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

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House of Lords

Tuesday, 29 July 2014.

2.30 pm

Prayers—read by the Lord Bishop of Sheffield.

Mental Health: Beds

Question

2.37 pm

Asked by ***Lord Bradley***

To ask Her Majesty's Government what action they are taking to stop patients being unnecessarily sectioned because of shortages of mental health beds.

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): My Lords, we are not aware of any incidents of patients being unnecessarily sectioned. In June 2013, the Care Quality Commission asked for notification of such cases. It is for local clinical commissioning groups to commission the right number of in-patient beds to meet the mental health needs of their local population.

Lord Bradley (Lab): I am grateful to the Minister for that reply, although I am slightly surprised. Does the Minister agree that it is wholly unacceptable that, according to the Royal College of Psychiatrists, doctors are still being forced to section patients to get them their in-patient care? That follows a warning by the Health Select Committee last July on the need to investigate urgently whether patients are being sectioned for them to access psychiatric units, and report to Parliament on the prevalence of that practice. What action have the Government taken on that committee report? Will the Government, if they look carefully at those findings, consider making emergency funding available, similar to that which they made available to A&E departments in the winter, to immediately ease the mental health crisis in beds for adults and children?

Earl Howe: My Lords, I am certainly aware that a number of concerns have been raised about the lack of mental health beds and that there are occasions when patients do not receive care quickly enough because approved mental health professionals cannot locate an appropriate bed. As I said in my original Answer, that is essentially a failing of local clinical commissioning. However, AMHPs—approved mental health professionals—should not be put in that position. We are consulting at the moment on a revised code of practice for the Mental Health Act. That consultation includes a specific question which asks what additional guidance should be included to ensure that AMHPs are not put in that position.

Lord Laming (CB): Does the Minister accept that depriving a citizen of their liberty is one of the most serious matters that can be undertaken in our society and that it should be done only for very sound reasons, certainly not because of the absence of provision for their needs? When the Minister kindly replied to a Question for Written Answer from me earlier in the year, he said:

"Local areas are expected to … deliver their own 'Mental Health Crisis Declaration'".—[*Official Report*, 18/6/14; col. WA70.]

Can he tell the House how many local areas have signed up to a declaration, and more particularly, how many have failed to do so?

Earl Howe: My Lords, on the very last point, I do not have up-to-date figures, but I will certainly write to the noble Lord. However, on his main question, detention as a mechanism solely to secure access to hospital treatment would not be lawful. If hospitals or local authority staff think that that is happening or feel pressurised to admit people in that way, they should report it to their trust and, if necessary, to the Care Quality Commission. Sectioning under the Mental Health Act, which denies people their liberty, is a very serious matter. It should be done only when a person is a risk either to themselves or to other people and, as the noble Lord knows, it is a legal process. A patient cannot be sectioned merely to secure a bed.

Baroness Brinton (LD): My Lords, the survey referred to by the noble Lord, Lord Bradley, was of junior doctors in the Royal College of Psychiatrists. If it was somewhat anecdotal and they felt that they were unable to report it formally, can Ministers ask NHS England to ensure that there is a survey of how many doctors are having to use sectioning, to prevent this continuing?

Earl Howe: It certainly is important that we get to the bottom of what is really happening. We take this issue very seriously. The Care Quality Commission intends to explore the issue of people being detained in order to access psychiatric units in its ongoing review of emergency mental health care. The findings of that review will be published later this year. The CQC's Mental Health Act commissioner regularly and routinely looks at the lawfulness of detention. In fact, the Care Quality Commission is currently developing a new approach to its responsibilities as a regulator of the 1983 Act.

Baroness Uddin (Non-Afl): My Lords, as a former social worker I know all too well the real cost of sectioning people, the impact that it has and, of course, the immense cost to the overall economy. How will the Government ensure that communities are equipped to look after those with moderate needs, some of whom will have learning disabilities and conditions such as autism spectrum disorder, before a crisis point is reached?

Earl Howe: The noble Baroness referred to people with moderate health needs, which is departing slightly from the Question on the Order Paper. However, I can tell her that mental health policy and its delivery is now a major focus. We have a mental health system board to ensure that all the elements of the health and care system work as effectively as possible together. There is a ministerial advisory group in operation.

[Earl Howe]
Parity of esteem is reflected in the NHS constitution and in the Health and Social Care Act 2012. We have challenged NHS England through the mandate to make measurable progress this year towards achieving parity of esteem between mental and physical health.

Baroness Hollins (CB): My Lords, in 2013 a census found that three-quarters of people with a learning disability admitted to a specialist in-patient facility were subject to the Mental Health Act. For a third of these, learning disability was the only reason given for their admission, without any of the additional requirements under the Act for detention being met. What action are the Government taking to ensure that the Act is being used correctly in the care and treatment of people with a learning disability?

Earl Howe: My Lords, if people with a learning disability are detained under the Act, this must be for assessment or treatment of mental illness. The person must satisfy the strict criteria laid down in the 1983 Act. When a learning disability is identified as well as a need for assessment or treatment of a mental disorder, the important thing is that alternatives to the use of the Mental Health Act are considered—for example, use of the provisions of the Mental Capacity Act and whether reasonable adjustments would assist the person with learning disabilities fully to access the assessment and treatment. This is an area we have explicitly covered in the draft code of practice, which is currently out for consultation.

Baroness Manzoor (LD): My Lords, more black and ethnic minority people continue to be detained under the Mental Health Act. Can my noble friend the Minister say what is being done to address that issue?

Earl Howe: Yes, my Lords, we know that BME groups are overrepresented in the detained patient population. The reasons for that are quite complex. Research studies indicate that rates of detention reflect the needs of patients at the time of detention. We know that the rates of psychosis, for example, are higher in some BME communities, and they often access mental health services in a crisis. The reasons for that are not entirely clear. We recognise that more work needs to be done to establish the causes of higher rates of mental illness in some communities.

Landlord and Tenant Acts

Question

2.45 pm

Asked by ***Baroness Gardner of Parkes***

To ask Her Majesty's Government what plans they have to amend the Landlord and Tenant Acts to require landlords actively to notify tenants of changes to service charges, insurance premiums and insurance excesses.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Lord Ahmad of Wimbledon) (Con): My Lords, information about service charges and insurance is already available to tenants should they wish to exercise their rights to obtain it. The codes of practice approved by the Secretary of State also require that tenants are consulted about service charge budgets for the coming year, and the redress schemes coming into force this year must have regard to the breaches of the code. The Government have no current plans to amend landlord and tenant legislation.

Baroness Gardner of Parkes (Con): I thank the Minister for that reply. I declare a direct, personal interest in respect of my own insurance for the block of flats that I am in, which has always had an excess charge of £250. When I had cause to make a claim recently, I was told that it had gone up to £2,500, which is a tenfold increase, and I was also told that that had happened three years before, although no one in the block had received any word of it. How many other people does the Minister think might be in similar positions, with important decisions being made without tenants or leaseholders having any idea that this is going on?

Lord Ahmad of Wimbledon: My Lords, first, I draw attention to my leasehold interests in the register. In terms of information being shared with leaseholders, the Government agree that leaseholders should be made aware of any changes to service charge costs and the costs of insurance that they are required to contribute to. Moreover, they should be consulted about qualifying works and long-term agreements that exist.

My noble friend points to the issue of transparency, which of course is key. The statutory consultation requirements in Section 20 require that landlords disclose any connections when entering into long-term agreements over 12 months.

Finally, it is important for all leaseholders to make sure that their existing rights are protected. They can get free initial advice from the Leasehold Advisory Service.

Lord Richard (Lab): With great respect to the Minister, the question is not whether tenants should have this information if they go and look for it—it is whether landlords should be obliged to tell them. Will the Minister kindly deal with that point, which seems to be the essential one? In these circumstances, should not landlords have an obligation to inform tenants of circumstances in which tenants will be very adversely affected as a result of changes of which they know nothing?

Lord Ahmad of Wimbledon: The important thing in this area is that a balance is struck between leaseholders' rights about their homes, and existing legislation provides protection in this respect, including protection from freeholders about proceedings to forfeit the lease due to alleged breaches. The Government continue to welcome suggestions on how residential leasehold can be improved. Indeed, we held a round table last year and I am

delighted to inform the House my honourable friend Brandon Lewis and I, together, I hope, with my noble friend Lord Faulks, will host a leasehold round table in the autumn of this year.

Lord Shipley (LD): May I widen the issue a little? A recent report by Professor Michael Ball of Henley Business School at the University of Reading suggested that too much resource goes into regulating good landlords and too little in tackling bad landlords. Might the Minister look at this issue and, in particular, see if the balance between the two is right?

Lord Ahmad of Wimbledon: My noble friend makes a very valid point. There are landlords who are good and others who, unfortunately, are not. Good practice needs to be shared. If there are individual cases that need to be followed up and good practice that needs to be shared, I would of course welcome input from my noble friend in that regard.

Baroness Hayter of Kentish Town (Lab): The Minister referred to the forthcoming right of every leaseholder, tenant and, indeed, landlord to take complaints—thanks, mostly, to this House—to a redress scheme. However, that will work only if people know about it and know which redress scheme to go to. Could the Minister outline what plans the Government have to notify tenants, landlords and leaseholders about this new right?

Lord Ahmad of Wimbledon: The noble Baroness is of course correct. We are looking to do that and to help leaseholders to feel more secure. On the right to be consulted about legal and service challenges, to extend a lease or buy the freehold, to take over management—subject to certain criteria—or seek an appointment from a tribunal and protection for service charges so that moneys are protected from creditors, we are working with practitioners in the field to ensure that such information is communicated effectively. We have talked about good landlords and bad landlords. It is important that good practice and good landlord practice is shared, and we encourage landlords to share information on the rights of leaseholders with their own leaseholders.

Lord Swinfen (Con): Many tenants have to pay a substantial annual maintenance charge. I understand that in many instances no maintenance is actually carried out. Will the Government make sure that landlords carry out proper accounting for the tenants?

Lord Ahmad of Wimbledon: If there is a specific case, I have not seen it. If my noble friend has the details, perhaps he will share them with me. The important thing here—and I have already alluded to this— is that if any contracts are entered into that are 12 months or greater and which include maintenance fees, or any changes are brought about to those, landlords are not just encouraged but required to share that information with their leaseholders.

Lord Anderson of Swansea (Lab): The noble Baroness, Lady Gardner, has been an assiduous champion of tenants over many years. Will the Minister give an undertaking to invite her to his round table?

Lord Ahmad of Wimbledon: The noble Lord is right—and not just to my round table, but to any dinner table as well.

