Speakers in company, usually, with the Speaker of the House of Commons and the Clerk of the Parliaments or an official of his department. He also attended other ministerial meetings. As noble Lords have heard, he read Prayers if the Bishop was prevented from attending—I think I had three opportunities to do that in the 10 years when I was Lord Chancellor.

The Lord Chancellor was a member of the Cabinet. I was given fourth place in the Cabinet on appointment. When Mrs Thatcher retired, I sat next to the Prime Minister and paid her the Cabinet's tribute on its behalf, the draft being kindly prepared by Robin Butler—the noble Lord, Lord Butler of Brockwell. I was in the Cabinet as a member of the judiciary and the legislature, the others being members of the legislature.

As a law officer, I had not been a member of the Cabinet. It was a tremendous honour and heavy responsibility to represent the judiciary in the Cabinet, but I felt that it was a very necessary and important responsibility, and I was anxious to discharge it properly. I had the responsibility for the civil law that was not already the responsibility of another department. This included organisations such as the Law Commission, the National Archives and the Land Registry. I introduced to this House legislation that was in accordance with the government policy for the Lord Chancellor's Department and also other legislation which the Ministers concerned invited me to lead on in this House. I think that the most important of the Bills that I had responsibility for were the Children Act 1989 and the Human Fertilisation and Embryology Act 1990. They have both stood the test of time in their structure ever since. Looking back on it, I think that is due to the amount of consent we got in this House and in the House of Commons—of course, I was primarily concerned with the House—and were able to work up in the course of negotiation here.

I also introduced, at the request of the then Home Secretary, a Bill that mentioned the Security Service publicly in Parliament for the first time. I was responsible for various legal aid and other enactments and statutory

instruments. I introduced the Courts and Legal Services Bill, which has already been referred to and which came along as a matter of some controversy with the Bar and some of Her Majesty's judges. I do not intend to describe the detail of that any further than has been done already. I am glad to say that it went through both Houses of Parliament with very little amendment and, so far as I know, nobody has tried to amend its principles since it became an Act.

The Lord Chancellor was head of the judiciary and responsible for the court system and provision for the judges—for example, for training and accommodation on circuit. Toward the end of my time in office, responsibility for magistrates' courts was transferred to the Lord Chancellor. Like Lord Hailsham before me, I presided over a substantial number of sittings of the judicial committee of the House or of the Privy Council.

I had the responsibility of nominating the senior judges to the Queen and the most senior to the Prime Minister. To assist me in that responsibility, there was a small group of officials in the Lord Chancellor's Department. This time is sometimes referred to as the "tap on the shoulder" time, but I have to say that I have no memory of tapping anyone on the shoulder as a preliminary to seeking to nominate him or her as a member of the senior judiciary.

The circuit judges and other judges were also appointed on the nomination of the Lord Chancellor and, again, the group in the department assisted. I took the view eventually that it was right that it should be done by a committee interviewing the candidates, including a magistrate, because I thought it important that the judicial quality of the person would be estimated. I made it my business to try to estimate that as carefully as I could. I sometimes had the opportunity of hearing candidates when I was sitting as the presiding judge in a session of a judicial committee, but I also had opportunity to study that in other ways. All the judges I nominated came to this House to be sworn in by me. My wife entertained them and their families in the River Room to tea or coffee as appropriate. I do believe that particular service was much esteemed by the people who got it. I do not think it continued.

As direct rule operated in Northern Ireland, I had similar responsibilities there for the court system and judicial appointments. A senior judge had been killed, the Chief Justice had been shot at and a judge's home had been blown up, so these appointments were a solemn responsibility. I am humbly thankful to Almighty God that no further damage was done to the judiciary in that way, although the risk continued. I should also like to mention the wonderful way in which the court service in Northern Ireland dealt with its work. On one occasion its headquarters was damaged by an explosion at the weekend, and first thing on Monday morning they were clearing up the broken glass.

The Lord Chancellor had the responsibility of nominating Queen's Counsel for England and Wales. Again, he was assisted by the group in the department. I consulted the senior judges and considered it right to have regard not only to success of advocacy in court but to the importance of sound advice to clients that might prevent them having to go to court.

This concludes my summary of the responsibilities I held in office. All are now changed, so I hope a record of them may be of interest. I handed over to the noble and learned Lord, Lord Irvine of Lairg, who I regret to say is now on leave of absence on account of his ill health.

This House has a special place in my regard and I wish to thank, from the bottom of my heart, all the Members of this House, past and present, who have shared with me membership of it. I feel the same for all the staff of the House. It applies to the Clerk of the Parliaments and all the staff in the offices, the staff of the usual channels, the committee staff, the expenses staff, the doorkeepers and the attendants; it applies to those who help us in the restaurants and in banqueting and with computers and telephones, the police and security, the engineers and the people who help us in many other ways including, of course, the cleaners. I particularly want to mention those ladies whose job it is to clean the huge number of books that are covering our corridors. I have spoken to them very often and it is wonderful to see how cheery they are, considering the nature of their employment. They really do a great job, and I would like to thank all the staff for the help that they have been to me.

I wish to thank my family for all the support they have given me. Above all, I have to thank my dear wife of 64 years for her devoted support and wonderful patience. I have been twice appointed a Life Peer and, having reached 95 years of age, am now being given the opportunity to retire from membership. I do it with gratitude, and the happiest of memories, on 22 July.

I believe that I have been sustained until now by answers to what we pray for at our opening every day. Thank you very much.

[*Applause*.]

4.47 pm

Lord Strathclyde (Con): My Lords, on behalf of the whole House, may I be first to congratulate my noble and learned friend and thank him for his many years of service to our country, to this House and to the legal profession? During the course of his speech, he exemplified just why he is held in such high affection by so many of those in the House today.

There is of course no one else quite like my noble and learned friend. As the noble Lord, Lord Hacking, pointed out, he is not alone in being a long-serving Member of your Lordships' House—since 1979—nor in being a long-serving Member holding high office in a manner of true distinction. It is rather the way in which his personality has transcended those positions. He has brought a style and composure born out of his natural humility and intelligence, which makes me feel that, while this is a fitting occasion, it is also a very sad day indeed.

My noble and learned friend held the position of Lord Advocate for five years but is renowned for his role as Lord Chancellor, a position he held for 10 years to 1997. When that post was abolished from your Lordships' House, Lord Howe of Aberavon thought it wrong because of the difference made by what he

[LORD STRATHCLYDE]
called the "looming presence" of the Lord Chancellor at the Cabinet table. It was my noble and learned friend who was that looming presence for so long.

He may well have stopped looming at the Cabinet table, but his presence in this House has been no less influential. From across the House, he is admired for his humility and moderation. My noble and learned friend still intervenes from time to time to make a point based not only on his great wisdom and experience but, perhaps most of all, on his humanity. To say that he will be missed from this House and our national deliberations is a severe understatement.

If ever an example were needed of how our United Kingdom benefits from a man who came from such a humble start in the Scottish highlands, the son of a railway signalman, and scaled the greatest heights of achievement and respect, it is my noble and learned friend Lord Mackay of Clashfern. Throughout his years of service, and particularly during his time as Lord Chancellor, he has been wonderfully supported by Lady Mackay, who has been ever-present at his side. We will miss them both, as they head north to a calm, peaceful and well-earned retirement. All of us are better off for having known them, and we wish them well.

I turn briefly to the Bill—

Noble Lords: Oh!

Lord Strathclyde (Con): Since I cannot really improve on what my noble and learned friend and the Minister said, I say that I wholeheartedly support the Bill and hope that it will reach the statute book speedily.

4.52 pm

Lord Shipley (LD): My Lords, this is a very important occasion. We have just heard the deeply impressive valedictory speech of the noble and learned Lord, Lord Mackay of Clashfern, whose knowledge of constitutional and legal matters and of the proceedings of this House is unequalled. We have appreciated his forensic thinking and analysis, and the sound advice that he has given to this House over so many years. We thank him for that and we shall miss him.

The Bill is the outcome of the need to address poor employment practices and low pay in the seafaring industry. The nine-point plan that the Minister referred to is a very positive set of proposals and reflects the right approach. The Bill, specifically, is a solution to the very immediate problem of low pay.

In practice, it is quite limited. It is reasonable to ask ship operators to provide the necessary declarations on a periodic basis. This will deter companies from paying less than the national minimum wage to ferry crews when sailing regularly to or from UK ports. Since "regularly" is defined as at least 120 times a year, this seems about right. UK-flagged vessels should not face a disincentive to employ UK-resident seafarers. However, it is the application and occasional enforcement of this legislation that we will need to look at closely in Committee.

Put simply, will it work? I think that it can, if all organisations involved own the objective and take responsibility for actions where they can. There does not need to be a big problem with implementation if it is seen as a shared problem. I understand the concerns of the ports that this regulatory work would be new work for them, and there is a strong case for agreeing that any prosecutions should lie with the Maritime and Coastguard Agency. Overall, this is about a proportionate balance of roles between the stakeholders, of which there are several: the Secretary of State, with powers to enforce the law and, in particular, to direct a harbour to refuse entry; the Maritime and Coastguard Agency; HMRC; and the harbour authorities themselves. These roles will need to be examined in some depth in Committee, not least the role of the Secretary of State and the powers of direction.

We may need to look at the Bill's compatibility with international law, but I cannot agree with those already consulted who say that we should await international decision-making or that we should legislate for all nine points at the same time before proceeding with this Bill. I also do not think that it is inappropriate to co-opt harbour authorities into the regulation and enforcement of seafarers' wages. They may have no experience of doing so, but they have experience of a wide range of health and safety regulations, for example. I accept that there may be difficulties with publishing surcharges in advance, but there may not be many cases of this in reality.

Much of the practical implementation of this Bill will lie in secondary legislation. I hope that the Summer Recess will be used to draft that secondary legislation, so that we have copies of the draft guidance and other general secondary legislation when we return for consideration in Committee. I would be grateful for the Minister's confirmation that this will be possible and is indeed the plan.

4.56 pm

Lord Howard of Lympne (Con): My Lords, I begin by discussing the Bill. For 27 years, I had the great privilege of representing in the other place the constituency of Folkestone and Hythe. That constituency contains many seafarers, many of whom suffered grievously from the deplorable action of P&O. I very much hope that the provisions in the Bill will ensure that action of that kind is not repeated, and I very much welcome its provisions.

The main reason for my brief intervention in your Lordships' debate this afternoon is to pay tribute to my noble and learned friend Lord Mackay of Clashfern. I had the privilege of serving with him in Cabinet. My noble friend Lord Strathclyde has described his presence, quoting Lord Howe of Aberavon, as a "looming presence" —although that is not quite my recollection. His interventions were always calm and judicious and, as your Lordships would expect, they were always listened to and heeded with respect.

When I entered your Lordships' House, I watched my noble and learned friend's contributions to your Lordships' deliberations with admiration and awe. Not only did he frequently intervene in and influence your Lordships' debates but he very often shaped those debates, and so often his contribution was decisive in the outcome of those debates and the votes which followed them. No greater tribute can be paid to a Member of your Lordships' House than to say that.

It can be said of perhaps no other. Your Lordships' House will be much diminished by the absence of my noble and learned friend, and I speak for all of us when I wish him and Lady Mackay a long and happy retirement.

4.59 pm

Lord Mountevans (CB): My Lords, sadly, I am not someone who can really do justice to the important matter being discussed, the departure of our greatly esteemed colleague the noble and learned Lord, Lord Mackay. However, the noble Lord, Lord Howard, was talking about his very important and on-the-money comments and perceptions, which I have savoured and witnessed; so often they have absolutely gone to the heart of what we have been discussing. I join in regret and, at the same time, massive appreciation of all that the noble and learned Lord contributed.

I turn to the Bill. At the outset, I should say that in the past when I have spoken on maritime matters, I have very often had to declare an interest. I do not have a relevant interest at all now from trade associations and so on—only approaching 50 years of working in the industry.