Localism Act 2012

Question

2.52 pm

Asked by ***Baroness Hanham***

To ask Her Majesty's Government what steps they are taking to ensure that local people are aware of, and are using, the new community rights created under the Localism Act 2012.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Lord Ahmad of Wimbledon): My Lords, I thank my noble friend for her Question. We have put over 2,000 uses of community rights into place. We have put in place a £50 million support programme, which includes a helpline, online tools and resources, and specialist support and grants. We also continue to promote take-up of the rights through local, national and consumer press, the broadcast media, ministerial visits and conferences and are working with people such as CAMRA and Supporters Direct.

Baroness Hanham (Con): My Lords, I thank the Minister for that reply. He will recall that there are a number of community rights within the Localism Act. May I refer particularly to community assets and the acquisition of those and ask my noble friend what progress is being made and whether he has any examples of good practice that could be passed on to others?

Lord Ahmad of Wimbledon: First, I pay tribute to my noble friend for her sterling work in negotiating the Localism Bill through your Lordships' House. With her experience, she is well placed to talk about community rights. I can inform my noble friend that there are now 900 neighbourhood planning areas in place. Twenty-eight referenda were held; all voted yes. Some 1,200 community assets have now been listed for community bids, including football grounds, pubs, allotments, piers and village halls. Eight assets have now been bought and the Government have allocated a further £25 million to the community shares issue.

Lord Kennedy of Southwark (Lab): My Lords, I declare an interest as a member of Lewisham Council. I am delighted that early this month the ward I represent established the first neighbourhood planning forum in the borough—that was great news. Will the noble Lord agree to bring to the attention of the Mayor of London the Localism Act and what it underpins? In Lewisham we have seen that he pushed out local people, pushed out the local community, pushed out the local council and took over the determination of

[Lord Kennedy of Southwark]
the Convoys Wharf development, which is the site of Henry VIII's Royal Dockyard. The only "local" there was the anger of local people, who were excluded from the development.

Lord Ahmad of Wimbledon: The description of my friend, the Mayor of London, is not one that I relate to—certainly not the description given by the noble Lord. The important thing here is the Government's commitment to localism. I have already alluded to some of the steps we are taking. It is notable that many schemes are taking place locally, where local communities, the voluntary sector, the private sector and, indeed, the local council are active. I know this from my own life. In Wimbledon Park, one of my old stamping grounds, Wimbledon Park Hall, which I was delighted to open recently, is a great example of a developer, a local authority and the residents' association working together to deliver a lasting community asset for local people.

Lord Tope (LD): During the passage of the Localism Bill in your Lordships' House some three years ago it was said that the word "localism" did not appear in any dictionary, which might explain why different government departments seem to interpret its meaning in different ways. For the avoidance of doubt, will the Minister give the Government's definition of localism?

Lord Ahmad of Wimbledon: I think that my noble friend is well versed in what localism means—it means the empowerment of local people. It is quite simple: it does what it says on the tin.

Lord McKenzie of Luton (Lab): My Lords, I would like to ask the Minister about the community right to build. We have seen a plethora of failed initiatives to try to get more homes built, with this Government having presided over the lowest level of housing completions since the 1920s and the NAO finding that the flagship new homes bonus has done little to encourage new homes but has shifted resources from poor northern councils to better off southern councils. Have any affordable homes been started to date under the community right to build? Are any referendums under way to obtain support for community right to build orders and, if so, how many?

Lord Ahmad of Wimbledon: The noble Lord is correct—the community right to build was part of the Act and there has been a lot of community interest in it. Over the last two years, there have been more than 14,000 inquiries relating to the right to build. Eight applications for funding for community right to build orders have been made to the Homes and Communities Agency and the GLA. So far, two community groups have also submitted a total of four orders to their local planning authority for independent examination.

Lord Cormack (Con): My Lords, if localism does mean empowerment of local people, what can be done to help the villagers in the area around Nocton Fen in Lincoln, where there is a proposal to build 24 149.5-metre wind turbines, which would be twice as high as Lincoln Cathedral and would absolutely destroy one of the finest views in the county? Will the local people be assisted through the provisions of the Localism Act?

Lord Ahmad of Wimbledon: My noble friend has great knowledge of that area and brought this matter to our attention during our debate on the role of English parish councils. The Government are totally committed to ensuring that parish councils and our great cathedrals around the country are protected and the local environment is part of that. It is appropriate that local people are able to protect local heritage sites through local planning laws and the activism and power that we provided in the Localism Act. I hope that, as planning permission is granted or reviewed at a local level, local authorities will keep local heritage sites in mind.

Baroness Farrington of Ribbleton (Lab): My Lords, am I correct in thinking that the Minister's answer to my noble friend Lord McKenzie could have been put more briefly as "None"?

Lord Ahmad of Wimbledon: My Lords, I do not agree with the noble Baroness.

Anti-Semitism

Question

2.58 pm

Asked by ***Lord Leigh of Hurley***

To ask Her Majesty's Government, following the reported rise in anti-Semitic actions across Europe in recent days, what action they are taking to avert such actions in the United Kingdom.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Lord Ahmad of Wimbledon) (Con): My Lords, the Government are deeply concerned about the rise in anti-Semitism across Europe. We work closely with the Community Security Trust, the police and the Home Office to tackle anti-Semitic incidents that have no place—absolutely no place—in our communities. My department hosts the anti-Semitism working group, which brings together community representatives and officials from across government to ensure a co-ordinated response to anti-Semitism whether at home, abroad or indeed, online.

Lord Leigh of Hurley (Con): I thank the Minister for his Answer. Like all Members of the House, he will be aware of the ongoing conflict in Gaza and the terrible loss of life as a result. Does my noble friend agree that it is unacceptable that many opt to use this conflict, instigated by Israel's need to protect its citizens from lethal rockets, as a pretext for anti-Semitic prejudice, sometimes through the veneer of anti-Zionism by placards and rants in our own high streets, including the recent *Mirror* article which compared Gaza to a concentration camp? Many Jews in this country feel that their security is threatened and their safety prejudiced.

Will my noble friend join me in supporting Muslins in the UK who condemn anti-Semitism wherever it may be found?

Lord Ahmad of Wimbledon: On that final point, as a Muslim in this country—a proud Muslim who is proud of his country—I totally condemn anti-Semitism wherever it is found in its ugly guises. I am sure that I speak for all Members of this House, irrespective of faith or belief. As a Government we are, of course, deeply concerned about the continuing violence in Gaza and Israel, and we have called repeatedly on both sides to de-escalate and work towards a lasting peace. The Israeli people have a right to live without constant fear for their security, but, equally, Gazans also have a right to live with dignity and peace, and we are deeply concerned by the deteriorating humanitarian situation in Gaza. It is for all communities, certainly in the UK, to work together, and we are doing so, in countering extremism in all its ugly guises, and in sending a clear message that such bigotry has no place in our country.

Baroness Ramsay of Cartvale (Lab): My Lords, given that vile anti-Semitic views have now appeared on placards and in chants on British streets, not least in London, will the Minister assure us that the Government are taking steps to protect intercommunal relations in our country? Is he assured that the Government are in touch with the leadership of both the Muslim and Jewish communities? Would he join me in welcoming a very helpful statement from the Muslim Council of Britain two weeks ago, the concluding words of which were:

"We must not let conflicts abroad cause relations to break here in the UK. Jewish and Muslim communities have enjoyed good relations in the UK, and it is vital that is maintained"?

Lord Ahmad of Wimbledon: Again, I share the noble Baroness's sentiments. It is important to look at our great country and see that over time people of different faiths have come to this country and have settled here. Different migrant communities have made this country their own and generation upon generation continue to respect each other, live with each other and build a prosperous nation together. I totally share the sentiment expressed by the noble Baroness, and the Government are working on the ground with people of all faiths and communities. We have invested £8.2 million in the Church Urban Fund's Near Neighbours scheme; we have invested £1.8 million on the Holocaust Memorial Day Trust; and, more recently, noble Lords will know that we have also launched the Remembering Srebrenica campaign, which recalls the Srebrenica genocide that took place on European soil not so long ago.

Lord Wright of Richmond (CB): My Lords, while fully associating myself with the Minister's condemnation of anti-Semitism in all its forms, does he nevertheless accept that much anti-Semitism is a reaction to the appalling Israeli treatment of its Arab neighbours in Gaza, Jerusalem and on the West Bank?

Noble Lords: No!

Lord Wright of Richmond: Is not the best action that the Government can take to avert such activity to show not only that they deplore such actions as the constant growth of Israeli settlements and the disproportionate reaction of the Israel Defense Forces in Gaza but that they are prepared, with our European allies, to take effective steps to stop them?

Lord Ahmad of Wimbledon: My Lords, when it comes to conflict in the Middle East, the UK has three clear objectives: first, to secure a ceasefire; secondly, to alleviate humanitarian suffering; and thirdly, and most important, to keep alive the prospects for peace negotiations—I am sure that all noble Lords adhere to that. They are the only hope of breaking the cycle of violence and devastation once and for all. I can assure the noble Lord that the UK is working closely with the US and European allies in encouraging both sides back to dialogue, supporting the Palestinian Authority and keeping pressure on Hamas and other extremists—and also, most importantly, alleviating the humanitarian consequences of this tragic conflict.

Lord Palmer of Childs Hill (LD): My Lords, I would like to bring this back to the original Question, if I may. At demonstrations in London, anti-Semitic and pro-Hezbollah banners and placards have been freely displayed, with slogans such as, "Hitler was right". What steps are Her Majesty's Government taking to ban the use of pro-terror and racist placards at such demonstrations?

Lord Ahmad of Wimbledon: The Government totally condemn the use of such placards. Comparisons between the conflict taking place and reviving memories of the tragedy and disgust we all had for the terrible events of the Holocaust have no place in the protests. I am sure that I speak for all Muslims—indeed, for all Palestinians and for all people with sensible thoughts about resolving this conflict. No religion, no faith and no community sanctions such disgusting behaviour; and that is what it is. Placards that invoke any kind of terror against any community have no place in our country.

Lord Winston (Lab): My Lords, as a grandfather of children at a Jewish school in London that has to be policed, can we hear the Minister's reaction to the idea that anti-Semitism in Europe is a reaction to what is happening in Israel and Palestine—much as we regret that? Does he not agree with me that this would be rather like saying that the affairs in Syria would cause anti-Islamic feeling in this country?