I thank the Minister very much because, when she offered Members of the House a briefing a few days ago, I was unable to attend. She very kindly came straight back to me and offered to arrange a briefing with officials, which morphed into a briefing with her colleague the Shipping Minister. I am deeply grateful to her and to her colleague. Both of them have constantly exhibited a great concern for the industry, and a desire to get it right. My discussion with the Shipping Minister yesterday was extremely helpful, and I very much share his direction of travel on the Bill.

The whole industry—I think that I can speak for it, notwithstanding what I have just said—absolutely understands the need to do something about this issue. We will not accept again behaviour of the type that we saw, and we are very much on board with the suggestion that seafarers be paid at minimum the national minimum wage. However, I have some concerns about the Bill, which could have unintended consequences and could damage the industry, consumers and our international standing.

First, the Bill proposes a national regime for seafarers that would duplicate and contradict the obligations for seafarers set out in long-established international conventions. This represents a departure from the established international order, where the flag state holds primacy and, with this, full observance and compliance with international rules and systems. There is a concern that this could attract international condemnation from the IMO and other flag states. We should be very careful before doing anything that would antagonise the IMO, given that we are extremely lucky to have it based here in the UK. It is the only United Nations agency based here, and is of great value in terms of our maritime presence and offer.

Secondly, we should be very careful to avoid damaging brand Britain in maritime affairs. The shipping world uses services provided from London and the UK market; the leading shipbrokers in the world are largely British; marine insurance and associated services are massive from London; our brilliant law firms often handle a wide range of disputes from around the world; and so on. There is deep trust in Britain's maritime offer and performance, and we must not damage the prospects of growing the UK flag. I am talking about a position whereby we could upset the international order by moving from these conventions, which work very well. What about our neighbours? How do they see this? The Netherlands, France, Germany, Spain and Norway will work with the existing conventions; they do not feel the need to bring something new in.

As drafted, the scope of the Bill is very wide, covering not only the ferry sector but all other services, if any vessel makes more than 120 port calls in a year—on average one call every three days. The precise impact is not yet known of this, but I suggest that it risks embracing more than just ferries; this is a Bill very much intended for ferries and the short-haul business. It risks that, which could damage consumers.

Thirdly—this has been mentioned, and the Minister knows it—the ports are unhappy with the prospect of an onerous burden being placed on them. They feel that they are not in possession of all the information; when a ship owner comes and presents an explanation of how they operate things, they do not feel well placed to evaluate that. Concern about this is very widespread in that sector.

Fourthly, it is debatable whether the Bill as drafted will have a meaningful positive effect on the terms and conditions of our seafarers. From my research, almost none of the seafarers employed on ferry routes is paid below the UK national minimum wage. I was unable to identify any, and I have tried very hard. There could be some cleaners and things like that, and I understand that we want to be super-vigilant on this—but with the seafarers I do not think that it is a problem. Indeed, the narrative in the immediate aftermath of the extraordinary action taken by P&O Ferries was about rostering manning levels and wider terms and conditions, rather than the national minimum wage.

This is a highly nuanced issue and I understand that with the Bill the Government are working on a framework agreement with owners. I also understand that the owning community is far advanced in its work on the framework. A suitably agreed framework could address all the Government's concerns without statutory intervention, with all the attendant risks that I have listed and I hope we will hear about from others too. Such a light-touch solution would be very much in line with how we in the UK have dealt with many issues down the years. I am greatly reassured by the Minister's opening remarks again and the assurances that she has given us that she will work in close co-operation with the industry and will listen very carefully. I am absolutely convinced and do not doubt for a minute that that is the intention of the department and Ministers on this.

5.06 pm

Lord Fairfax of Cameron (Con): My Lords, I first declare an interest: apart from working in shipping for 40 years and being a director of one of the ship owners' P&I clubs, I am currently a non-executive director at a green tech fuel additives company which has relevance to shipping.

Today, of course, as many of the earlier speakers have said, is first about the valedictory speech in this House of my noble and learned friend Lord Mackay.

[LORD FAIRFAX OF CAMERON]
I think I was one of those very few who were here—I think it was said—43 years ago on my first-iteration outing in this place. It was my pleasure and honour to have my hand shaken him as Lord Chancellor when I took the oath all those years ago. As noble Lords have heard today, there are very many greatly deserved plaudits from all sides of this House for his incredible long record of service with distinction.

I turn to the Bill itself. Following the P&O Ferries incident in March this year involving its peremptory sacking of—I think—786 staff, of course it is right that the Government should address the issues coming out of that. As noble Lords have heard, one of the main strange things about this is that, despite its name, P&O Ferries does not have its vessels flagged in the UK. If you were a member of the British public reading about this incident, as I was, and someone in fact who, as I say, worked for a long time in shipping, I immediately assumed that not only were the relevant staff British nationals but the vessels were probably flagged under the UK register. As noble Lords have heard, that is not the case: it is Cyprus, the Bahamas and Bermuda—so-called flags of convenience. There is nothing wrong with that. This is a totally widespread practice in international shipping, but it is perhaps not what was first thought.

Against that background, the Government have brought forward the Bill and, in general, I support what it is trying to do. But I would like to highlight three issues that come out of it. First—I think the previous speaker, the noble Lord, Lord Mountevans, touched on this—there is the extraterritorial nature of the Bill's provisions. In particular, there is a suggestion that they may conflict with the United Nations Convention on the Law of the Sea, and I believe there is a similar submission by the UK Chamber of Shipping.

This leads on to my second question, which I asked the Minister about during the briefing last week. What do other countries involved in some of these frequent ferry services think about what we are doing? I think of France, for example. I live on the Isle of Wight, where we see Brittany Ferries coming in just about every day, as well as Condor and others. What does France think? And what do Germany, Holland and Ireland think? What are they doing to address this type of concern? I note that there is a reference in the briefing to the idea of "minimum wage corridors", which may be the solution.

Finally, this is really repetition of a point that I have made already, but this Bill will in fact catch not UK flag vessels but foreign flag vessels. The nationality of the seafarers involved is irrelevant. I originally thought that the nexus would be that they were British, but that is not the case; this will catch foreign flag vessels. To take the case of Brittany Ferries, they are presumably French citizens. I am not sure, but I have a feeling that this is not what the British public first thought when they heard of the P&O Ferries case.

5.11 pm

Lord Mann (Non-Afl): My Lords, I think that when they heard of the P&O Ferries case, the British public's first thought was one of contempt towards an employer who would deal with employees, our fellow citizens and our country in such a contemptuous way.

I start by paying tribute to a most important group within our country: the railway signallers of the west coast of Scotland. They are clearly capable of bringing up and nurturing the most talented of children who end up as the most distinguished Members of this House. Another such railway signaller from the west of Scotland is relevant to this particular Bill. When the national minimum wage came in, a former railway signaller, Mr Jimmy Knapp, was the leader of the seafarers' union, it having merged into the railway workers' union and his predecessor from the National Union of Seamen, Sam McCluskie, sadly having had a rather early and unfortunate death.

I recall the discussions. Mr Knapp was the most robust of west-coast Scots; he was clear, lucid and determined. There was never any indication or feeling that the agreements in place with the employers covering the ferries—which he specifically raised—would end up finding a way of outwitting that legislation. That was not the intent of Parliament at the time. If it had been the intent, Mr Knapp would have been very forthright in advising on how Parliament could have improved that legislation.

Times have changed, however, and globalisation has taken hold. Although the specifics of this Bill relate to maritime law, not to EU law, we have had the backdrop of the Laval and Viking cases in 2007 in the European Court of Justice, which significantly opened up the options and possibilities of shifting workers from one part of the world to another part of the world, and into this country.

There is no question whatever, from my experience, that that shift was a key motivating factor in the 2016 referendum for many working-class people. They saw that this imposition of rules and cheaper wages from abroad was not in the British national interest. So, I congratulate the Government on bringing forward this proposal—it is in the British national interest. I hope they will go further and look now at the Laval and Viking cases, because there will be future such episodes and it is fundamentally wrong that British workers' pay and conditions should be undermined by people bringing in a cheaper workforce from abroad. That is not what anyone voted for in that referendum and it is not what people would vote for as an offer at any future general election—I put that to all parties in the House.

Secondly, what cognisance has been taken of the Fleet Maritime Services (Bermuda) judgment of 2015 on peripatetic seafarers and pensions? That judgment, which was a positive judgment in terms of pension rights, seems to totally complement what the Government are doing here. If the Government were to veer away from it, it may actually create some kind of precedent that could be used to challenge any demurral from seeing through this change, which, again, I commend the Government for bringing forward.

5.16 pm

Lord Balfe (Con): My Lords, I add my words of appreciation for my noble and learned friend Lord Mackay. I am a fairly new Member of this House, of only nine years, but he has been a constant presence throughout those nine years and always a source of wisdom. Whenever he gets up, he says something that is worth listening to. That cannot be said of many people,

probably including me. We all wish him well in his retirement and he will be missed. That is often said about people, but it is certainly true of my noble and learned friend.

I welcome the Bill. It presents a very interesting contrast with the debate that we held the other night on a couple of nonsensical statutory instruments. It is a response to an action by employers that was just not acceptable, and this is exactly the right one. We need to get the Government behind good employment practice. I am not saying that the Bill is perfect, but I am saying that the driving force behind it is what I like to see when Governments deal with trade unions. As I have often said, I am president of the airline pilots union. The laws of the air are somehow a lot stronger than those of the sea, probably because aircraft are very expensive things and aeroplane technicians tend to talk to each other much more and get things organised. The Bill, I believe, is the product of a Government who have shown they care.

Clearly, we have to look at foreign workers, but I do not look at foreign workers, I look at workers—who are working to increase the prosperity of this country. My family were foreign workers; they all came from Ireland. They spent years contributing to the tax base of this country through working in this country—in the case of my father, working in the National Health Service. I have never looked at people and said, "Oh, they are foreign; they are not British, they deserve something different". They do not: all workers deserve the same level of respect, and I am sure this Bill will carry that through. It is a way to deal with the problems and it shows what can be done.

I will make one mention of the briefing we got from the British Ports Association, which says that it is inappropriate to co-opt harbour authorities into the regulation or enforcement of port users' employment practices. I happen to disagree, but if the Minister tends to agree, let me give her a very easy solution. We have a precedent in the certification officer for trade unions, who certifies all the trade union practices in legislation. Let us have a certification officer for port workers and let the port owners pay the levy to finance it. It is quite simple. If they do not want to do that, we can provide an alternative; the Government can provide a certification officer to ensure that these regulations, when they are passed, are implemented. Let us see what the port authorities have to say about that. It is the best way forward and would work things out.

I close by thanking the Minister and her department for the draft. I am sure it will achieve a small amount of debate in Committee but, when I read it, I thought, "At last we have something that reflects the attitude to trade unionism that I have always wanted to see from these Benches".

5.21 pm

Lord Berkeley (Lab): My Lords, I will speak briefly in the gap. I declare an interest as honorary president of the United Kingdom Maritime Pilots' Association and a former harbour commissioner of the port of Fowey in Cornwall.

I am a young boy here compared with the noble and learned Lord, but we had something in common about 15 years ago when there was a problem with lighthouses around the UK. Ships going into UK ports fund those lighthouses and we found that ships going into UK ports were also funding the Irish lights, nearly 100 years after independence. It took a great deal of effort from Ministers of both parties to get the Irish to accept that they should fund their own lighthouses from the revenue from ships going into Irish ports. Of course, lifeboats are a completely different matter, but it was a useful bit of work done by the lighthouse authorities.

I certainly support this Bill. A briefing came to me from the RMT, which calculated that P&O's labour costs had been reduced by 30% as a result of what it did. That does not bode well for the poor people who used to work for it. Worse still, it could set a precedent for other competing ferries to do the same thing. It is all to do with the changes brought by Brexit, but we are where we are. I have a few questions, which I am sure will come up again in Committee, but I welcome the Bill, which is a good start.

On this business of 120 days, with the ferries that go to Spain from the UK, it is probably not the same ship all the way through the year—sometimes they go only in summer. Can the Minister say how their visits would be counted and qualified?

There are also the freight ships that go across—most are ro-ro, but not all—between the UK and the near continent, although I see that freight is included, which is really good. However, why are cruise ships left out? Some cruise ships just go around the UK, probably because of the Covid regulations of the last few years. Surely, the people who work on them deserve the same protection as those who operate the ferries, at whom this Bill is directed. Also, what about the deep sea ships, the deep sea containers and bulk carriers—which, as the noble Lord, Lord Balfe, reminded us, we talked about the other day?

They all have people working on them who, surely, if they are operating in UK waters, deserve the same protections. If people start saying that ship owners cannot afford to pay their crews decent wages, noble Lords might like to refer to an article in the *Sunday Times* last week which showed that the shipping industry made a net profit of £188 billion last year—so they can probably afford to pay their seafarers a decent wage and let them see some of the benefit.

There is also the question of the offshore oil sector and the boats that support it. So there are many questions there. I am not going to go on because I think I have reached my time limit, but I give notice that I shall have a number of amendments to put down in Committee. I think we need to talk in particular about the role of the ports, as several noble Lords have said.

5.25 pm

Baroness Scott of Needham Market (LD): My Lords, I have no current interests to declare, but for context I will tell the House that I served for six years as a non-exec on the Harwich Haven Authority, which serves the port of Felixstowe. Before that, I was the first woman to serve on the board of Lloyd's Register—so I take a great interest in these issues.

[Baroness Scott of Needham Market]

It often strikes me that in this island nation, which is totally dependent on goods coming in by sea and has a first-class maritime sector, we very rarely debate maritime issues in this House and in Parliament generally, and we even more rarely have associated legislation. I think it is probably because things work pretty well on the whole. But it is also because there is complex, well-established governance emanating from international organisations and agreements—the noble Lord, Lord Mountevans, mentioned the IMO just across the river. It is a reminder that sharing sovereignty is sometimes a necessary and positive thing, and that we need to exercise some caution.

It is welcome to have legislation and a debate this evening, particularly because it has occasioned the valedictory speech of the noble and learned Lord, Lord Mackay of Clashfern, who is retiring. In a House noted for its long service, being an active Member in your mid-90s is quite some achievement, but to still be making incisive legal contributions and wise judgments above all in a way that is entirely unconfrontational is a real lesson to those who think that shouting and being unpleasant is how to get what you want. I am sure everyone who has ever listened to the noble and learned Lord has learned from him, so I thank him very much and we on these Benches wish him well.

From these Benches we fully support offering seafarers all the protection we can reasonably give. Many of them work in very trying conditions and are often exploited. The situation at the start of the pandemic, and for quite some time, was horrendous. Many were trapped at sea for months, unable to get home after their contracts had ended, and their replacements were unable to get out to relieve them. The Government's nine-point plan is extremely welcome, and we look forward to hearing how the Government are progressing with it, and in particular with those elements that require the sorts of bilateral agreements to which the noble Lord, Lord Fairfax of Cameron, referred, such as the minimum wage corridors. I wonder whether the Minister can say whether there are plans to keep Parliament updated routinely, or whether perhaps we need to table some debates. I think the Bill is the only part of the plan that requires primary legislation.

It has come about because of the egregious behaviour of P&O Ferries, which shone a spotlight on the condition of the industry and provided the impetus for some new thinking. But it is worth reminding ourselves that the company was breaking existing law; that is clear. The law was already there, so the idea that new law is of itself a panacea is something we should resist.

I am slightly suspicious about legislation brought in to address one particular set of circumstances. I can hear the Yorkshire tones of my late noble friend Lord Shutt of Greetland saying, "You don't make porridge for one", and I am a bit nervous that here we are making porridge for one, because it is one set of circumstances. For me, the starting point is always, "Is there some way of doing this other than legislation?" I think these international agreements and corridors might end up being more fruitful, but Governments of all colours reach for the statute book first, I think because if you have a hammer, all problems look like a nail.

The Bill is actually quite limited in scope. In practical terms, it will cover mainly ferry companies on short strait crossings, although the noble Lord, Lord Berkeley, brought up some other interesting examples. We will need other measures to protect everyone else, and that will mostly be a matter for the international maritime organisations.

I know that at the start of this process the Government's thinking was very much about putting the burden of enforcement on to the port authorities, and I am glad that they have listened to the strong objections from the sector about taking on a new, onerous regulatory role. There is already minimum wage expertise in government in the form of HMRC. The legislation puts more of the burden on to the Secretary of State, which in operational terms means the Maritime and Coastguard Agency, which will now take on most of the responsibility for compliance, the setting of surcharges and so on. Can the Minister say a little about the resources available to the MCA, particularly in the context of all government departments being asked to reduce staffing numbers by somewhere between 20% and 40%? It might be quite difficult to take on new responsibilities with fewer people.

I know that the Government believe that this a modest extra burden on ports, and I think it is possible to overstate it, but it will largely depend on the systems that we set up for running the system. I hope that great care is taken to ensure that for operators, ports and the MCA alike the systems are streamlined and as efficient as possible. I fully agree with my noble friend Lord Shipley that we need sight of the guidance first, because there are some new responsibilities. In Clause 7, for example, a process is set out which could be quite time-consuming for a port authority. Noble Lords need to have a little sympathy with a sector which has spent millions of pounds preparing for post-Brexit checks that will now never take place.

The surcharges will be established by secondary legislation, imposed by the MCA and levied by port authorities, so we need full consultation with all parts of the sector. In particular, we need clarity and transparency. Those principles are always a good idea, but given that some port operators also own the ferries, they are particularly important here.

I have a couple of questions for the noble Baroness. First, if the MCA finds a breach which results in a levy, does the port authority have to collect it? What happens if it chooses not to? Secondly, some aspects of the legislation can result in summary conviction and fine—for example, in Clause 5. Can the Minister say against whom these criminal charges would be brought? Would it be the master, the owner or the board of the company? Finally, we come to what for me is the most important question of all. The intention is that, where a surcharge is not paid, the Secretary of State can direct a port to refuse entry. On the face of it, this could be a direct contravention of the open port duty as defined in the United Nations Convention on the Law of the Sea, to which the UK is a signatory. Can the noble Baroness set out what legal advice has been sought and from whom, and whether it can be published, to establish that barring a vessel from a port does not in any way conflict with our international obligations under UNCLOS?

5.33 pm

Lord Tunnicliffe (Lab): My Lords, I thank all noble Lords who have spoken today, but I particularly thank the noble and learned Lord, Lord Mackay, for his contribution. I cannot match the eloquence of previous speakers, but I formally—for want of a better way of putting it—thank him on behalf of these Benches for his magnificent contribution over those 43 years. At a personal level, it has always been a pleasure to listen to his interventions, not just for his tone and style but for his wisdom. It is the sort of wisdom that melds both logic and personal values. In particular, we feel that his view of the world is to try to be more conciliatory. That is an important element in our deliberations. Too often, we lose that sense of trying to work for a common solution, and one always sees his interventions as trying to find out what someone really means and asking if there is some common ground. It is as if he had a personal ambition to make this House a better place for all of us to work. I thank him personally and on behalf of these Benches.

These Benches support the Seafarers' Wages Bill, which we hope will mean that more workers calling at UK ports earn the equivalent of minimum wage. However, I am afraid that, in the aftermath of the P&O Ferries scandal, this will not be enough to give seafarers the security which they deserve at work. Seafarers kept this country stocked throughout the pandemic, but loopholes in the Bill will mean that many still will not receive a fair wage, and other key issues such as pensions and roster patterns are not even addressed. For this reason, we will seek to amend the Bill to give seafarers greater security at work, crack down on rogue employers and make sure that the P&O Ferries scandal can never happen again.

I turn first to the vessels which are in scope of the Bill. As drafted, vessels docking at UK ports must pay the equivalent of national minimum wage for the time spent in UK waters, but Clause 3 states that this will apply only to ships which

"entered the harbour on at least 120 occasions in the year."

While most services will be covered by this, for some routes, such as that of the "Pride of Hull", only slight adjustments to the timetable would allow them to escape paying a fair wage. The Government's own impact assessment shows that the department considered applying the legislation to ships which dock on 52 occasions a year. Can the Minister explain why they have not pursued this option?

It is also not apparent why the Bill refers to "the harbour" rather than "a harbour". This could open a loophole for vessels to dock at different ports to escape paying a fair wage. Has the Minister considered that possibility?

On the wages which seafarers will receive, it is disappointing that the passage of the Bill will not mean that a worker's full wages will equate to the minimum wage. While the Bill states that seafarers must receive the equivalent of national minimum wage for the time spent in UK waters, workers could end up receiving far less than the national minimum wage in total because many European nations have no minimum wage. For example, in the hypothetical situation where a seafarer works for four hours in UK waters, on a national minimum wage of £9.50, and four hours in Danish waters, with no national minimum wage at all, in total the worker would receive an average of £4.25—half of the UK national minimum wage. While I appreciate that the Government are seeking bilateral memorandums of understanding to address this, the uncertainty in government could mean that policies such as these are abandoned. Can the Minister commit to pursuing such agreements in the Bill?

I am also disappointed at the narrow scope of the Bill and the lack of broader protections for seafarers. Despite initially being referred to as a harbours Bill, the Government have stripped back the Bill to focus on the narrow issue of wages, leaving out references to a seafarers' framework, as well as other commitments from the nine-point plan. While I appreciate that secondary legislation will be introduced to enact other aspects of the framework, Ministers should place guarantees in the Bill, including in relation to pensions, roster patterns and collective bargaining. Will the Minister explain why the Bill is no longer a broader harbours Bill?

On the matter of enforcement and penalties, the P&O Ferries scandal should represent a line in the sand for seafarers' rights. However, we cannot ignore the fact that bosses ignored existing protections because the fines were too weak. It seems that firms such as P&O are willing to look at fines as a mere cost of existing.

Although we support the inclusion of unlimited fines in the Bill, the lack of a minimum fine raises the prospect that precedents could be set for smaller penalties. Ministers should strengthen the penalties in the Bill to make sure that rogue employers can never again get away with flouting seafarer protection. Will the Minister explain the Government's position on minimum fines?

Given that the Bill also allows harbour authorities to monitor compliance, as many authorities are also operators, this could end with employers marking their own homework. Will the Minister consider safeguards to protect this system from abuse?

Turning next to the regulatory powers, the Bill allows the Secretary of State to change which services this wage protection applies to. Although we would support the expansion of protections to more workers, there is a risk that these powers could be used to exclude workers. Can the Minister today commit to a principle of non-regression of seafarers' rights?

Next, on the provisions which mean that harbour authorities will have the power to refuse harbour access in response to non-compliance, the Government must mitigate any risks and ensure that access is never refused when it is necessary for the safety of the crew. Although I am pleased that the Bill contains provisions for when authorities cannot refuse access, can the Minister confirm that this is in full accordance with international maritime law?

Finally, as we consider the implementation and application of the Bill, Ministers should consider the role that trade unions can play as experts in the safety and conditions of seafarers. The current situation means that P&O, Seatruck, Irish Ferries, Condor Ferries and Cobelfret are all still using the low-cost crewing model which P&O imposed on 17 March. As a result, ratings are often receiving below the national minimum wage pay and long contracts that cause fatigue.

[LORD TUNNICLIFFE]
The P&O scandal must represent a line in the sand for seafarers' rights, but in its current state, the Bill falls far short of achieving that.

Lord Hacking (Lab): Before my noble friend sits down, I should be grateful if I could intervene for a moment to apologise to the House, most particularly the Minister and the noble and learned Lord, Lord Mackay, for my absence during the past hour. I had a commitment with the Lord Speaker that neither he nor I could change, but I apologise for not being here. I am greatly sorry to have missed a number of the speeches that your Lordships gave in my absence.