Lord Ahmad of Wimbledon: I have already said—and I say again to the noble Lord—that irrespective of what is happening in the Middle East, there is no place for anti-Semitic behaviour, particularly when it is translated into action of a despicable kind against any community, including the Jewish community specifically. We have to be absolutely clear. Things happen around the world. As to what is happening in Israel and Gaza, we all deplore the loss of civilian life, the tragedy and the

[Lord Ahmad of Wimbledon]
humanitarian crisis taking place on the ground. Let me be absolutely clear and perhaps put it into context as a Muslim. The Islamic faith is clear: in such situations you shall protect churches, cloisters, synagogues and all innocent life. That is the kind of message that needs to resonate, not just in this House but throughout the country.

Baroness Deech (CB): My Lords, does the Minister recall that a year ago, after the beheading of Lee Rigby, the Prime Minister rushed forward to say that Islam was a religion of peace and that Islamophobia must be prevented; and the police made arrests in relation to tweets and demonstrations. Unfortunately, politicians have been in the forefront of making this link between Gaza, anti-Semitism, Hitler and all the rest of it. Will the noble Lord remind the House that the politicians should take the lead in calming down feelings, and that the police should be encouraged to prosecute where appropriate?

Lord Ahmad of Wimbledon: I totally agree with sentiments expressed by the noble Baroness. I am sure that we all recognise that we live in a multireligious society, and it is entirely appropriate that the House takes this opportunity to wish the Muslim community a very happy Eid Mubarak.

High Speed Rail (London–West Midlands) Bill

Motion to Agree

3.08 pm

Moved by ***Baroness Kramer***

That the Order of 8 May 2014 be varied as follows:

Before paragraph (5) insert-

"(4A) The Order of the House of 30 July 2013 relating to electronic deposit of documents shall apply in respect of a High Speed Rail (London–West Midlands) Bill introduced into the House of Commons in Session 2014–15 or Session 2015–16 and subsequently brought up from that House as in respect of the High Speed Rail (London–West Midlands) Bill introduced into the House of Commons in this Session."

Motion agreed.

Children and Young Persons Act 2008 (Relevant Care Functions) (England) Regulations 2014

Special Educational Needs and Disability Code of Practice: 0 to 25 years

Motions to Approve

3.08 pm

Moved by ***Lord Nash***

That the draft Regulations and the draft Code of Practice laid before the House on 24 June and 11 June be approved.

Relevant documents: 5th Report from the Joint Committee on Statutory Instruments, 6th Report from the Joint Committee on Statutory Instruments (special attention drawn to the instrument), 3rd Report from the Secondary Legislation Scrutiny Committee, 5th Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 28 July.

Motions agreed.

National Minimum Wage (Amendment) (No. 2) Regulations 2014

National Minimum Wage (Amendment) (No. 3) Regulations 2014

Motions to Approve

3.09 pm

Moved by ***Lord Popat***

That the draft Regulations laid before the House on 30 June and 2 July be approved.

Relevant documents: 5th and 6th Reports from the Joint Committee on Statutory Instruments, considered in Grand Committee on 28 July

Motions agreed.

Equality Act 2010 (Equal Pay Audits) Regulations 2014

Motion to Approve

3.09 pm

Moved by ***Baroness Northover***

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

Relevant document: 7th Report from the Joint Committee on Statutory Instruments (special attention drawn to the instrument), considered in Grand Committee on 28 July

Motion agreed.

Data Retention Regulations 2014

Motion to Approve

3.09 pm

Moved by ***Lord Taylor of Holbeach***

That the draft regulations laid before the House on 21 July be approved.

Relevant documents: 7th Report from the Joint Committee on Statutory Instruments, 7th Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach) (Con): My Lords, the regulations are made under the Data Retention and Investigatory Powers Act, which became law two weeks ago. They provide the detail of how communications providers can be required to retain data and the increased safeguards that will be in place for these data. They therefore form part of a wider

package of protection, oversight and reviews—reviews that will be informed by, and inform, a wider public debate on these important issues.

At this point, I reiterate my thanks for the constructive approach taken by noble Lords during the passage of the Act, in particular the noble Baroness, Lady Smith of Basildon, and her colleagues on the Opposition Front Bench.

These regulations relate specifically to communications data. That means the context of a communication—the who, where, when and how of a communication—and not the content. The regulations maintain the status quo, allowing those investigating such crimes to continue to have access to the evidence they need. They add no new powers; rather, they increase safeguards.

As I told the House when we debated the Act a fortnight ago, these regulations and the additional safeguards form a crucial part of our response to the European Court of Justice judgment on the EU data retention directive. That judgment called into question the legal basis for the retention of data in the UK, and these new regulations made under the Act play a key part in ensuring a new sound footing for retention. Therefore we need to have them in place before the House rises.

The regulations we are debating today are substantially the same as those we made available to Parliament during debates on the Act. As noble Lords may be aware, the Joint Committee on Statutory Instruments has done its usual helpful work with great speed, and I am grateful to it. Equally, I must thank my noble friend Lord Goodlad, and the members of the Lords Secondary Legislation Scrutiny Committee. They too have swiftly reviewed and reported on the regulations.

I now turn to the detail of the regulations. They will revoke and replace the 2009 data retention regulations. They will provide the detail and safeguards for data retention notices to be issued to communications providers under the Data Retention and Investigatory Powers Act. Such notices will be issued where necessary and proportionate. Under the new regulations, existing notices under the 2009 regulations will remain in force until the end of the year unless revoked. The regulations are categorical as to the types of data that communications providers may be required to retain, and these are a small subset of all the communications data that providers generate and process. These data types are no different from those covered under the 2009 regulations. Similarly, as with the 2009 regulations, security controls and provisions for financial compensation for providers are included in these regulations.

The key elements of the new regulations are the enhanced safeguards. The regulations make plain certain matters that have to be taken into account before the Secretary of State may issue a retention notice. To be clear, I state that Ministers have always taken their responsibilities when issuing notices very seriously. These regulations now set out key considerations on the face of legislation.

The regulations require the Government to take reasonable steps to consult providers before issuing them with a retention notice. Again, we have always consulted providers and have always worked closely with them as they undertake their obligations under the law. This is now included on the face of the regulations. The retention notices must also be kept under review. Further, the regulations will help us to work with communications providers by making a new data retention code of practice. In this code we will set out the best practice guidance for implementing data retention obligations.

The regulations now stipulate that a notice may require the retention of data for a maximum of 12 months. We have evidence that 12 months is an appropriate length of time for retaining data, including, as my right honourable friend the Home Secretary told the Commons during the debate on the Bill, the fact that half of communications data used in child abuse investigations is more than six months old. However, in circumstances where it is appropriate to retain data for less than 12 months, these regulations provide the flexibility to reduce the retention period.

As noble Lords who closely followed the debates on the draft communications data Bill will be aware, there was disagreement on the scope of the duties of the Information Commissioner in the 2009 regulations. These new regulations clarify that his duties include oversight of the security of data, the integrity of data and the deletion of data at the end of their retention. Further details on this oversight will also be specified in the new retention code of practice. In addition to these safeguards, we will be adding further protections that are not on the face of these regulations. These include amending the Acquisition and Disclosure of Communications Data Code of Practice to increase clarity and to reduce the number of bodies with access to communications data under RIPA.

As was discussed at length in this Chamber a fortnight ago, the Data Retention and Investigatory Powers Act will expire on 31 December 2016. There is no room to extend this sunset clause and these regulations will fall when that Act falls. Therefore, this House will need to return to these topics after the general election. To inform the debate ahead of new legislation, the Act requires the Interception of Communications Commissioner to produce half-yearly reports and requires a review of investigatory threats, capabilities and safeguards. David Anderson QC, the current independent reviewer of terrorism legislation, will undertake this review. These, in turn, will provide crucial background information for a Joint Committee of Parliament, sitting after the next election.

These regulations do not extend existing powers and they do not introduce elements of the draft communications data Bill. As my right honourable friend the Home Secretary has made clear, this Government still believe that the powers contained in that draft Bill are necessary to allow effective policing in the 21st century. The Government have begun the process of a wider review of investigatory powers. In combination with this, the sunset clause in the Act will require us, and for that matter those who disagree with us, to give these issues proper consideration once the review process has concluded, and after the general election next year. This will enable us to ensure that the legislative regime in this important area properly balances our rights to privacy and security.

[Lord Taylor of Holbeach]

These regulations, as with the Data Retention and Investigatory Powers Act which underpins them, add safeguards while otherwise maintaining the status quo. Maintaining the status quo is, however, an important job—these are vital regulations. The data that will be retained under these regulations are critical for the police and the security services to continue to do their job in keeping this country and those who live here safe. I commend these regulations to the House and I beg to move.

Lord Paddick (LD): My Lords, as a Liberal Democrat and a former senior police officer I am acutely aware of the need to balance privacy and security. In these regulations, as my noble friend the Minister said, the Government appear to be maintaining the status quo with some additional safeguards, going a little further for example in enshrining what has been best practice to date into the new regulations. Pending the wholesale review of the Regulation of Investigatory Powers Act and related legislation, which we successfully negotiated with the Government and the Labour Party in the other place managed to get into the primary legislation, it is the best that we can do in the circumstances. On that basis we support the passing of these regulations.

Lord Carlile of Berriew (LD): My Lords, I have been through these regulations and the Explanatory Memorandum with some care and I have also taken the trouble of ascertaining the views of David Anderson QC, the independent reviewer to these regulations. There were a number of unanswered questions during Second Reading recently, particularly relating to the future role of the independent reviewer of terrorism legislation. I look forward to receiving a response from my noble friend the Minister to those questions in due course, I suspect when the answers are clearer than they were at Second Reading. However, I am totally satisfied that these regulations do the absolute minimum to give effect to the minimum requirements of the Government. The regulations provide every possible safeguard there could be in all the circumstances and I, too, hope that the House will support them.

Baroness Smith of Basildon (Lab): My Lords, I am grateful to the Minister for the care he has taken in going through the detail today and to other noble Lords who have added their comments. I do not think it is necessary to repeat the arguments and debate we had during the passage of the Bill. We recognise, of course, the necessity for retaining data information and when tackling serious and organised crime. We made that clear. The noble Lord, Lord Paddick, referred to our amendments in the other place. We think they improved the legislation and safeguards for the future. A complete review of RIPA was extremely important. We are very grateful that the Government accepted those.

As always, we have to be certain why and how we are collecting information. I think it is also clear that not only is that needed but these regulations were needed. When we had the debates in your Lordships' House, the Constitution Committee recommended that these regulations did not wait until after the Summer Recess and I am grateful that the Government took that on board. We agreed with the committee and I am glad that the Government did. It makes sense and it is entirely appropriate that we have these regulations before us prior to the Summer Recess.