5.42 pm

Baroness Vere of Norbiton (Con): My Lords, the Bill is clearly not the star of the show today. We have heard so many wonderfully warm words, and I was touched by so many of them, not only from my noble and learned friend Lord Mackay but from all noble Lords who paid him tribute. But I must at least try to get the House back to focus on the Bill, and that is what I intend to do.

I am very grateful to all noble Lords for their contributions and, as ever, I feel a letter coming on. We will try to get it out as soon as we can. I do not know that it will be before recess, but perhaps by the end of next week. I will try valiantly to answer as many of the questions raised as possible. I know that we will be heading into Committee on the Bill on, I think, 5 September, so it will be upon us before we know it. Thinking about it over the recess might be a very wise idea.

I cannot agree with the noble Lord, Lord Tunnicliffe, that the Bill is too narrow. We must balance that with the statement of the noble Baroness, Lady Scott, who said, "Oh, the Government are always reaching for legislation". That is what we are trying not to do in this case; we are reaching for this legislation because it is necessary and fills a gap, but many of the other things we will be delivering in our nine-point plan do not need legislation, so we will not put them in legislation. Noble Lords know that we are overwhelmed with legislation; do not even get me on to secondary legislation, which we must also make sure is completely fit for purpose so that we do not end up overregulating and having too many debates on things that, frankly, do not need legislating. I am content with the scope of the Bill and the extent to which it applies.

There is always that very interesting balance in maritime between the Government being very focused on domestic priorities, for the protection of domestic workers operating with very close ties to the UK, and what is an extremely international market for maritime but which is governed by international laws, conventions, agreements, all sorts of things that make up the maritime ecosystem. We are very clear that we do not want to be upsetting that ecosystem and we are content that this Bill does not do that. We are also very clear when it comes to, for example, access to ports in an emergency or for the welfare of the people on board, a vessel would never be barred from entering a port in such circumstances. Therefore, I am content that this reaches that appropriate balance between the domestic priorities and the broader maritime framework, which is set mostly internationally.

The noble Lord, Lord Tunnicliffe, asked why there was no longer a harbours Bill. There was a name change. It is nothing more significant than that. I was expecting something called a "harbours something-or-other", but there was a name change and, lo and behold, we are calling it something which much better reflects the intention, since our target is the seafarers, not the harbours. We are all after the people, and therefore it was quite right that we changed the name.

I think that I have covered the issues raised by the noble Lord, Lord Mountevans, as well. I take his point, and he is hugely experienced regarding our international reputation. As we have set out in our nine-point plan, we will be working with international partners. We will not be putting this in the Bill because it is not within our gift to deliver it. That does not mean that we will not work extremely hard; at the moment we are engaging with eight European countries on seafarers protections and welfare more generally, and to explore the creation of the minimum wage equivalent corridors. I do not say that this will necessarily be easy, but there are many like-minded seafaring nations which would want to see certain agreements being reached. Discussions are currently at an early stage, but we are pursuing them as a matter of priority.

A number of noble Lords mentioned the conflict that might exist between ports' commercial interests and their statutory duties. We are clear that we must be cognizant of that but also, because the Secretary of State has the power to issue directions, it is the case that in the event of any doubt that those two things were not being performed correctly, I am afraid that the MCA and probably the Secretary of State would have things to say. However, I must reiterate that when it comes to the ports, we do not really want them to do very much at all. By the time that we have passed the secondary legislation for the declarations, the declarations will be standard, they will have been consulted on, and we will have discussed them with the various stakeholders, so it will be a very transactional relationship. They have a transactional relationship with visiting vessels already, so it is just one more cog in that particular transactional relationship.

Therefore, the ports will not be performing any sort of enforcement function at all. I note the comments from my noble friend Lord Balfe but, as I said, we are quite clear on what we want the ports to do. I look forward to talking through the secondary legislation when we discuss the process in more detail. If we get the secondary legislation right, if the process is really effective, then the role of ports will be minimised.

The noble Baroness, Lady Bakewell, asked about the term "non-qualifying seafarers". This is going to get a little complicated, because we are trying to capture non-qualifying seafarers; they do not qualify for the national minimum wage and we want to make them qualify for the equivalent, which we are setting up. We want all workers on vessels with close links to the UK to be covered. I reassure the noble Lord, Lord Tunnicliffe, that we are focused on improving the rights of seafarers, both in the UK and by working with international structures.

The noble Lord, Lord Mann, mentioned some quite broad elements around workers' rights and pay and conditions. The Bill seeks to amend the law in a limited and specific way. I will come back to this again and again in Committee: it is about workers with close ties to the UK, in UK waters. That is our focus in getting the Bill through Parliament. He mentioned a Bermuda judgment on pensions, but he is testing my knowledge so I will have to write on that matter.

I sense that we may have some discussions in Committee on the question of services as well. We considered all sorts of different frequency definitions, various types of vessel and the sorts of services they offer. It all got bogged down very quickly and could have ended up causing significant distortions to the market, as people try to change what their vessel does to fit into a different category. We do not want that; we are after simplicity here. We really are.

We decided on 120 days, which is equivalent to once every 72 hours, because we felt it was the right balance between workers on board having a close tie to the UK—I will come back to that a lot—and capturing as many of the vessels that we want to capture. We have analysed past data, which suggest that a large majority of ferry services would be captured in this scope. DfT statistics suggest that, had the policy been in effect in 2019, approximately 98% of passenger ferry voyages would have been captured and 70% of non-passenger ferry voyages carrying freight would have been in scope. Very few bulk, container and other such services would have fallen in scope—for example, for 1999, 7% of fully cellular container voyages to and from UK ports and a tiny proportion of the dry/liquid bulk services would have been in scope. I think we have the right balance.

The noble Lord, Lord Berkeley, mentioned cruises. If it is a UK cruise that stays in UK waters, it will be paying the minimum wage, because that is already in the regulations. However, if the cruise ship is going far away, it will not be covered, because it does not have close ties to the UK, is not back and forth or visiting our shores very frequently. That is the distinction we have made.

Lord Berkeley (Lab): I am very grateful for the noble Baroness's comments. She spoke about ships that do not have close ties to the UK, but we are talking about workers on those ships and whether they have close ties. It would be helpful if she could define that now or in writing.

Baroness Vere of Norbiton (Con): Is it not really about the service? We cannot legislate for UK workers working in international waters or in any country in the world. That is what we must balance here. If we wanted to include cruises, we would have to include every vessel that pops into UK waters. The administration of that would blow up; it is not going to work. We will debate this in Committee, but I think we have reached the right balance. I do not know that noble Lords will be able to convince me that we have not, but I am willing to let them try.

I turn briefly to enforcement, which is a really important point. This is where the MCA will step up to enforce the system as a whole. We expect the cost of enforcement to be about £359,000 over 10 years. That is a relatively small amount in the context of the work of the MCA, because it can be done alongside its many other inspections.

The framework around the surcharges will be set out in secondary legislation. The noble Baroness, Lady Bakewell, was concerned about the ports setting the surcharge, but they will not. If a port for whatever reason had a ship approach and thought, "That's a friendly ship; we're not going to charge it a surcharge", the Secretary of State could direct it to charge the surcharge. That gets round the issue where you might have a port and a ferry service operated by the same operator. The Secretary of State's beady eye will be there to make sure that it does as it should.

I will come to the point made by the noble Lord, Lord Tunnicliffe, about minimum fines. The noble Lord, Lord Shipley, raised a point about a port being an enforcement authority; it definitely is not going to be. The noble Baroness, Lady Scott, asked about criminal charges. It will be for the ship operator, which is standard for maritime, to suffer any penalties relating to the Bill.

I am going to finish off with my favourite topic—secondary legislation. I think someone said "good"; I am not sure who it was. I am really offended, but I am going to talk about secondary legislation just so we can suffer a little longer. This is important because I have noted that Grand Committee is on 15 September, and we will not have full draft regulations by then. I am sort of thinking that this is probably not the worst idea in the world. We will have detailed policy notes, but as we go through Committee and debate the sorts of things we are proposing to put into secondary legislation, I think having detailed policy notes will be sufficient to aid our thinking, and issues may certainly come up in the discussion that we may want to reflect in the regulations or perhaps draft the regulations in a slightly different way.

I believe I have covered some of the questions asked by noble Lords today.

Bill read a second time and committed to a Grand Committee.

Slavery and Human Trafficking (Definition of Victim) Regulations 2022

Motion to Approve

5.57 pm

Moved by ***Baroness Williams of Trafford***

That the draft Regulations laid before the House on 23 May be approved.

Relevant document: 5th Report from the Secondary Legislation Scrutiny Committee (special attention drawn to the instrument)

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, on 4 July the other place voted to affirm these regulations, which support the implementation of Part 5 of the Nationality and Borders Act 2022 which, as noble Lords will recall,

[Baroness Williams of Trafford]
received Royal Assent at the end of April. Section 69 of that Act gives the Secretary of State the power to define the terms "victim of human trafficking" and "victim of modern slavery" for the purposes of Part 5 of the Act.

The definitions of these terms are therefore relevant to the provisions in Part 5 relating to the circumstances in which the Secretary of State must provide assistance and support to identified potential victims under Section 64 and the circumstances in which an identified potential victim may be disqualified from protection if, for example, they are a threat to public order, as set out in Section 63. When these sections use the term "victim", that refers to the definitions contained in these regulations. As such, the regulations simply ensure that such provisions in Part 5 of the Act can work in practice.

As noble Lords familiar with this area will know, there are already definitions of slavery and trafficking in primary legislation under Section 56 of the Modern Slavery Act 2015. However, these definitions relate to the criminal offences in Sections 1 and 2 of that Act, which deal with slavery and human trafficking respectively. What this means in practice is that the 2015 Act definitions require evidence of conduct amounting to a criminal offence, which is not a requirement for the purposes of victim identification, nor a prerequisite to provide support.

6 pm

While these definitions in the 2015 Act therefore remain appropriate in the context of the criminal law, I hope noble Lords will agree that, for the purposes of identification and support, we should have definitions that enable victims to be identified whether or not a criminal threshold has been met for the purposes of a prosecution. The regulations being considered today therefore provide statutory definitions that are better suited to defining a victim for the purpose of identification and support, and distinct from the criminal justice-related definitions under Section 56 of the 2015 Act, which will remain untouched.

Following the remarks of the former Minister for Safeguarding during the passage of these regulations through the other place, I take this opportunity to thank the Secondary Legislation Scrutiny Committee for the interest it has shown in the regulations. I will now provide some reassurance following the concerns raised by the noble Lord, Lord Coaker, in his amendment, and clarification on the points the committee raised in its recently published report.

As set out during the progress through this House of the Nationality and Borders Bill, now an Act, when drafting the proposed definitions we have sought to define the terms in alignment with the definitions of a victim contained in the Council of Europe Convention on Action against Trafficking in Human Beings, otherwise known as ECAT, and the United Nations Palermo Protocol. It is intended that signatory states interpret and apply ECAT's rights and obligations. I can be clear that our definitions are compliant with ECAT's definitions of slavery and human trafficking. We have not mirrored the convention word for word, given that it is drafted in such a way that requires signatory states to provide further detail and, in this instance, clarity where there is potential for ambiguity. To mirror the language word for word would result in gaps and a lack of detail that would be unhelpful for victims and practitioners. Instead, we have remained compliant with ECAT while aligning with current operational guidance.

At this stage I emphasise that the activities and forms of exploitation mentioned in ECAT are covered by the draft regulations. As in the drafting of ECAT, we have intentionally avoided including reference to specific forms of exploitation in recognition of the evolving nature of trafficking and modern slavery, and so as not to exclude victims of what might currently be unknown forms of exploitation. This is consistent with current statutory guidance and operational practices. I can therefore reassure noble Lords that the regulations do not, as the amendment suggests, narrow the ability of victims to be identified.

In fact, the proposed definitions in totality are familiar to practitioners, since they reflect those contained in existing statutory guidance issued under Section 49 of the 2015 Act, which applies in England and Wales, and the non-statutory guidance available in Scotland and Northern Ireland. For instance, the term "criminal exploitation" is not mentioned in the regulations or in ECAT, but is clearly covered by the definitions of either human trafficking or slavery, depending on the precise nature of the exploitation, and will remain as currently defined in the statutory guidance. We think the approach is the logical one to take in seeking to balance the need to identify victims of existing forms of exploitation and victims of new forms of exploitation as they emerge.

On concerns regarding the engagement process in relation to these regulations, it is fair to say that key stakeholders and the public more broadly have had suitable opportunities to comment on this policy. During the formal public consultation on the *New Plan for Immigration*, which ran from 24 March to 6 May last year, most stakeholder and public respondents said they thought the modern slavery proposals would be effective in building a resilient system that identifies victims of modern slavery as quickly as possible. These regulations support that objective. The public consultation also provided an opportunity for modern slavery stakeholders to comment on the modern slavery policies that, fundamentally, these regulations underpin.

More recently, the Government have worked closely with victim support charities, NGOs and support providers, including members of the victim support modern slavery strategy implementation group. We therefore consider that it was unnecessary to undertake a formal public consultation, given the opportunities to comment on the modern slavery policies to which these definitions relate and the opportunity given to key modern slavery stakeholders to comment directly on the drafting of the definition.

I look forward to the contribution of the noble Lord, Lord Coaker, and to giving any further clarification, if that is needed. For now, I beg to move.

Amendment to the Motion

Moved by ***Lord Coaker***

At end insert "but this House regrets that the draft Regulations have not been subject to consultation,

and give rise to concerns that the changes will narrow the ability of victims to be identified and to access support".

Lord Coaker (Lab): My Lords, this amendment stems from the regulations needed following the passage of Section 69 of the Nationality and Borders Act. Given the controversy around that Act, and the general criticism of the inclusion of Part 5, which dealt with modern slavery in an immigration Bill, you would have thought the Government would have been especially careful around the definitions to be left to secondary legislation—but indeed not.

The Delegated Powers and Regulatory Reform Committee warned the Government:

"One thing which is noticeable about the power conferred by clause 68(1)—

now Section 69(1)—

"is the absence of any express link to Article 4 of ECAT or Article 4 of the ECHR. The power is simply a power to define the terms in regulations without limiting in any way the provision which may be contained in the regulations. We consider this to be inappropriate. The policy is for the definitions of the terms 'victim of human trafficking' and 'victim of slavery' to reflect the provisions of Article 4 of ECAT and Article 4 of the ECHR."

The committee was saying to the Government that they needed to be extremely careful, given the powers being given to Ministers through secondary legislation, rather than in the Bill, to ensure that the definitions were extremely well thought through and had the support of those who worked with them.

The Government say that there is broad agreement. I thank the Minister for her introduction, but perhaps she can explain why, if there is broad agreement, on 15 June in a letter to Dame Diana Johnson MP, who is chair of the Home Affairs Select Committee, 39 separate organisations wrote saying: "There has been no formal consultation about these regulations, despite the existence of established stakeholder groups, and we are concerned that the definitions are incompatible with international law and that they narrow the definitions and therefore scope for identification of victims". That does not sound to me like broad agreement. Those organisations include ECPAT, the Anti Trafficking and Labour Exploitation Unit, Hope for Justice, Slave-Free Alliance, Focus on Labour Exploitation, the Helen Bamber Foundation, Unseen, the Refugee Council and the Scottish Refugee Council, and the Children's Rights Alliance for England. The list goes on; 39 separate organisations wrote saying that they were unhappy with the consultation and what was going on. Why are they all wrong and the Government right? Given the sensitivity we had during the passage of the Nationality and Borders Bill, surely the Government should have gone out of their way to make sure that the sector was happy with what was going on. We would not then have the situation where I felt it necessary to bring this amendment before your Lordships.

It is not just these 39 organisations; in contrast to what the Minister said, the Secondary Legislation Scrutiny Committee tells us that

"The Home Office confirmed that, while they did hold a number of talks"—

the Minister outlined these for us—

"with stakeholders including the Victim Support Modern Slavery Strategy Implementation Group and various police, immigration and enforcement authorities, it was about the principles and objectives of these definitions".

In bold, the report goes on to say:

"the specific wording proposed was not available to them. Neither was any material with the proposed definition available to people outside that stakeholder group."

So, if the Home Office—the noble Baroness and her colleagues—is concerned to ensure that the sector agrees with the definitions that the Government are bringing forward, given the controversy around the Act, why was no wording shared?

There is a world of difference between a consultation that brings a few people together to have a discussion about what may not happen and laying before a group of people the proposed wording that you will use in the definitions, and then saying, "Does this meet the thresholds that you think are important?" That clearly did not happen, which is why I am bringing this amendment: it is partly about the lack of consultation. No wonder there is debate about the wording—they were not consulted about it. Could the Minister say exactly why?

With respect to Article 4 of ECAT, further criticisms are that, as the Secondary Legislation Scrutiny Committee says, the debate is not helped by supporting documentation from the Home Office describing the regulations as being "compatible with", "aligning with", "reflecting" and so on. As I say, no wonder there is concern.

The Home Office's inability to properly consult and create that broad consensus looks an ever more serious error, particularly when it is confirmed, as I say, by the noble Baroness and Rachel Maclean, the Minister in the other place, that

"We have not mirrored the convention word for word".—[*Official Report*, Commons, Sixth Delegated Legislation Committee, 29/6/22; col. 4.]

That is the very point that petitions from front-line professionals have raised: this is a cause for concern and will lead to confusion and uncertainty. If you are not going to mirror a convention absolutely word for word, it becomes even more vital that you consult on the actual words that the Government propose to use.

As we know, the national referral mechanism is crucial. When considering whether someone is a victim of modern slavery, the process needs to open up access to support and services for those who are confirmed to be so. The consequences of incorrect processes are immense—they frighten people away from engaging in the formal state system, which is already happening with the huge rise in the figures for the duty to notify through the national referral mechanism. People are too scared to be formally referred, so the first responder has to send a duty to notify—why has this happened?

But these regulations, albeit perhaps unintentionally, narrow the definition of a victim, depart from international standards and provide insufficient distinction between adults and children. I will give a couple of specific, practical and concrete examples of how the regulations have narrowed the definition—I will take some time on this because it is really important. As I say, Regulation 2(2)(a), which deals with the identification of a victim of slavery, raises the threshold for this: the language has been increasingly strengthened from Section 1 of the Modern Slavery Act, which talks about identification. I say again that I am not a lawyer but someone who uses simple language. Section 1 says:

[LORD COAKER]

"In determining whether a person is being held in slavery or servitude or required to perform forced or compulsory labour, regard may be had to all the circumstances … For example, regard may be had … to any of the person's personal circumstances (such as the person being a child, the person's family relationships, and any mental or physical illness) which may make the person more vulnerable than other persons".

This is from 2015—it says, "may make".

6.15 pm

What has become of "may make" in the regulations? I am not a lawyer—there are many lawyers in this House, and they will tell me if I am wrong—but I ask which has tougher language: "may make" or

"any of the person's personal circumstances (such as the person's age, the person's family relationships, and any physical or mental disability or illness) that significantly impair"

them. According to the Government, there is no difference. However, I would say that "may make" and "significantly impair" could make a difference when judging whether a circumstance will

"significantly impair the person's ability to protect themselves from being subjected to slavery, servitude or forced … labour".

There is a significant change in language.

The setting of the definition is too narrow: leaving out terms that are used in ECAT or the Palermo Protocol from these regulations is a real problem. Why is the definition of exploitation not made clear as it is in ECAT, where the definitions are a "minimum", thereby leaving room to adapt? Why has the word "minimum" been changed? Why is the term "practices similar to slavery", as detailed in ECAT, not used? When distinguishing between adults and children in the draft Regulation 2(2)(a), why is only "age" set as a circumstance to have to regard to, rather than accepting that there should be a different framework between adults and children? Can the Minister confirm that in the regulations it is absolutely the case that a child can never consent to their own exploitation, as required by international law? Can the Minister again explain to us—I tried to understand what she said—why the term criminal exploitation is not referenced in the regulations, given that this was the prime reason children were referred to the NRM in 2021?

Can the Minister explain why Regulation 3(3) refers to "consent" to travel, while ECAT uses "consent" to exploitation? Why has there been this change, which again appears to narrow the definition? Only yesterday, the US State Department published its 2022 report in which it makes this recommendation to the UK:

"Ensure the statutory definition of trafficking … does not require movement of the victim as an element of the crime",

which is something that the regulations do.

Finally, on travel, it is not clear from the regulations if travel includes movement, such as from one room to another or within a property. These regulations are of huge importance to victims and to our country. However, this is not the case, according to the Government, as outlined in the last point of the Explanatory Notes:

"A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen."

Changing the regulations by which you identify a victim, or a potential victim, of human trafficking has a massive potential impact on voluntary, private and public sector bodies. Yet the Government's own Explanatory Note says that none is "foreseen". Not only should an impact assessment have been done, but I think everyone would have expected one to have been done.

To conclude, such definitions are crucial, consultation is vital and consensus is essential. This amendment believes that the Government have failed to deliver on the undertakings given in the passing of the Nationality and Borders Act, during which concern after concern was raised about the huge power given to Ministers to make far-reaching decisions by secondary legislation. Given this, the responsibility on the Government was to ensure that due process was done and seen to be done. But it was not, and the consequences could be felt by those who need our support: the victims and potential victims of human trafficking. They will fall between the policy and legislative gaps left by these regulations. As such, I move this amendment because the Government need to think again and build that consensus that is so badly needed in this area.

Lord Alton of Liverpool (CB): My Lords, I rise to support the regret amendment that the noble Lord, Lord Coaker, has tabled. He has powerfully laid out the arguments why the amendment is needed, for reasons of substance but also of procedure. I raise my concerns that the draft regulations narrow the definition of a victim; depart from international standards; provide insufficient distinction between adults and children; and could lead to many victims being excluded from identification and, therefore, from support and assistance. I join the noble Lord in urging the Minister to redraft the regulations and properly consult the anti-trafficking sector to ensure that redrafted definitions of "victim" are workable and consistent, in line with international law and informed by the lived experience of survivors and those who assist them.

I declare my non-financial interest as a trustee of the Arise Foundation, a charity that works with people who are victims of human trafficking or modern-day slavery. As the Minister knows, it is a matter that is particularly close to my heart. I am therefore saddened not to be able to support the draft regulations as written, and saddened that we have to have a regret amendment at all. Of course, it is of the utmost importance that victims of modern slavery are properly identified and supported, so in one respect I can warmly welcome the intent outlined by the Minister that lies behind these regulations, in so far as they determine who will be considered a victim of modern slavery for the purposes of the Nationality and Borders Act 2022 and Sections 48 to 53 of the Modern Slavery Act 2015, which I and many Members of your Lordships' House who are present this evening, not least my noble and learned friend Lady Butler-Sloss, the noble Lord, Lord Paddick, and others who participated in those proceedings, will recall.

I shall identify reservations that I hope the Minister will listen to carefully and address when she comes to reply at the conclusion of today's debate. I start by underlining the way in which the procedure has been used to bring these regulations forward. I do not think that the Minister can have seen the joint briefing by the Anti Trafficking and Labour Exploitation Unit, ECPAT UK, Focus on Labour Exploitation, the Helen

Bamber Foundation, Hope for Justice, to which the noble Lord referred, and others, which has been circulated to Members of your Lordships' House—otherwise she would not have said to us that there had been an adequate consultation process. They have also written to the Home Affairs Select Committee of another place to express their concerns, along with more than 30 other organisations and experts—so, clearly, there is dissatisfaction right across the sector.