I have a couple of points that need clarification, if the Minister can help me. I think I am getting slightly confused on the six-monthly review about the roles of the Information Commissioner and the Interception of Communications Commissioner. Can he clarify what the relationship will be between them in undertaking the six-monthly review? Can he also confirm that when they review the legislation, because we have not had the time that we would normally have for consultation on these regulations, they will have the opportunity to review the operation of the regulations as well?

I am grateful to the Minister for making it clear and I think other noble Lords have added their expertise to that. Nothing in these regulations goes beyond the status quo and it is clear the Government have done the minimum necessary in the legislation. However, as he said, there will be further regulations required that extend the safeguards. Something we debated and discussed at some length—with differing views—was access to information. The Minister will recall the comments of the noble Lord, Lord Blencathra, and my noble friend Lord Rooker on this and how important it is that information is used appropriately, as well as the value of it. I know there are further regulations to come. Could the noble Lord say something about when we will see those regulations and what opportunity there will be for consultation on them? Can he also confirm that they will be approved by the affirmative procedure?

We are grateful to the Minister for bringing these regulations before us today before the Summer Recess. They have our support.

Lord Taylor of Holbeach: My Lords, I thank noble Lords who have spoken on this. There has been a general welcome for these regulations, as there was for the Bill in general. I appreciate the support of the House in what has been a difficult matter for Parliament to resolve satisfactorily, and I believe it has done that. I say to the noble Baroness, Lady Smith, that the regulations have passed in the House of Commons and so, with their passage through this House today—should that be the will of the House—they will come into force immediately. I am sure that is the wish of the House.

I am very grateful for the welcome given by the noble Lord, Lord Paddick, who knows how important this particular facility is in the pursuit of crime. The noble Lord, Lord Carlile, speaks of course with a great deal of authority on this issue, and I am pleased that he has spoken with his successor, David Anderson, about the impact of these matters. I assure noble Lords that the correspondence which I promised at Second Reading is in the course of being prepared. I hope that it will provide suitable holiday reading for noble Lords when they go.

The Interception of Communications Commissioner has a direct role in these regulations, as noble Lords will know. Following amendments that were tabled in

the House of Commons, this was included in the Act. The half-yearly reports mean that the Interception of Communications Commissioner's functions will include reviewing and reporting to us on a six-monthly basis. That is important. David Anderson, the current independent reviewer of terrorism legislation, will also be undertaking his review of the investigatory effects, the effectiveness of the safeguards and the capabilities. Both of these reports or reviews will provide us with further guidance for considering this matter when we return after a general election. We will consider those reports and, indeed, the report of the Joint Committee that I hope will be set up by any future Parliament so that, when the sunset on the existing Act occurs, on 31 December 2016, there will be a proper succession of this important facility to keep us safe for the future.

Baroness Smith of Basildon: I am sorry to interrupt the noble Lord. I asked the question because I thought that, when he spoke, he mentioned the Information Commissioner and not the Interception of Communications Commissioner. I was trying to get to the relationship between each of them when it comes to undertaking the six-monthly review.

Lord Taylor of Holbeach: The Information Commissioner has a role, as has been made clear. However, it is a continuing role in investigating this; it is not a question of reports or reviews. The six-monthly review is done by the Interception Commissioner, and the oversight of retained data in respect of security and deletion is a matter for the Information Commissioner. I will repeat that, because I may have got muddled in saying it: the six-monthly review is with the Interception Commissioner, while the oversight of retained data in terms of security, integrity and deletion is with the Information Commissioner. There are two different functions: one is about the review of the process, the other is about a continuing commitment to make sure that information is not retained which should not be retained. I hope I have made that clear; I am sorry for the confusion in making it so.

Motion agreed.

Armed Forces (Service Complaints and Financial Assistance) Bill [HL]

Report

3.30 pm

Clause 2: Reform of system for redress of individual grievances

Amendment 1

Moved by ***Lord Thomas of Gresford***

1: Clause 2, page 2, line 15, at end insert—

"( ) If the person referred to in subsections (1) and (2) is deceased, the complaint may be made or maintained by his or her next of kin, or personal representative."

Lord Thomas of Gresford (LD): My Lords, I am returning to an issue that we discussed in Committee dealing with service complaints: whether a service complaint dies with the complainant. If the person who has grounds for making a complaint dies, is that an end of it? I would say that, in principle, that ought not to be the case. The proposed amendment to the Armed Forces Act 2006, new Section 340A, asks the question:

"Who can make a service complaint?".

The answer it gives is that:

"If a person subject to service law thinks himself or herself wronged in any matter relating to his or her service, the person may make a complaint about the matter".

It says "any matter", so it applies to any issue that may arise in which the person subject to service law thinks that he has not received the proper treatment.

We have been told that the majority of the complaints made concern the terms and conditions of service, but there is another significant body of complaints that concern bullying and harassment within the service. I am extremely grateful to the Minister and his team for permitting me and others to have discussions with the Bill team before we got to Report stage; it has been very helpful. However, I just compare this with other systems.

Let us suppose that the subject matter of the complaint is not just bullying and harassing but a serious assault and that that assault is referred to the police. The fact that the complainant dies does not mean that the police can take no action. Indeed, I recall a serious case of rape in which the lady concerned—the complainant, who was 80 years of age; and having made a complaint and had that complaint videoed—then died. Her death was nothing to do with the fact that she had been allegedly raped, but the video was evidence in the criminal proceedings that then followed at the Old Bailey. There is nothing unusual about an allegation of crime being pursued after the person who has been the victim of that crime has died.

Why should it be any different in the case of a person who complains of bullying and harassment—or, indeed, if there is a connection between the bullying and harassment, as happened in one unfortunate case that we discussed in Committee, when the complainant committed suicide? Why should her complaint not continue? If it is a matter of terms and conditions, that is very often a concern about finance—about money. Why should a person's complaint that he has not been properly treated, and that he is entitled to a better rank or to a higher grade of pay than he has received, not continue after his death just as it would if it were a civil claim brought in the civil courts?

The Minister in replying on this issue in Committee suggested that it would be dealt with pragmatically and sensitively by the authorities, but I was not very clear precisely what he had in mind. He said:

"Although it is clear that cases involving a deceased service man or woman must be treated seriously and with respect, and that the family of the deceased have a right to know that the issues they raise will be seriously considered, the place to do this is not through the formal service complaints system".—[*Official Report*, 9/7/14; col. 232.]

I do not really understand whether that is an invitation to the next of kin or the family of the deceased to start issuing civil proceedings or to appear in front of a coroner's court or to report matters to the police. It seems to me that where the provision is that a person may make a service complaint about,

[LORD THOMAS OF GRESFORD]
"any matter relating to his or service",
their next of kin, whom service people are required to define, or their personal representative should be able to continue that complaint, or raise it themselves if it has not been raised by the complainant before death, in the ordinary way. I await with interest the Minister's response to these concerns.

Lord Rosser (Lab): My Lords, we have an amendment in this group. The noble Lord, Lord Thomas of Gresford, has made a strong case. As he said, we discussed the issue in Committee, and our amendment is the same as that which we then proposed.

We simply seek a process that would enable issues to be raised by the family on behalf of the member of the services who has died, whether the death occurs before a complaint has been made—when evidence comes to light subsequently that indicates that a complaint could be pursued—or whether death occurs when a complaint is already going through the process but has not been finalised.

Responding for the Government, the Minister in effect said that where the complainant had died, whether before a complaint had been made or after a complaint had been made but not finalised, the chain of command could decide to investigate that complaint, but that it was a matter entirely for the chain of command as to whether they did so. The Minister referred to the need for a complaints system to be fair and,

"to give equal consideration to all parties who may be involved. That means that the person making the complaint and anyone else who might be implicated in it, or otherwise affected by it, should have the opportunity to put their case".—[*Official Report*, 9/7/14; col. 230-31.]

The Minister went on to say that while,

"cases involving a deceased service man or woman must be treated seriously and with respect, and that the family of the deceased have a right to know that the issues they raise will be seriously considered, the place to do this is not through the formal service complaints system. For the service complaints system to be fair, and for all of those involved to feel that it has treated them as such, it must involve all parties: the person making the complaint and those who are accused of perpetrating the wrong".—[*Official Report*, 9/7/14; col. 232.]

I am not convinced that the formal complaints procedure could not handle such complaints fairly. If the evidence is not there to sustain the complaint, or there are key issues that cannot be properly investigated because the complainant, unfortunately, cannot be there, that would surely be reflected in the outcome, but that inability to obtain sufficient evidence to make a decision will not always be the case.

If, as I suspect, the Minister is not prepared to accept these amendments, or to consider the matter further, where does that leave the ombudsman in such cases? The inference must be that if a matter is not dealt with through the formal complaints system, an aggrieved party will not be able to make a complaint to the ombudsman that there has been maladministration in connection with the handling of the complaint, either through a refusal to consider it at all, or in relation to the process by which that complaint was considered.

Will the Minister also say whether or not that would be the position in respect of a complaint from, or on behalf of, a member of service personnel who is now deceased—namely, that by not dealing with the complaint through the formal complaints procedure, there could be no reference on grounds of maladministration to the Service Complaints Ombudsman? One would have thought that the ombudsman would be quite capable of making a decision on whether there was, or was not, sufficient evidence available from which to reach a fair and just conclusion.

If that is the case—I hope that it is not—and the ombudsman would have no role, do the Government really think that that is a mark of a fair complaints system which treats cases involving a deceased service man or woman seriously and with respect, and gives the family of the deceased the right to know that the issues that they have raised will be seriously considered? I am not sure that it does.

Lord Palmer of Childs Hill (LD): My Lords, I intervene on just a couple of small points. I hope that the Minister will take regard of both these amendments. However, I want to highlight the difference between the two, which is subtle but important. When the noble Lord, Lord Rosser, said that his amendment was in the same form and words as it was in Committee, I was somewhat disappointed. My noble friend Lord Thomas's amendment has some important differences from the amendment proposed by the noble Lord, Lord Rosser. My noble friend Lord Thomas's amendment, to which I am a signatory, says that,

"the complaint may be made or maintained",

whereas the amendment of the noble Lord, Lord Rosser, says only that it should be made. Very often, the complaint has been made before the person has died and therefore it needs to be maintained. It is not necessarily made after death.

The amendment proposed by my noble friend Lord Thomas refers to,

"next of kin, or personal; representative".

Those are the correct terms in law, whereas the amendment of the noble Lord, Lord Rosser, talks about "relative or partner". As we all know, a personal representative is not necessarily a relative or partner. If we are, by consensus, going to persuade the Minister and the Government to move on this issue, I hope that we will take those finer points into consideration.

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): My Lords, Amendments 1 and 2 relate to complaints about the treatment of a member of the Armed Forces who has since died. Amendment 2 would allow family members to bring a complaint about any wrong that they consider had been suffered by a serving or former member of the services who has died, but does not enable a representative of the person's estate to pursue a complaint started before that person's death. Amendment 1 would also allow family members to bring a complaint about any wrong that they consider had been suffered by a serving or former member of

the services who has died, and in addition allow family members or representatives of the person's estate to pursue a complaint started before his or her death.

There are two types of complaints envisaged by the amendments where a service person has died: first, complaints made by a family member, next of kin or personal representative potentially concerning a range of matters in the past where the person affected has since died and, secondly, complaints about treatment or matters alleged to be connected with the death of the service person. In responding to these amendments, I shall set out as clearly as possible how we think that complaints can—and should—be handled in different circumstances involving a serving or former member of the services who has died.

I start by making clear the purpose and primary aim of the service complaints system. It is designed to allow people to bring complaints where they think that they have been wronged or mistreated in connection with their service. Service complaints are generally about that person and concern matters that affect them personally. As the complaint is a matter personal to the complainant, it is for that individual—if needs be, with support and advice—to decide whether to initiate and pursue a complaint through the redress process rather than do nothing or deal with the matter by way of informal resolution. As a consequence, an examination of their complaint needs that person's involvement in the process.

3.45 pm

The aim of the system is to provide a correction, recompense or practical redress for the person feeling aggrieved. The difficulties in respect of these amendments regarding complaints made by others following the death of a service person therefore flow from the fact that the sort of things that the system deals with need the participation of the person alleged to have suffered, in order to find out exactly what is asserted and exactly what went wrong. Moreover, particularly in respect of complaints about matters unconnected with the death of a service person, Amendment 2 would allow a family member of a service person who has died to complain where it is not known whether the person who died actually wanted to make a complaint or whether in fact they may not have wanted to do so, or had already received some form of informal resolution.

In respect of complaints about treatment alleged to have been connected with the death, it should first be made clear that where there are concerns regarding the death of a service person, they should not be brushed off and may involve wider important issues. However, there are other mechanisms, rather than the service complaints system, for investigating the cause or matters connected with a death such as inquiries, inquests and criminal investigations. In addition, I emphasise that the service complaints system is not geared to dealing with criminality, ascertaining why someone died or broader issues regarding the services in general; it is there directly to assist the person making a complaint in respect of a personal grievance connected with their service.

Amendment 1 also deals with the ability of the next of kin or a personal representative to maintain a service complaint that has already been made. We accept that there may well be certain matters where complaints have been made that can be resolved. Those matters will be ones where, first, it has been practically possible to start or continue an investigation and/or assessment of the subject of the complaint without the complainant. Secondly, there must be a practical outcome or form of redress that can realistically be awarded in response to an established wrong.

In reaching an assessment of the feasibility and value of continuing a complaint to completion and, if appropriate, redress, each case would have to be considered individually. Therefore, cases where there may be difficulties will be those involving accusations against a third party. This might cover complaints such as whether a person had been deliberately denied promotion or treated by an individual in a vindictive or unfair way. For any process to be fair, the person accused of wrongdoing must be able to understand exactly what is alleged so as to be able to respond. That is particularly true where reputations or future careers may be affected.

However, complaints that could well be followed through to completion will be likely to be those that deal with largely factual matters. They might, for example, cover a complaint that someone had not received the correct pay or allowances or certain pension entitlements. They might deal with matters such as leave and accommodation or redundancy payments. There may also, for example, be cases that involve accusations that others had deliberately withheld allowances. Usually, however, the matters at issue in such a complaint are largely factual and do not involve a third party when it comes to deciding whether the complaint is well founded; either the person was entitled to a particular payment or they were not.

Where a complaint of this sort was raised before the complainant died we would expect it to continue to completion and for redress to be made where appropriate, particularly as it would be in the spirit of the Armed Forces covenant to do so. It would be appropriate to honour the duty that we owe to those who have served their country and where it has consequences for their estate. The death of the complainant may mean that it is unnecessary to continue with such a complaint but, as I have already said, each matter would turn on its own facts and particular circumstances.

We all accept that the services are unique in our society and that service men and women and their families are entitled to be treated fairly. Although we do not think that it would be right for a general right to bring a complaint in relation to the service of someone who has died, some matters will be capable of completion while some will be able to be dealt with informally. A family could also of course raise any issues with their elected representative or an appropriate service welfare organisation and, through them, with the Ministry of Defence.

Treating families with concerns seriously, and being seen to do so, is also important if we are to maintain confidence in the Armed Forces more generally.

Lord Thomas of Gresford: Before the Minister concludes his remarks, let us assume that a complaint has been made and the defence counsel has appointed

[Lord Thomas of Gresford]
a panel to consider it. Is he saying that although the complainant has died, if it is a matter that can be resolved then the panel will continue, as opposed to it being remitted after his death to the defence counsel to deal with it as a matter of discretion?

Lord Astor of Hever: My Lords, I am saying that the chain of command would want these matters resolved. It is part of the Armed Forces covenant that these sorts of situations are clarified.

Lord Rosser: May I ask a further question? In the scenarios that the Minister has referred to, if the family of the deceased were dissatisfied with the outcome, would they then be able to refer the matter to the ombudsman, on the basis that there had been maladministration, or would they not be able to make such a reference?

Lord Astor of Hever: The answer to that is no. The noble Lord asked me earlier whether next of kin, families or personal representatives could make applications to the ombudsman where a complaint had already been made. The answer is no; they could not if no application had previously been made. If an application to the ombudsman had been made by the complainant before they died, there may be circumstances in which that could continue, depending on the feasibility of doing so and on whether appropriate redress could eventually be granted. This would apply equally to the bringing of an appeal in the internal system. As I said to my noble friend, if there is serious redress or something that needs to be put right, that would be within the interests of the Armed Forces and I am sure that the chain of command would want the situation to be rectified.

Treating families with concerns seriously, and being seen to do so, is important if we are to maintain confidence in the Armed Forces more generally. It is in everyone's interests to address any feelings of injustice that bereaved families may have and to reach a satisfactory outcome where possible. Where these concerns are potentially related to the individual's death, we would expect the chain of command to consider the concerns very seriously and whether appropriate action can be taken as a result of the claims. I hope that noble Lords will gain a degree of comfort from what I have said and will be prepared to withdraw their amendment.

Lord Thomas of Gresford: My Lords, I do not propose to seek the opinion of the House on this but I would welcome further discussion to clarify what I think is not clear at the moment. It seems that if a person dies having made a complaint, it is just a matter for the defence counsel. I do not doubt their good will, their desire to appease the family and so on, but with a formal complaints system it should be more than that: the family should have a right to have the matter properly determined. I am still very uneasy about what has been said. When it comes to the death arising out of the matter of complaint, one thinks of the Ellement case where the complaint was of bullying but the death was caused by suicide. What is the situation there? Is it to be said that an inquiry is going to be set up in such circumstances, or what? I am still uneasy about this and I hope to have further discussions with the Minister but, for the moment, I beg leave to withdraw the amendment.

Amendment 1 withdrawn.

Amendment 2 not moved.

Amendment 3

Moved by ***Lord Rosser***

3: Clause 2, page 2, line 26, at end insert—

"( ) for a service complaint against a member of the Royal Military Police to be made to an officer of a specified description;"

Lord Rosser: My Lords, in Committee I raised the question of the intended role for the ombudsman as regards the Royal Military Police, both in respect of complaints raised by members of the RMP in connection with their working environment and situation and those raised by service personnel about the activities of the RMP and how it had carried out its role. The Minister drew attention to the fact that he had sent me a letter on that issue two days previously, and I responded by saying that I thought it would be helpful to have the information in the letter with regard to the role of the ombudsman on the record in *Hansard*. The purpose of my amendment today is, I hope, to achieve that objective, and nothing more.

The Minister's letter covered the procedures that relate to service police officers in all three services, not just those in the RMP. On the assumption that the Minister will cover the position comprehensively in his reply, I do not intend to refer to any parts of the letter, with one exception. The letter indicated that the Government were also looking at other ways in which serious allegations and complaints made against members of the service police could be investigated. I simply ask whether the Minister is able to give any sort of timescale within which that exercise is expected to be completed. I beg to move.

Lord Astor of Hever: My Lords, Amendment 3 deals with how the proposed service complaints system will work with regard to the Royal Military Police. I can confirm that the provisions of the Bill apply in much the same way to complaints concerning members of the service police as they do for any other service person. For example, where a service person believes they are bullied by a service policeman acting in the course of their duties, they can complain about that.

There is one exception in that service complaints cannot be made about decisions a service policeman has made following an investigation about whether to refer a case to the Director of Service Prosecutions under Part 5 of the Armed Forces Act 2006. That circumstance is specifically excluded from being dealt with as a service complaint under the current regulations, and the intention is that it will remain so under the new regulations.

The reason such decisions are excluded is that, as a matter of principle—and this is important—the chain of command should not be able to interfere with prosecutorial decisions in the service complaints system. However, as in the civilian context, there are mechanisms for challenging such decisions via the courts, either during service proceedings or by way of judicial review.

For completeness, I will make another point: a member of the service police can complain about the same matters as other members of the Armed Forces and is subject to the same exclusions and other rules if he or she believes they have been wronged; for example, about pay, appraisals, or any other matter. As such, under the new process the member of the service police would also have access to the ombudsman.

As regards who the specified officer would be in respect of any service complaint—as is clear from draft regulation 3 of the draft Armed Forces (Service Complaints) Regulations—that would ordinarily be the complainant's commanding officer. There is no separate procedure or route for service complaints about the Royal Military Police, nor is that required. The role of the specified officer is to consider whether the complaint is admissible or not. If that person decides that the complaint is inadmissible, the complainant can ask the ombudsman to review that decision, and any decision on the admissibility of a service complaint by the ombudsman is binding.

Finally, we are also considering other ways in which serious allegations and complaints made against members of the service police might be dealt with. However, there are a number of complex issues to consider, including how any new arrangement could work in the context of an operational theatre and the need for an extension of statutory powers. We expect to conclude this work in time for next year's armed forces Bill. I hope that that answers the question of the noble Lord, Lord Rosser.

I hope that I have provided noble Lords with reassurance that the ability already exists for a service person to make a service complaint about the way in which a service policeman has conducted themselves in their role. On that basis, I ask the noble Lord to withdraw his amendment.