How can there have been a proper consultation, and how is it possible to say to your Lordships that there was one? Anti-trafficking organisations tell me that they did not see, and did not have the opportunity to give feedback on, the definition and wording before they were published. Can we be told why not? Under the old courtesies that used to be followed that, before legislation or orders were brought before Parliament, the leading organisations in the field would be invited in to meet Ministers and civil servants to discuss these things. It is not good enough simply to say that there was a broad consultation about modern-day slavery and that people could have replied. Those definitions should have been before them, and they should have been invited in specifically.

As those organisations and I argue, it is deeply disappointing and troubling that the regulations as drafted seem to curtail the capacity for victims to be identified, and ultimately to get access to support. That is because the regulations narrow the definition of "victim" and therefore reduce the scope for victims to be identified. It is the view of the anti-slavery organisations, in contrast with the Minister, that the definitions are not, as she told your Lordships' House, in alignment with international law—such as ECAT, the European convention against trafficking, and the Palermo protocol. In this context, I put it to the Minister, as I and other noble Lords, including her noble friend Lord Horam, did during discussions on what became the Nationality and Borders Act, that matters such as these require broad and considered consultation. Legal definition of a victim is clearly a matter of huge importance, and it is surprising at the very least that formal consultation has not taken place, particularly within the anti-trafficking sector and other relevant stakeholders with first-hand experience of supporting victims of human trafficking or modern slavery. Surely, it would not have been too onerous, and nor would it have precipitated a lengthy delay, to do so.

The noble Lord, Lord Coaker, also referred to our Secondary Legislation Scrutiny Committee, which has reviewed these regulations and has highlighted the potential for them not to achieve their objectives. That surely will be of concern to the noble Baroness, I would hope, and to her officials. This and the uncertainty as to whether the definitions of the draft regulations in fact meet the UK's international obligations under Article 4 of ECAT, which I have referred to, are serious matters, and I hope that the Minister can shed light on both these points in her response to the debate.

To summarise, I strongly urge the Minister to listen carefully and to reflect on the concerns raised by the noble Lord, Lord Coaker, today and consider withdrawing this version of the regulations. We all want to see victims properly identified and subsequently supported and given the tools necessary to stand the best chance of recovery. These regulations do not do that. They raise the threshold for identification, they set a definition of exploitation that is too narrow, they are not in alignment with international law, they do not distinguish between adult and child victims, they do not include criminal exploitation, they do not feature practices similar to slavery, they overemphasise arranging or facilitating travel and they are completely defective on the means of eliminating trafficking. I hope the noble Baroness will think again.

Baroness Jones of Moulsecoomb (GP): My Lords, I support the regret amendment and I wish we could use something stronger. It has been a long slog since December 2019 with all the legislation that has come through and this little painful reminder of the Nationality and Borders Bill is part of the problem that we have had to face. A lot of this legislation is cruel and uses new definitions for things that we thought were settled some time ago.

These regulations seem to be deliberately drafted to disregard the international norms around slavery and trafficking; they create special UK definitions that limit government assistance to a narrow category of survivors. Regulation 2(2)(a) has already been mentioned. It specifies that when determining whether somebody has been enslaved you have to consider

"any of the person's personal circumstances … that significantly impair the person's ability".

This is victim blaming, pure and simple. The Government are proposing that normal people who can "protect themselves" from being subjected to slavery are unlikely to be genuine victims of enslavement. I do not understand why any Government would do this to people who have been trafficked.

In my view, the Government do not want to help enslaved people; they simply want to label these people as illegal immigrants or economic migrants and deport them as fast as possible. It is a cruel piece of legislation, giving effect to a cruel policy.

The lack of consultation is quite appalling and I echo all the requests for the Minister to explain that. If there had been consultation, I think this would be a very different set of regulations. I think the problem here is that the Government do not actually intend to support all victims of slavery and human trafficking and I think that diminishes us as a nation.

Baroness Butler-Sloss (CB): My Lords, I am not at all sure that I am allowed to speak, and I seek the approval of the House. The reason that I arrived late was that I was having an MRI scan for a bad back. Am I too late to speak?

Baroness Williams of Trafford (Con): The noble Baroness is looking at me and I guess I am a bit of a soft touch.

Baroness Butler-Sloss (CB): I am very grateful and it was only because I had a bad fall last week and went for an MRI scan. I took the first taxi back to be here.

[Baroness Butler-Sloss]

What saddens me is that this Government are enormously to be praised for the Modern Slavery Act. It was the work really of the then Prime Minister Theresa May and we should be grateful to her that we have led the way across the world. That makes these regulations very sad.

I went with Romanian police and the Metropolitan Police down the Edgware Road, where a Romanian Roma gang was exploiting 20 or 30 Romanian women, who were begging. It was a fantastic coup by the Metropolitan Police and eight men went to prison, I am glad to say. That was modern slavery, but it is not included here. Begging, debt bondage and benefit fraud—and some others, but particularly those three—are contained as part of modern slavery. This case some years ago was a very typical example of serious modern slavery, but it would not be within these regulations, as far as I can see.

6.30 pm

I strongly agree with what the noble Lord, Lord Coaker, said about the phraseology of "significant". The word "significant" was not in the Act that this Government passed; it was a general approach. In my view, speaking as a former lawyer, this really reduces the impact. It says that some people who may not have been significantly impaired but have in fact been slaves would not come within this definition. I suspect that other lawyers present would share my view. I certainly would argue that—and I think with success—in any court.

It makes what has happened here a sad reflection on the way in which, for some reason, the Home Office wants to diminish the impact of the Modern Slavery Act. I find it astonishing that it should want to do so. I strongly support what other noble Lords have said, and I too ask the Minister to look at this regulation again, withdraw it, and bring it back when she has looked at what the 30 or so, very sensible, anti-modern slavery organisations are saying about it.

Lord Paddick (LD): My Lords, I thank the Minister for explaining these regulations. It is probably totally out of order but, if I may, can I commend her for demonstrating selfless integrity by her intervention at the weekend?

I am very grateful to the noble Lord, Lord Coaker, for tabling this regret amendment, which we support. We agree with him, the House of Lords Secondary Legislation Scrutiny Committee and organisations such as CARE—Christian Action, Research and Education—that there should have been formal consultation before the Government came up with the definitions of victim of modern slavery and victim of human trafficking. Without consultation with the anti-trafficking sector, any definition used to determine whether someone is a victim of modern slavery is likely to wrongly exclude victims from the support and protections to which they are entitled.

It was clear from the debates that we had in this House that the whole impetus of the Nationality and Borders Act was to reduce abuse of the national referral mechanism, and it is likely that these definitions are consistent with the Government's approach in that Act. In fact, when we debated the legislation, my assessment was that all the provisions of Part 5 were about making it more difficult to be recognised as a victim of modern slavery and tightening the restrictions on the support available. In particular, as the noble and learned Baroness has just said, the change to

"significantly impair the person's ability to protect themselves from being subjected to slavery, servitude or forced or compulsory labour",

compared with the language in the Modern Slavery Act, which states

"which may make the person more vulnerable",

appears to be a significant restricting of the definition.

I pay tribute to the honourable Jess Phillips MP for her passionate and detailed critique of these regulations when this draft statutory instrument was considered in Committee in the other place, based on her own experience as a first responder in the NRM process and her subsequent casework as an MP. Many other organisations agree with her that the definitions raise the threshold for identification; set a definition of exploitation that is far too narrow; are not in alignment with international law; do not distinguish between adult and child victims; do not explicitly include criminal exploitation; do not feature "practices similar to slavery", as detailed within ECAT; and overemphasise arranging or facilitating travel.

Yet again, the Government have taken the cavalier approach of saying they can interpret something—in this case, the European convention against trafficking, ECAT—in whatever way they think fit, when even the Secondary Legislation Scrutiny Committee concludes that the definitions in the SI make the situation even more unclear, the exact opposite of what the Government claim to be doing. I agree with the noble and learned Baroness, Lady Butler-Sloss, about the enormous progress made by the Modern Slavery Act, significantly improved by this House, but these regulations and the Nationality and Borders Act row back from that progress.

In conclusion, this statutory instrument appears to narrow the definition of who can be recognised as a victim of modern slavery or trafficking and to create confusion rather than clarity, both of which could have been remedied through a formal consultation process, which was not undertaken. We support this regret amendment.

Baroness Williams of Trafford (Con): My Lords, I thank all noble Lords who have spoken in this debate, both for their contributions and for their continued engagement on what is clearly a very important topic for us all. I join the noble and learned Baroness, Lady Butler-Sloss, in paying tribute to the right honourable Theresa May for all that she did on modern slavery. I think that, ultimately, we all have the same goal: to ensure that victims of modern slavery are identified and supported.

Before I turn to some specific points raised, I highlight again that in drafting these regulations, our focus has been on achieving alignment with the definitions currently used operationally and set out in the existing statutory guidance for England and Wales and the equivalent non-statutory guidance for Scotland and Northern Ireland. I was most grateful to be able to speak to the noble Lord, Lord Coaker, earlier. One thing that noble

Lords quite often do, particularly during the passage of legislation, is request of me that they can see draft regulations before they are brought forward to the House. It is something that was not requested on this occasion, but I would say that, generally, where they are available, I am always happy to share them with noble Lords.

As for some of the other engagement processes that we have undertaken, during the engagement our approach to align the definition with ECAT and the Palermo Protocol was welcomed. We have ensured that this advice is reflected in the draft regulations, which align with ECAT and existing definitions set out in statutory guidance and allow for identification of victims of currently unknown forms of human trafficking or slavery. There has also been a thorough engagement process within the Home Office and with partners such as the police and other first responders, to which noble Lords referred, particularly the noble and learned Baroness, Lady Butler-Sloss, to thoroughly identify potential risks and ensure that no unintended consequences or impacts arise from the regulations. The cost and time considerations of running a full public consultation following the new plan for immigration consultation therefore outweighed the potential benefits, given the opportunities to engage on the issues relating to the regulations, but I think we can all agree that there is something to be learned from this process.

Noble Lords also mentioned the report of the Delegated Powers and Regulatory Reform Committee. The committee expressed one concern: that the powers conferred by what was then Clause 68(1) gave Ministers unlimited discretion to define the terms, rather than setting out in the Bill that they should reflect the provisions of Article 4 of ECAT and Article 4 of ECHR, as intended.

We have ensured that the definitions reflect those international provisions in their drafting, and the committee did not raise any other concerns that the regulations would not receive sufficient scrutiny. However, we recognise the evolving nature of these types of exploitation, and the Government can commit to keeping the terms of the regulations under review in the light of operational experience in the Home Office. The Nationality and Borders Act will also be subject to post-legislative scrutiny three to five years after Royal Assent. These regulations can be considered in that review.

The noble Lords, Lord Alton and Lord Paddick, talked about the definition of "exploitation" being too narrow and said that the drafting fails to consider the specific circumstances of child victims. It is very important that a range of factors are taken into account when considering whether an individual is a victim of slavery. It does not diminish the consideration of age at all. This way of drafting means that the list is inexhaustive and allows decision-makers to bring in various other conditions or factors relating to the individual's circumstances, including of course their age. The regulations are compliant with ECAT and we make it clear that they allow for different types of exploitation which emerge over time.

The noble Lord, Lord Coaker, posited that the definitions are limited and do not include practices similar to trafficking, including debt bondage, forced marriage and certain forms of exploitation, including criminal exploitation. As I have said, the definitions as drafted in the regulations provide scope for various forms of human trafficking and slavery to be identified that are not explicitly defined. This is set out in statutory guidance. For example, criminal exploitation is covered by the definition of either human trafficking or slavery, depending on the precise nature of that exploitation, and will remain as currently defined in the statutory guidance. Regulation 3(6)(d), which includes force, threats or deception to induce the provision of services, would cover child soldiers, given the low threshold at which a child would be deemed to have been forced, threatened or deceived, and exploiting children for illicit activities. In the current statutory guidance, debt bondage is set out as a situational and environmental indicator of modern slavery and will remain as such.