Lord Rosser: I thank the Minister for his response and for placing on record in *Hansard* the thrust of the letter that he kindly sent to me. I am very grateful to him for doing so and I beg leave to withdraw the amendment.

Amendment 3 withdrawn.

Amendment 4

Moved by ***Lord Rosser***

4: Clause 2, page 6, line 25, at end insert—

"( ) The Ombudsman may, after advising the Secretary of State, investigate any matter deemed to be in the public interest on—

(a) any aspect of the system mentioned in section 340O(2)(a);

(b) any matter relating to the Ombudsman's functions under this Part;

and make a report to the Secretary of State."

4 pm

Lord Rosser: We discussed this amendment in Committee. The noble Lord, Lord Thomas of Gresford, has also tabled an amendment with what I think I can describe as similar intent. The purpose of my amendment is to give the ombudsman rather wider powers to be able to report on thematic issues without being dependent on the Secretary of State asking for such reports. I do not intend to repeat all the points made in Committee in favour of such an extension of powers. However, it is worth pointing out that, under the present arrangements, the Secretary of State for Defence has never asked the present commissioner to report on a particular area of concern that she or the Secretary of State may have outside her normal reporting cycle.

The Defence Select Committee in the other place has already said it believes that there would be value in the commissioner being able to undertake research and report on thematic issues in addition to the annual reports, and that the commissioner's experience on these issues should be utilised. The committee came to this conclusion at least partly in the light of what the commissioner had said on this matter when she appeared before the Select Committee to give evidence.

When the Minister gave the Government's response in Committee, he said:

"The ombudsman's scope for raising issues of concern also extends to the provisions made in new Section 340L for the ombudsman to make recommendations as a result of finding maladministration",

and that such recommendations,

"could relate to systematic issues".

However, the Minister also said that the amendments being debated extended the ombudsman's remit "beyond that required", which would suggest the Bill does not give the ombudsman the wider powers being sought by the Defence Select Committee. That committee also reported that, during visits to units, the current commissioner had been informed of issues that would not come to her as complaints but on which she thought some work needed to be done. Such issues would presumably not be covered by new Section 340L, which relates to recommendations as a result of a finding of maladministration.

I am also conscious that in Committee the Minister indicated concern that,

"an ombudsman with a wider remit to investigate matters of their own volition"—

notwithstanding first notifying the Secretary of State of their intentions—

"could overlap with … other jurisdictions and cause confusion and difficulties".—[*Official Report*, 9/7/14; col. 243.]

One would have thought that that situation could arise under the powers in new Section 340L, in respect of which the Minister has said the ombudsman could make recommendations relating to wider systemic issues as a result of finding maladministration. The Bill is not at all clear on what investigations the ombudsman can or cannot carry out of his or her own volition beyond investigating an individual complaint of maladministration. I certainly do not believe that the Bill provides for what is being sought in my amendment.

[LORD ROSSER]
Neither do I think that the Bill makes clear the scenario for wider investigations carried out by the ombudsman referred to by the Minister in Committee.

Obviously I would like the Minister to accept the terms of the amendment, but if he is unable to do that I hope that he would, without commitment, at least agree to reflect further on the wording in the Bill with a view to ensuring that it is clear precisely what the ombudsman can or cannot investigate and make recommendations on beyond an individual complaint of maladministration, and thus enable further consideration to be given to this matter at Third Reading, if felt necessary. I beg to move.

Lord Thomas of Gresford: My Lords, like the noble Lord, Lord Rosser, I am very much concerned as to what the ombudsman thinks he can do when he has an issue before him. If he foresees or realises that there is a culture within a particular unit in the Armed Forces that involves bullying, initiation ceremonies or matters of that sort, what can he do? Is he restricted simply to reporting on an individual complaint or is he entitled to tell the defence counsel that there is a much more serious widespread issue here that has to be tackled?

When we discussed this in Committee, the Minister said that the Bill already offered,

"sufficient scope for the ombudsman to raise wider issues in appropriate ways, as they see necessary, and to provide an input to investigations or inquiries conducted by other appropriate bodies".—[*Official Report*, 9/7/14; col. 243.]

It would seem from that reply—and I have had discussions with the Bill team—that the ombudsman would be entitled to file a report, and not just an annual report but a report from time to time, in which he could draw the attention of the defence counsel to thematic abuse that he has seen, from the consideration of a number of individual cases. If the Minister can confirm that, much of the concerns that the noble Lord, Lord Rosser, and I have expressed will be met. But it is not clear from the Bill's wording, and I look forward to what the Minister says.

Lord Palmer of Childs Hill: My Lords, I draw attention to a couple of words in Amendment 5—"compelling circumstances". I did not invent those words; they came from the Canadian legislation on this subject. I have always been a great believer that you should not reinvent the wheel when another Administration, and a member of the Commonwealth, have in their ombudsman regulations the provision for the ombudsman to carry out an investigation "in compelling circumstances"—so it is not just as a normal, run-of-the-mill decision. I hope that the Minister at some stage, even at Third Reading, can somehow give the ombudsman that additional power if the compelling circumstances should arise.

Lord Astor of Hever: My Lords, whether the ombudsman can investigate wider issues was the subject of a good debate in Committee, and I do not intend to repeat my response. Instead, I hope to provide noble Lords with clarity on how the ombudsman would deal with wider issues or possible examples of systemic abuse that come to his or her attention under the reformed service complaints system. I hope that this clarity will go some way towards dealing with the issues raised by the noble Lord, Lord Rosser, and my noble friends Lord Thomas and Lord Palmer of Childs Hill.

First, I assure the noble Lord, Lord Rosser, that the ombudsman will be able to look into any matter relating to the service complaints system or the functions of the ombudsman and that he or she is already required by the Bill to report on these matters to the Secretary of State. We are absolutely clear that, when the ombudsman comes across issues of wider concern relating to service complaints, the ombudsman can and should report on these issues. If systemic failings are identified through the complaints system, it is important that those are brought to the attention of both the individual service and the Ministry of Defence. Where things are going wrong we want to know about them. It is also important that where the ombudsman identifies these wider issues or trends, these concerns are made publicly available. The ombudsman will see a lot of information as part of their role and this means they will be in a unique position to identify any systemic issues. In addition, new Section 340O(6) will allow the Secretary of State to require the ombudsman to report on any matters on a stand-alone basis at any point during the year regarding the efficiency, effectiveness and fairness of the system for dealing with service complaints or the exercise of the ombudsman's statutory functions.

As a consequence of new Section 340O, the Bill gives the ombudsman scope to use their judgement to cover such matters in the annual report as they think relevant to the operation of the system or to the exercise of their role. The ombudsman's annual reports, like those of the commissioner, will be able to look widely at the system of redress, the sort of complaints that are encountered and what sort of failings and misconduct the system has to deal with. This is a broad and appropriate role for the ombudsman to have using his or her knowledge and experience of the redress system.

It is also important for any organisation to know on a cultural or systemic level when and where things are going wrong, and the services are no different in this regard. By seeing complaints from across the services the ombudsman will be in a unique position to identify connections between individual complaints—whether they come from a particular area or deal with similar issues. That ability to be able to identify trends means that the ombudsman will be in a key position to comment upon, or make recommendations in respect of, issues that go wider than individual complaints. It will also mean that the ombudsman will be able to provide valuable insight to any investigation or inquiry commissioned into such matters.

Moreover, the ombudsman, through the production of individual investigation reports, as required by new Section 340L, will be able to draw out recurring themes throughout the year as and when appropriate, rather than waiting until the production of the annual report —if, in the ombudsman's opinion, the circumstances necessitate that.

For example, it may well be appropriate for the ombudsman to highlight where a number of complaints have been made about a similar issue or individual, or where in respect of the handling of complaints of a particular nature such as discrimination, a consistently high number of applications alleging maladministration are made. It would be right to draw out such matters, as new Section 340L(3) is broad enough to include the making of recommendations beyond those solely relating to maladministration, to addressing the effectiveness of the redress system or other systemic issues. Such wider recommendations could concern the better handling and investigations of complaints of a particular nature, where there is a finding of maladministration in connection with the handling of the complaint at hand. In addition, such recommendations could well concern the commissioning of training in carrying out investigations into certain matters—discrimination being a good example—or appointing a subject matter expert to investigate systemic issues or concerns that have apparently arisen. It is then fundamentally down to the services to respond appropriately and we would expect them to do so.

New Section 340O requires the Secretary of State to lay the ombudsman's annual reports before Parliament and we expect that, as with the commissioner's annual reports, the reports will also be published on the ombudsman's website. We envisage that following individual investigations, at the appropriate time, and taking account of any relevant sensitivities or information law provisions, summaries of those investigations that draw out and publicise any wider areas of concern may also be published. How that might work in practice will be the subject of discussion with the next commissioner, who will become the ombudsman.

4.15 pm

Moreover, although not a statutory function, there is nothing to prevent the ombudsman making contact at any time with the Defence Council or the Ministry of Defence either to follow up on a recommendation made, to draw attention to any systemic issues that have come to their attention or to highlight wider concerns about the environment in which members of the services operate. We would expect the ombudsman not to delay making such contact where any issues or concerns arise. As a consequence, we anticipate that the ombudsman will utilise both annual and individual reports to ensure that there is both immediacy and transparency in the highlighting of particular matters of concern, including issues that have common theme or are systemic in nature.

I have set out how we see the ombudsman dealing with systemic issues in future but I must be clear also about what we do not want the ombudsman to do. It is important that we have a common understanding on this. Although we want the ombudsman to address wider issues, including where they have identified systemic abuse, we do not want the ombudsman to have any statutory powers to investigate thematic issues. We do not, for example, want the ombudsman to have any powers to require the production of papers or to question witnesses beyond the powers set out in respect of the exercise of the ombudsman's primary function of investigating alleged maladministration in the handling of service complaints and whether, as a result, injustice has been caused.

We do not want the ombudsman to be an inspectorate for the Armed Forces or to perform the functions of a rapporteur. We believe that this would fundamentally change the role of the ombudsman. Conferring such a role on the ombudsman would also serve to divert the resources of the office. This would frustrate one of the key reasons for the reform of the redress process, which is to guard against undue delay in the resolution of service complaints.

I hope that I have provided noble Lords with some reassurance this afternoon. We want an ombudsman who will be able to identify wider issues and highlight areas of systemic abuse or concern where they come to their attention. We also want any reports on such issues to be made publicly available as quickly as possible. However, having listened very carefully to the points made by the noble Lord, Lord Rosser, and by my two noble friends, I will consider this issue again before Third Reading so that we can return to it then, if need be. On that basis, I ask the noble Lord to withdraw his amendment.

Lord Rosser: I thank the Minister for his comprehensive reply. I will certainly read *Hansard* carefully. He made a number of what appear to be very clear and specific statements about what the ombudsman would and would not be able to do, but I will want to satisfy myself on the extent to which he has cleared up all the issues to which I referred. I suspect that there may still be some uncertainties. However, I am very grateful to the Minister for saying that he will reflect on the points that were made by myself and his noble friends Lord Thomas of Gresford and Lord Palmer of Childs Hill—which will, if necessary, give us an opportunity to discuss the matter further at Third Reading. In view of that, I beg leave to withdraw the amendment.

Amendment 4 withdrawn.

Amendment 5 not moved.

Clause 4: Financial assistance for benefit of armed forces community

Amendment 6

Moved by ***Lord Kennedy of Southwark***

6: Clause 4, page 12, line 21, after "purpose" insert ", including the establishment of a credit union for the use of those people listed in subsection (2)"

Lord Kennedy of Southwark (Lab): My Lords, first, I declare an interest as a director of London Mutual Credit Union. This amendment would put in the Bill a specific indication that the establishment of a credit union for the Armed Forces will come under the scope of the Bill when it becomes an Act of Parliament, and that the establishment of such a credit union would be for the benefit of the Armed Forces community.

A lot has been said in this Chamber about credit unions and I have been a supporter of them my whole adult life. Last year, I was delighted that we were able to establish a credit union for the whole of Parliament. Anyone working in Parliament can now join it. Credit

[Lord Kennedy of Southwark]
unions provide fair and affordable lending to people—often the same people who are excluded from access to other forms of lending by banks and building societies. They are also able to help people start to save, as learning to save and to manage your budget are of almost equal importance. Specific products such as jam-jar accounts have been developed to help people meet their bills and avoid getting into debt or further debt.

The bigger credit unions will be able to offer ISAs and mortgages at competitive rates. The interest rate cap for credit unions has just been raised and stands at a maximum of 42.6% per annum on the money it lends out. We in this House and elsewhere all hold our Armed Forces and the forces community in high regard. They put themselves in extraordinary danger in order to keep us safe at home, and we all owe them a great debt. However, like any other group of people they can experience pressures and problems. The problem of debt and the misery that it brings is also experienced in military community families, and that is why I tabled the amendment. We owe a special duty to people in the military family.

We have all been rightly disgusted by the activities of companies such as Wonga and the outrageous rates of interest that they charge. There are other companies which target the military community, such as Forces Loans, which offer loans to military families at rates of 3,351%—or QuickQuid, which states on its special military site, "You provide security protection for your country—shouldn't you arm yourself against financial problems, including access to military loans? We will charge you an interest rate of 1,734%".

Over the last couple of years, I spent time with the RAF as part of our Armed Forces Parliamentary Scheme. Whenever I arrived at an RAF station, the welfare officer or the chaplain would tell us of the problems that service men and women and their families had. Often they were about debt and the lack of money. I recall an RAF chaplain telling me that on Sunday he would conduct his service, and for the rest of the week he would spend his whole time helping families of all faiths, or no faith, across the base to deal with their financial and other problems.

When I saw the Armed Forces (Service Complaints and Financial Assistance) Bill, I thought that this was a Bill that was saying enough is enough. We owe a duty to our service men and women and their families. That duty extends to their financial well-being, and establishing a military credit union will go a long way towards helping that community. A community bank will understand them and their needs. This will not take a lot of money; it just needs support and commitment from the MoD to make it happen and to encourage its development.

Will the noble Baroness, Lady Jolly, who is responding, agree to arrange a meeting with Anna Soubry, the Minister responsible, before we come back from the Recess? Will she also allow me to bring the issue back at Third Reading so that I can report back on what has happened between now and then? There is not much division on this issue in the House but we need to make it happen, and this is the Bill to do it. I beg to move.

The Lord Bishop of Sheffield: My Lords, from these Benches I welcome the amendment in the name of the noble Lord, Lord Kennedy, and give it our full support. The amendment gives strong support to the setting up of a credit union for the Armed Forces and their families in a similar way in which the church is setting up its own credit union—the Churches' Mutual Credit Union. The Armed Forces, like the clergy and other groups, need a source of affordable credit for short and long-term needs. As a society we have duty of support and care to our Armed Forces. Recent research in a number of strands shows clearly that the ability to obtain credit at reasonable rates of interest is a vital element in building resilience to poverty and debt across our whole society. The inability to obtain such credit in times of need raises the possibility of falling further into debt, of food and fuel poverty and of a downward spiral.

An occupationally based credit union is not only a safety net but something that will further encourage service personnel, as we have heard, to plan financially for current situations and future needs. Other professional bodies and occupations, such as the police and trade unions, already offer a credit union to their members. In the USA, the navy has long had a credit union. Founded in1933, the Navy Federal Credit Union is the world's largest credit union with more than $60 billion in assets, more than 5 million members, 247 branches and more than 11,000 employees worldwide.

A credit union for the Armed Forces has the potential to make a significant difference in the long term. If I understand the proposal of the noble Lord, Lord Kennedy, correctly, the Navy Federal Credit Union does for US service personnel exactly what the proposals in the amendment would offer Her Majesty's Armed Forces. The Navy Federal Credit Union could provide an interesting model by which to shape our own service personnel credit union. On 8 April in another place, the Under-Secretary of State for Defence, Philip Dunne, made positive comments and commitments to the notion of a service personnel credit union. Will the Minister in his closing remarks comment on the progress of discussions with the credit union trade body and the service charities referred to on that date by the Under-Secretary of State?

Lord Deben (Con): My Lords, the Minister will have been under the usual pressure to say that this provision is probably not suitable for this Bill and that there are all kinds of reasons why it will not quite work. Perhaps his officials will have used the words that I well remember as a Minister: "Better not".

I suggest to my noble friend that this is the kind of opportunity that rarely comes when a Member has raised an issue for which there is no convenient box in other Bills. I must say that the whole House owes a great deal to the noble Lord opposite for having found this moment for the amendment. I therefore very much hope that my noble friend will be sensitive to this issue. It is in line with much of what we are trying to do elsewhere and is the best way to counter the sharks. Actually, legislation does not help much

with sharks because they always find a way around it, but if one can provide an alternative to the sharks, one is more likely to win the battle.

It is notable that throughout our society the encouragement of the credit union movement by all sorts of organisations—I have recently come across several examples—is something that can do only good because it uses three simple concepts. First, people need to borrow money from time to time. Even the best-organised families find that to be necessary so there ought to be a way in which they can do it. Secondly, there is no doubt that within the Armed Forces there are many for whom pay and conditions are not absolutely perfect and where there are stretching moments—perhaps more so than in other jobs. Thirdly, as the noble Lord opposite said, we owe our Armed Forces a particular debt and, because of the things we ask them to do and the places we ask them to go to, it is often more difficult for them to access the sort of short-term help that many people receive from family and friends. That just happens to be part of the conditions of being in the Armed Forces.

I very much hope that my noble friend, who has shown himself to be particularly sensitive on many issues, will be able on this occasion to give us some hope that he can persuade others to accept that this is a sensible place to put the amendment and to give some degree of creativity to a Bill which, although important, is not the most exciting to have come before this House. I have sat through most of our proceedings and I have to say that this nugget, if my noble friend is able to give it his blessing, might well be the thing that people remember the Bill for.

Lord Rosser (Lab): My Lords, I congratulate my noble friend Lord Kennedy of Southwark and the right reverend Prelate on introducing the amendment and on the powerful case that they have put forward. I certainly do not intend to repeat all the points that have been made, not least because the Ministry of Defence already recognises the importance of this issue.

As has already been mentioned, the former Parliamentary Under-Secretary of State for Defence, Dr Andrew Murrison, said this year that as part of the department's,

"ongoing efforts to better support our service personnel, the MoD is currently considering the benefits of an armed forces credit union. However, no decision has yet been taken".—[*Official Report*, Commons, 24/2/14; col. 63W.]

The Ministry of Defence has, of course, introduced the MoneyForce programme to provide service personnel with advice and training on finances. Welcome though that scheme is, it does not provide service personnel with an alternative to their current arrangements. I hope that the Minister will be able to tell us when the Ministry of Defence is going to make a decision, as a military credit union would offer a financial lifeline to a great many serving personnel, veterans and their families. We support such a move, and in that I think we have the Department for Work and Pensions in our corner, as it has been supporting the expansion of credit unions across the UK since 2012, following its own feasibility study, which found that around 7 million people fall into the trap of high-cost credit.

One of the advantages of a credit union is that it can offer specialised financial products and services designed to meet the particular needs of the communities it serves. That means that the very specific circumstances and situations that military personnel, veterans and their families often face—such as living apart, or moving house a considerable number of times—can be factored in to financial decision-making and advice.

The Government—any Government—have a responsibility to source an adequate route to financial security for Armed Forces personnel, veterans and their families, under the obligations placed on them by the Armed Forces covenant, which states that, where possible, disadvantages should be removed so that military personnel are able to enjoy the same opportunities and outcomes as the civilian community. The reality is that many military personnel and their families are limited in their access to secure finance, due to circumstances arising from the duties they perform, and the service they give, on behalf of us all. I very much hope that the Minister will be able to give a helpful and meaningful response to the amendment in the names of my noble friend and the right reverend Prelate.

4.30 pm

Baroness Jolly (LD): My Lords, I feel that I should make a declaration at this stage as I have been a member of a credit union for many years. In order to become members of such a union we first had to set one up, so we set up a credit union in Cornwall; Cornwall is its common bond.

I thank the noble Lord, Lord Kennedy of Southwark, and the right reverend Prelate the Bishop of Sheffield for bringing forward the important issue of credit unions and congratulate them both on championing this cause. As the noble Lord, Lord Kennedy, has outlined, credit unions are not-for-profit financial co-operatives owned and controlled by their members and they must have a defined "common bond". This could be a shared geography, such as Sheffield or my own county of Cornwall, or a shared job or employer, such as employees of BAE Systems, members of a police force, or even members of the clergy. Credit unions provide savings and loan products designed to meet the needs of their community. They are designed to instil a culture of regular saving, and thence access to affordable credit when needed. In effect they are ethically based, democratically controlled, community-owned financial institutions that offer an alternative to high-cost payday lenders and conventional banking.