Similarly, the current guidance on adoptions and forced marriage will remain the same. For forced marriage, for instance, this is set out in paragraph 2.65 of the statutory guidance. The Government's position on illegal adoption is covered in the statutory guidance at paragraphs 2.61 to 2.64. While there are restrictions on arranging adoptions, as set out in Sections 92 and 93 of the Adoption and Children Act 2002, whether this will constitute forced or compulsory labour depends on circumstances. The position will remain the same. More broadly, slavery includes many of these practices. Debt bondage, which the noble and learned Baroness, Lady Butler-Sloss, referred to, and forced marriage mean exercising control over someone in a way that significantly restricts their liberty. The guide is Article 4 of the ECHR, in relation to which slavery is interpreted in the regulations by virtue of Regulation 1(3).

Noble Lords have also raised concerns about the compatibility between these regulations and ECAT. I stress that the definitions set out in the regulations are compliant, as I have just said, with our international obligations, including ECAT, and align with existing operational practices. They will ensure that potential victims are identified and that those involved in identifying victims have very clear parameters on which to rely. They are compliant because, put simply, the activities and forms of exploitation mentioned in ECAT are covered by the draft regulations. Following the approach of ECAT, we have intentionally avoided including reference to all specific forms in recognition, again, of the evolving nature of trafficking and slavery, and so as not to exclude victims of currently unknown forms of exploitation.

6.45 pm

We are not changing the definition of "victim" for the purposes of identification and support; nor are we expanding or narrowing the scope of the existing definitions. Rather, we are putting the definition, which we currently take from our international obligations as reflected in modern slavery statutory guidance, into one arena; namely, secondary legislation, which provides clarity for both victims and our operational partners. This depends on the specific circumstances of the case as assessed by the relevant decision-maker, and it is highly likely that a person currently identified as a victim would be identified as a victim under the regulations.

[Baroness Williams of Trafford]

The noble Lord, Lord Coaker, raised concerns regarding the recent report from the Secondary Legislation Scrutiny Committee—oh, I am sorry, I have just made those points. I have been writing my own notes and the Box has also been adding to them, so I might double up on what I am saying.

It is clear that there is no expectation or duty for an individual to protect oneself from their vulnerability. It is quite the opposite: being vulnerable means that your circumstances are such that you cannot protect yourself from predatory approaches, and this might be because the person's age and understanding makes them acutely vulnerable. I hope we can all agree that this is a sensible position, and the statutory guidance will be unchanged on these widely established principles regarding vulnerability, so the position will remain the same.

Finally, if I could address the clarity on the term "travel". It is the policy intention, and it is clear from the natural meaning of "travel", that it includes any travel whether internationally or inside a country's borders. Indeed, as Regulation 3(2) uses the terms,

"recruiting V, transporting or transferring V, harbouring or receiving V, or transferring or exchanging control over V",

this does not specify the scope of that travel and of course applies to travel that occurs within state borders, including county lines exploitation. Whether travel constitutes human trafficking depends on the circumstances of the travel and whether the other limbs of the exploitation are present.

I turn now to consent. Aligning with the existing position of the current statutory guidance for decision-makers, there are times that a person under the age of 18 can consent to providing a service and for that not to be exploitation. That is the logical position. It is already reflected in the statutory guidance under Section 49 of the Modern Slavery Act 2015, at paragraph 2.37, which states:

"In cases involving children, not all work done by a child should be considered as exploitation. Participation in work that does not affect the health and personal development of a child or interfere with their schooling, should generally be regarded as being something positive. This may include activities such as helping parents around the home, assisting in a family business or earning pocket money outside of school hours and during school holidays. Such activities can contribute to a child's development and to the welfare of their family, and can provide the child with skills and experience that helps to prepare them for their adult life".

Therefore it would be illogical to remove the requirement for force, deception or a threat to lead to the provision of a service for all individuals under the age of 18. Not only would it run contrary to the established position in statutory guidance, but it would have an adverse effect that is not intended by the Government in these regulations. Indeed, the unintended effect of doing so would be that innocuous activities, such as assisting in a family business or earning pocket money, may mistakenly come within the scope of human trafficking.

I turn finally to the impact assessments, and can clarify that a full equalities impact assessment was published on the Nationality and Borders Bill, now an Act. We have considered separately the equalities impact of these regulations, and, on the question of an economic impact assessment as referenced in the Explanatory Memorandum, a full economic impact assessment was not deemed necessary given that the only costs associated with this policy are expected to be familiarisation costs as the policy is simply an update to the definition already used in practice.

I hope I have not bored noble Lords too much to death, and that has been a full explanation of the position.

Lord Coaker (Lab): The noble Baroness certainly did not bore people. That was an interesting exposition of the Government's position, which could lead us to a full debate, particularly around what "consent to exploitation" means for children.

I start by apologising to the House for not declaring at the beginning my interests as outlined in the register: my position as an honorary research fellow at the Rights Lab at the University of Nottingham and as a trustee of the Human Trafficking Foundation. I apologise for that; I forgot.

On the serious points we are raising, I was interested when the noble Baroness seemed to concede that there may be a problem with these regulations: she said, "Of course, we will keep things under review". I know that Governments always say that they will keep things under review, but not normally while they are passing something—it is usually said soon after. It is important that the Government keep this under review, but that is not the point. The point is that we are passing defective regulations that do not meet certain criteria and do not clearly explain definitions that will have serious consequences for identifying potential and actual victims of human trafficking and modern slavery.

It is all very well to keep regulations under review—we welcome that—but these regulations are defective, and they are a significant change from what went before. Again, I use the example, as used by other noble Lords, of the inclusion of the words "significantly impair". We have one of the most premier judges we have had in this country telling us that "significantly impair" will make a significant difference in the courts and in any process. I thank the noble and learned Baroness, Lady Butler-Sloss, for that, as I thank the noble Lords, Lord Alton and Lord Paddick, for their support and their remarks. All the Government can turn around and say to that is, "No, it doesn't". That is not an argument; that is not a clarification. That is blind refusal to address a very real problem being put to them by one of the most eminent legal minds we have had in this country in decades. The Government's response is to say, "No, it isn't"—what sort of response is that? That is ridiculous; it means that we are passing legislation that is defective, will not work and, as I say, is a significant difference from what went before. We welcome the review that the noble Baroness said the Government will carry out, but it is not good enough.

Going back to a point that was made before, the Government said that they adequately consulted. They said, "This happened, that happened and we spoke to people". That is not the same as consultation. I say to your Lordships' House that having a general chat with people is not the same as putting before them the actual regulations and the wording you intend to use for all of those trafficking organisations and bodies to

look at the definition and say to the Government, "We think you've got that wrong; it will not deliver what you want".

I know that the Government's intention is to tackle modern slavery—no one is saying that they are not going to do it. However, what I am saying to the Government and what my regret amendment seeks to say to your Lordships' House—and, I hope, gain its support—is that the regulations are defective and will not allow the Government to fulfil their own intent. Surely the sensible thing to do would be to review the regulations: to withdraw them and look at them again to address the very serious points made.

Thirty-nine bodies have told the Government that the regulations in their current form are far too narrow and therefore incompatible with international law. The Government's response is to say, "You're wrong". That is not consultation or working with the sector to identify how you move forward to build a consensus. It is simply saying, "We know best and, frankly, we don't really care what you say". It has to stop. The Government should withdraw these regulations and I ask your Lordships to support my amendment. I wish to test the opinion of the House.

6.55 pm

Division on Lord Coaker's amendment to the Motion

Contents 121; Not-Contents 91.

Motion, as amended, agreed.

Division No. 1

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Republic of Belarus (Sanctions) (EU Exit) (Amendment) Regulations 2022
Motion to Approve

7.07 pm

Moved by ***Lord Ahmad of Wimbledon***

That the Regulations laid before the House on 30 June be approved.

Relevant document: 10th Report from the Secondary Legislation Scrutiny Committee

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, this instrument was laid on 4 July under the powers provided by the Sanctions and Anti-Money Laundering Act 2018, also known as the sanctions Act. It amends the Republic of Belarus (Sanctions) (EU Exit) Regulations 2019 to introduce new measures in the financial, trade and transport sectors. These sanctions seek to deter Belarus from engaging in further action that destabilises Ukraine. The instrument has been considered and not reported by both the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee. I am grateful to your Lordships for ensuring that these matters are addressed properly. I am particularly grateful to the noble Lord, Lord Collins, for the previous discussions that we have had on this issue.

Since 24 February, Belarus has actively facilitated Mr Putin's illegal invasion of Ukraine. It has permitted Russia to use its territory to pincer Ukraine, launching troops and missiles from its border and flying Russian jets through its airspace. Mr Lukashenko has also openly supported the Kremlin's narrative, claiming that Kyiv was provoking Russia to justify Putin's entirely unprovoked assault. In response to this continued support for Russia's invasion, we are introducing a further package of sanctions measures. These measures follow actions taken since the invasion of Ukraine, including the designation of over 50 Belarusian individuals and organisations for their role in aiding and abetting this reckless aggression.

These further measures build on the wide-ranging sanctions already imposed on Belarus and Mr Lukashenko, as well as members of his family and his regime, for their role in violating democratic principles and the rule of law, and violently oppressing civil society, democratic opposition leaders and independent media within Belarusian borders. To be quite clear, our grievance is not with the Belarusian people, who are themselves—I am sure all noble Lords accept this premise—victims of intense repression; it is with the actions of the Lukashenko regime and its adherents in supporting the Russian invasion of Ukraine.

The measures introduced by this instrument include further financial sanctions, banning more Belarusian companies from issuing debt and securities in London or obtaining loans from UK banks. They prohibit UK individuals and entities from providing financial services to the National Bank of the Republic of Belarus or the Belarusian Ministry of Finance to prevent Belarus deploying its foreign reserves in ways that undermine the impact of other sanctions.

The measures include new trade sanctions, including a ban on the export to Belarus of dual-use goods and technology for all purposes and a ban on the export of critical industry goods and technologies, and components related to quantum computing. This includes high-end equipment such as microelectronics, marine and navigation equipment, and aircraft and aircraft components. It will place further constraints on Belarus's military-industrial and technological capabilities.

The measures ban the export of oil-refining goods and technology, cutting off access to components required for Belarus's petroleum-refining industry, one of the country's highest-value export sectors. They include a ban on the export of luxury goods to Belarus, preventing the elite buying items such as artworks and designer accessories sold by British companies, and a ban on the import of iron and steel from Belarus.

Finally, this legislation introduces new transport measures. It extends aircraft measures introduced in 2021, so that the UK now has the power to detain and deregister Belarusian aircraft. The legislation also introduces new shipping measures, prohibiting Belarusian ships from entering UK ports and introducing powers to detain and deregister ships.

The instrument we are debating today enshrines in law our further sanctions on the Belarusian regime and delivers the commitment made by my right honourable friends the Prime Minister and the Foreign Secretary to issue decisive sanctions against Belarus for its part in this wholly unjustified and continuing war on Ukraine.

Lord Purvis of Tweed (LD): My Lords, I thank the Minister for introducing these measures, which my party strongly supports. He will recall that, when we discussed the first tranche of the new form of sanctions against Russia, I specifically raised the need to move swiftly to expand the provisions to the Lukashenko regime. It has been the facilitator, host and handmaiden of grotesque abuses of international law and human rights norms.

I support the policy objectives of these regulations, which are to coerce and constrain, and signal to Belarus that the UK stands strongly against its practices. I support all those elements. Just yesterday, the UN aviation agency found that Belarusian officials are to blame for a bomb hoax on a Ryanair flight which forced it to land in Minsk so that they could secure those who are, in effect, journalist freedom fighters. The agency said it was

"an act of unlawful interference",

which shows the unreliability of the Lukashenko regime. It is therefore right that the aviation, shipping and transportation sectors are covered.

I have a general question on our relationship with the European Union, which is now in its fifth round of restrictive measures against Belarus. When the Minister responds to this short debate, it would help if he could reassure me that we are now in like-for-like lockstep with the EU's restrictive measures—with the same list of individuals and the same restrictions on services and financial services that are now in our measures. Are we in complete alignment with the European Union? I ask this because one of the elements—which

I support—allows for greater co-ordination with the United States, the European Union, Canada and Australia. It would be helpful to know whether our list of relevant individuals under these regulations is the same as the European Union's list.

7.15 pm

The Minister may not want to respond to this today, but I understand that through the Czech presidency of the EU an invitation has been extended to the UK to participate in the EU forum on Ukraine in late August or early September. I would be grateful if the Minister could confirm that it is intended that the UK will be represented at it.

I want to ask a couple of questions about the measures. I do so fully knowing that UK trade with Belarus is limited. According to the Department for International Trade, Belarus is the UK's 115th largest trading partner, so the trade is fairly minimal. Nevertheless, there are still British interests and foreign direct investment into Belarus from the UK. It is only £21 million, but it would be helpful to know whether FDI, as well as the other trading elements of UK trade, will all be covered by these measures—which I would support, if they are.

I am grateful that the Government have brought forward a clear impact assessment on these measures, because this is helpful in understanding the likely consequences. The Government have said that the mid-range estimate of the impact on the UK over a nine-year period is likely to be £370 million, which is significant, and will focus on these key areas.

One of the areas in this measure is shipping. We know that it has been Belarus's practice to use UK-based enterprises, and there is concern that that is a likely to be a conduit for Russian activity. Will these measures cover UK-registered ships that carry out business activity for Belarusian interests? The regulations at the moment restrict the registration of ships in the name of designated persons and Belarusian ships. I have asked the Minister questions on this before. With regard to the wider insurance market, as well as those British-registered ships, are they also covered by these measures?

There is an interesting and helpful line in paragraph 18 of the impact assessment. The Government have recognised that while these sanctions are tough—as they should be, and I support them—

"there does remain the risk that further sanctioning reduces Belarus' sovereignty by forcing them to rely further on Russia economically."

The Government have said that we have no complaint with the Belarusian people. It would be helpful to know whether there are exit strategies for our relationship with Belarus, given that the Government have highlighted a risk that we are effectively making Belarus almost entirely dependent on Russia.

My final question, and I will be happy if the Minister writes to me on it, is about applicability in the overseas territories of Gibraltar and Bermuda, and in Jersey and the Isle of Man. The Government have said that they intend to make secondary legislation under the Sanctions and Anti-Money Laundering Act that will apply these measures to those territories. When are the Government likely to bring that forward? At the moment, we strongly support this measure, but there are gaps with regards to those territories. I will be happy if the Minister chooses to write to me with clarification on those points. If he can respond today, that is very welcome, but if not, I will be very happy to receive a letter.

Lord Collins of Highbury (Lab): My Lords, I welcome the fact that we are again debating further sanctions against Belarus. I once again say to the Minister that the Opposition fully support the Government's actions in this regard.

Lukashenko's regime has consistently dismissed human rights in an effort to tighten his grip over the people of Belarus, with devastating consequences. The absence of fair elections, combined with crackdowns on civil society and intolerance of a free press, has resulted in the torture, arrest and disappearance of entirely innocent people.

I pay tribute to my noble friend Lord Foulkes, who has personally adopted a political prisoner and urged others to do likewise. I will make the point that the noble Lord made: this is about not punishing the people of Belarus but making sure they and the world know that we are on their side. That is an important point. What we say in this Chamber does not always echo around the world, but we know that civil society in Belarus will be listening today and welcoming the Government's actions in this regard.

What Lukashenko fears most is of course his own people. They are calling for a brighter future, which has led to such brutal reprisals. This fear has also led Lukashenko to support Putin's invasion of Ukraine, because Kyiv has shown that democracy and human rights are the starting block for a prosperous and secure nation, which is entirely incompatible with the lies that both leaders, Putin and Lukashenko, tell their people.

The new sanctions before the House are in response to that invasion and build on the sanctions we have imposed before. In recent weeks we have seen further indiscriminate shelling, preparations for the next stage of the offensive and the emergence of a new humanitarian crisis. Lukashenko's support has emboldened Putin to act with impunity, which is why it is vital that we act. We must treat his regime as equally culpable, and we are absolutely behind the Government on this.

I turn to the sanctions and echo a number of the points that the noble Lord, Lord Purvis, made, but I have a couple of other points in addition. Part 2 includes a new power to designate persons by description, which I know we discussed on the sanctions Bill. Can the Minister explain what safeguards are in place to prevent individuals being mistakenly targeted as a result?

Meanwhile, Part 3 is focused on financial services. On this point, I ask the Minister to tell us exactly what assessment and examination the Government have made of the dirty money in the United Kingdom, particularly the illicit Belarusian finance in London. I hope he can reassure the House on that.

Part 4 creates new export and import restrictions, which appear to be similar to those previously issued against Russia. Can the Minister perhaps explain why these have not been introduced sooner?

[Lord Collins of Highbury]

I also pick up the point about Belarusian ships in Part 5. The noble Lord, Lord Purvis, addressed that, so I hope the Minister will answer that question.

Finally, the Minister has repeatedly assured us about the overseas territories, and I assume these issues are covered in the joint ministerial council with the overseas territories. To be effective, it is vital that the sanctions are actioned in concert with others, that it is a global action and—even more importantly—that our overseas territories act absolutely in step with the United Kingdom Government. I hope he can reassure us on that front.

Lord Ahmad of Wimbledon (Con): My Lords, I thank both noble Lords for their strong support, as has been consistent since the sanctions regime was introduced. Today is no different and that is right, notwithstanding what the noble Lord, Lord Collins, said about how many people might be in your Lordships' Chamber. There are others who listen and my experience over a number of years suggests to me that what we say matters. I assure the noble Lords, Lord Collins and Lord Purvis, as I am sure they both know from their own correspondence, that people pick up on quite specific items within each debate that we have.

At the outset, I assure the noble Lords that our co-ordination with all our partners, including the European Union, is very much in a strong place. If there is a difference in the specifics upon whom a sanction may apply, it is simply one of process only and there is quickly an alignment. We have moved on some sanctions quicker than the EU, or indeed the Americans. The Americans have a different system, of course; they can introduce certain things by executive orders. We have certainly seen the speed at which we have been able to move since we brought forward additional legislation on sanctions to allow for the expedited application of particular issues.

I will pick up on a few of the specific questions and, of course, where I have not answered I will ensure that a letter is sent. The noble Lord, Lord Collins, asked about designations by description. Within our processes for any sanction that is applied, there is quite a rigorous application to ensure that there is mitigation in place if there is a wrong person, as names can often be duplicated. Equally, notwithstanding that robust process, the right of appeal that every individual or organisation has is a right that we need to ensure is protected. Undoubtedly, with all the best intent and all the rigour of processes and mitigations in place, that is not always the case. There can be examples where someone passes away, or reforms—one should never give up hope in that respect. The fact that we review sanctions regimes is positive; that will very much remain the case.

The noble Lords, Lord Collins and Lord Purvis, asked about alignment with the Crown dependencies and OTs. I confirm again on record that all UK sanctions regimes apply in all the UK Crown dependencies and overseas territories, either by Orders in Council or through each jurisdiction's own legislation. The ones which apply their own legislation in this respect have been Jersey, Guernsey, Gibraltar and Bermuda, which legislate for themselves. Orders in Council make the necessary changes to ensure the effective implementation of measures.

On 13 April, an order was laid that extended amendment SIs Nos. 2 to 7, and on 19 July a further order was made that extended amendment SI No. 8, so we are moving through this process. In reply to the point raised by the noble Lord, Lord Collins, about direct engagement with the territories, I can assure the House that while I am no longer the Minister for the Overseas Territories I know that my colleagues have been focused on ensuring that we align ourselves. The feedback we get from the Crown dependencies and OTs is very much aligned to our thinking.

The noble Lord, Lord Collins, also raised further measures that could be taken here in the City of London to ensure that if the cash flows that have come in are illicit, people are protected. I think there were measures brought in through the first economic crime Act; we will, of course, be introducing additional measures. As well as introducing those new measures, this will allow us, rightly, to reflect on the expertise, insight and experience of your Lordships' House to see how that legislation can be strengthened.

The noble Lord, Lord Purvis, asked about the exit strategy on the Belarusian regime and its people. As with all sanctions, there is of course a gateway when it comes to issues of humanitarian support. Sometimes the question has been asked, "With a landlocked country, why have you introduced shipping restrictions?" Those shipping restrictions apply because there are Belarusian-registered and flagged ships. He asked a specific question about flagged ships from other countries that may do business in Belarus. If I may, I will write to him specifically on that point, as it is a valid question to raise. But of course the instructions and directions are being shared with all key members of the industry, and industry organisations ensure those are relayed to all their members. However, I will look into that and write to him.

On what is happening in Belarus, the noble Lord, Lord Collins, rightly drew our attention to the continued suppression of civil society and communities. Just about every human right under the sun is being suppressed, whether we are talking about journalists, civil society groups or political prisoners. Therefore, it is important that we are seen to be not just talking and condemning but acting. We continue to work closely with EU member states, the US and Canada on these continued and additional accountability measures, including through the International Accountability Platform for Belarus, which the UK, EU and individual member states established in 2021 and which is a good premise on the point made by the noble Lord, Lord Purvis, on co-ordination in this respect.

7.30 pm

The noble Lord, Lord Purvis, also drew attention to Ryanair flight FR4978. We all remember that appalling occasion when the flight was forced to land and individuals were taken off it. I am fully aware of the situation with ICAO, and we welcome its fact-finding report of 18 July, attributing state responsibility for the forced diversion to Belarus—specifically, the Belarusian regime. Senior figures in the regime knowingly participated in this act of unlawful interference with a civil aircraft, thereby endangering the safety and security of everyone on

board. As we saw, people were taken off the plane in a flagrant violation of the Chicago and Montreal conventions, to which Belarus is a signatory. I assure the noble Lord, Lord Purvis, that we will stay very much focused on the sanctions. Where there is direct flaunting of international rules and regulations to which countries have signed up, it is right that we hold those countries to account. There are broader issues in Belarus, including the death penalty, attending trials et cetera, that we will continue to attend to and make representations on.

The shipping measures specifically cover ships owned, controlled, chartered or operated by a designated person connected with Belarus—meaning a Belarus-registered or domiciled company or an individual in or ordinarily resident in Belarus—and ships flying the flag of Belarus or registered there. There is also a general provision, on which I will write to the noble Lord, Lord Collins, that says “or a specified ship”, which can have quite a broad impact. I am no marine shipping expert, but I know that, like aircraft, every ship is monitored and mapped. Certainly, the “specified ship” category is quite broad but, as I said, I will write to the noble Lord on that.

I believe that I have covered most, if not all, of the questions, with the exception of clarifying the detail on the application of the ship provision. On sanctions, although there have been differences in our perspectives on a range of policies, I am grateful to the noble Lords, Lord Collins and Lord Purvis, and noble Lords across your Lordships’ House for their strength of unity, purpose and engagement, standing firm with the people of Ukraine. Our sanctions today reflect that we will stand firm against those who stand with Mr Putin and the continued Russian aggression towards, and war with, Ukraine. We will continue to work with our partners to ensure that a clear message is given to Mr Putin and those like Mr Lukashenko who support his regime.

I once again thank noble Lords for their questions, which helped to clarify certain elements of the application of these sanctions, and for their support for the Republic of Belarus (Sanctions) (EU Exit) (Amendment) Regulations 2022.

Motion agreed.

House adjourned at 7.33 pm.