As noble Lords will be aware, the Government actively support credit unions and have been working to increase access to affordable credit. We have invested £38 million in the Credit Union Expansion Project and are working with the Association of British Credit Unions to look at how credit unions might be expanded to benefit a broader section of the community. The Government's commitment was underlined in a recent House of Commons adjournment debate. For the record, I would like to highlight some of the key points from that debate. Credit unions do have a role to play in supporting our Armed Forces communities. Financial pressures exist within service households

[BARONESS JOLLY]
just as they do in the wider community. But for too long there have been factors that exacerbate the problems faced by the Armed Forces community. Often this is nothing to do with people's creditworthiness, but reflects the nature of a peripatetic career that prevents them developing a proper credit history.

The Ministry of Defence has recognised these difficulties and has undertaken a great deal of work, under the Armed Forces covenant, to address the disadvantages. We are working with the financial services industry to ensure that it understands the unique circumstances of the Armed Forces community and to ensure that it is not unfairly disadvantaged. As part of this we have introduced UK postcodes for overseas locations to help Armed Forces personnel serving overseas to maintain a UK credit history that is recognised by financial service providers and to allow improved access to financial products. In partnership with the Royal British Legion and the Standard Life Charitable Trust, we have developed the MoneyForce financial capability programme, which delivers training and briefings, and provides resources and online support to help the Armed Forces community manage its money and financial affairs better.

Despite this support, there are still those in the Armed Forces, as among the public at large, who end up requiring a loan but get into difficulty with debts at high interest rates owed to payday lenders. Members of the Armed Forces and their families can of course already, providing they meet the common bond for membership, apply to join an existing credit union to access the range of financial services offered. However, unlike in the US, as we have heard, and some EU states, coverage in the UK is not national and the services vary. Therefore, significant thought has been given to whether to create a dedicated Armed Forces community credit union.

UK credit unions traditionally grow organically from small beginnings which may take many years to cultivate their membership. Several thousand members are required for a credit union to achieve long-term self-sustainability to offer a tailored suite of products which meets the needs of its members. What makes credit unions unique and makes them work is their independent spirit. They are created by the people for the people and they offer products that their customers want, because their customers are also their members. Credit unions grow steadily and organically from small beginnings, and normally take many years to cultivate their membership. To give one example, the Glasgow Credit Union Limited was founded by two members in 1989 as the Glasgow District Council Employees Credit Union. I am sure that the noble Lord, Lord Kennedy, will recognise that type of model. Over its 25 years, it has grown to a membership of 32,000 and some £100 million in assets.

Unlike payday loan companies, credit unions are a positive force in the community around them. They benefit members and local economies alike. However, it would not be in anyone's interests—the taxpayer, the UK financial services industry or members themselves—to try to shoehorn such an institution of this kind into a Whitehall department. The savings of our service personnel should be properly stewarded, managed and regulated. As noble Lords will appreciate, this is not core business for the Ministry of Defence and would involve financial, reputational and resource risk.

Out of the corner of my eye, I see my noble friend Lord Deben suggesting that this is an "I told you so" moment—but there is some light here. The Minister for Defence Personnel, Welfare and Veterans met interested members of the House, including the chair of the All-Party Parliamentary Group on Credit Unions, representatives of the Association of British Credit Unions Limited and the chief executive of the Plane Saver Credit Union, to discuss how the MoD might support access to credit unions by the Armed Forces. Officials are now actively exploring the support that the MoD could offer. A number of issues are being considered, including the criteria a credit union should achieve to receive MoD support and the education of the service community in order to facilitate informed choices. To add a personal note, when we set up our credit union, one of the most difficult things was to inform people what a credit union does and how it works. Further issues being considered are how credit unions can be accessed by service personnel and the potential for payroll deduction to reduce the administrative costs of running a credit union.

The organisation of credit unions has always been, and must continue to be, the remit of the private and the voluntary sectors. However, the Ministry of Defence will support organisations with the wherewithal to put in place a credit union to support the men and women who have served this country with such distinction.

I hope that this has provided noble Lords with some assurance on the Government's position on credit unions. However, I think that including specific provision on credit unions is unnecessary in this Bill and would take us away from the primary purpose of Clause 4, which is to provide the legal basis for funding charitable, benevolent and philanthropic organisations that support members of the Armed Forces community throughout the United Kingdom. On that basis I ask the noble Lord to withdraw his amendment. However, we will take away the suggestion of the noble Lord, Lord Kennedy, of a meeting with Anna Soubry and see what can be done before Third Reading.

Lord Kennedy of Southwark: I thank all noble Lords who have spoken in the debate. I am not entirely pleased with the Government's response. I do not understand the reputational risk to the MoD. It is the same reaction I got when I raised the issue of a credit union in Parliament a year or two ago. I was told by officers in both Houses that because of the reputational risk and all the problems I would have it would not happen. Finally, we got there and it now happily works in both Houses of Parliament, with no particular risk. I do not understand the risk in facilitating a voluntary body that provides affordable credit to our Armed Forces community. I think that is quite disappointing. I hope that we can have a meeting before Third Reading and I hope to be able to bring something back at Third Reading as I think this is an important issue.

I thank the right reverend Prelate the Bishop of Sheffield for his support. I very much agree with the comments he made about Navy Federal. It is the biggest credit union in the world. It happily serves the whole of the armed forces of the United States. There are no problems there at all. I am sure that it would give us some assistance and support in getting a credit union fully established in the UK for the military community. I thank the noble Lord, Lord Deben, for his comments. He made the case for supporting credit unions much more eloquently than I could make it. I was very hopeful when he spoke that maybe he knew something that I did not know and that we would be able to get a better answer from the Government. Clearly that was not the case. I was also pleased with the support of my noble friend Lord Rosser from my own Front Bench.

I am disappointed with the response. I think we should do more than this. I hope I can bring the amendment back at Third Reading. With that, I beg leave to withdraw the amendment.

Amendment 6 withdrawn.

Copyright and Rights in Performances (Personal Copies for Private Use) Regulations 2014

Motion to Approve

4.42 pm

Moved by ***Baroness Neville-Rolfe***

That the draft regulations laid before the House on 9 June be approved.

Relevant documents: 3rd Report from the Joint Committee on Statutory Instruments (special attention drawn to the instrument), 41st Report, Session 2013-14, from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Baroness Neville-Rolfe) (Con): My Lords, I beg to move the lead order but will take the opportunity, if I may, to speak to both instruments before us today. First, I pay tribute to my predecessor, my noble friend Lord Younger, and applaud his great legacy as Minister.

Copyright legislation needs to be strong and respected to keep up with the pace of innovation and the digital revolution. The Government are committed to raising awareness and understanding of IP across all businesses large and small in order to protect innovation and originality and meet changing consumer needs. Many of you will be familiar with the long process that has brought us to this point. The Hargreaves review—like the Gowers review under the previous Administration—recommended that exceptions to copyright should be updated for the digital age. Since then this Government have conducted extensive consultation both formal and informal, including over 250 meetings with interested parties, and brought forward their proposals in December 2012. We conducted a further technical consultation on the draft regulations in 2013 and laid the final regulations before Parliament in March.

We are keen to ensure that copyright continues to act as an incentive to creativity and investment in our creative industries. These industries and our creators are an important part of the economy. We must continue to value the talent and creativity that is the envy of many other countries. We have taken forward a wide range of initiatives which support the creative industries, including extending copyright protection for sound recordings and performances, setting up the Police Intellectual Property Crime Unit and supporting the industry-led Copyright Hub. Only two weeks ago, the Government announced their support for Creative Content UK—a commitment of £3.5 million for a campaign to educate consumers about internet piracy.

The regulations are carefully and narrowly drafted to ensure that they give people greater freedom to use creative content, without undermining copyright's important role in supporting our creators and creative industries. Parliament has already approved new exceptions for libraries, education, research, disabled people and public bodies. The two instruments before us today represent the remaining changes proposed by the Government and will provide exceptions for personal copying, quotation and parody. Taken together, these various exceptions would, according to last year's impact assessment, contribute more than £500 million to the UK economy over 10 years. Copyright exceptions are an integral part of a balanced copyright framework. Every country has them and their benefits are widely recognised. They have always been part of British copyright law, which is based on the important principles of fairness and balance.

I turn first to the regulations on personal copies for private use, which will give consumers greater freedom to enjoy creative content in Britain in a modern way. For example, this change would allow someone to copy a CD they have bought, or been given as a gift, in order to listen to it on their iPad. It would allow someone to copy an electronic document or book which they own from one of their personal devices to another. This measure has wide public support, with consumer surveys showing that most people think this type of activity is reasonable. The Government agree. Copyright law should not stand in the way of people being able to use and enjoy their own property. The rule will be that if you lawfully own it, you can copy it, as long as you do not give copies to other people.

Consumers in countries such as Australia and Canada already benefit from similar laws, as do those in many European countries. By introducing this new law, British consumers will enjoy the same advantages. However, our personal copying exception will be narrow and carefully targeted. It aims to support reasonable use of copyright materials by law-abiding people. To accommodate the explosion of digital use, people will be able to copy the content they own on to any device they own, as well as to private cloud storage. Just as consumers would reasonably assume that they should be able to store paid-for content on a laptop or external hard drive, they should be able to do so if they choose to store their music or video for use in a private cloud. The current lack of legal clarity in this area may be an obstacle to growth in cloud services in the UK, reducing consumer choice and putting us at a disadvantage compared to the United States.

[Baroness Neville-Rolfe]

I am aware that some parties remain concerned about the scope of the change proposed and its impact on creators' livelihoods. Therefore, I will spend some time on what this measure does not do: it will not allow someone to give or sell a copy they have made to someone else, or share copies from their personal cloud; it will not allow someone to obtain a copy from sources they do not own, such as rented copies, broadcasts or on-demand services; it will not prevent copyright owners from using technology to guard against copyright piracy, such as the copy protection for films found on DVDs and Blu-ray discs; and it will not prevent copyright owners from licensing additional services, such as cloud services which allow shared access to content.

The scope of the exception contrasts sharply with personal copying exceptions in other EU countries. Such exceptions often allow copies to be shared with family and friends, meaning that people can acquire copies without paying for them, so these countries have mechanisms designed to compensate creators for any sales lost as a result of the exception. Typically, levies are imposed on recording devices and media, which have to be paid whether or not they are used for private copying. French consumers pay a levy of €15 on top of the price of an MP3 player.

The Government do not believe that British consumers would tolerate private copying levies. They are inefficient, bureaucratic and unfair, and disadvantage people who pay for content. That is why the Government's exception is narrow in scope. It will not allow you to give or sell copies to others, and therefore will not lead to lost sales to copyright owners, making the need for a levy unnecessary.

Some have questioned whether the Government are intra vires in this matter, and this is something we will discuss further when we debate the amendment of the noble Lord, Lord Stevenson. The Joint Committee on Statutory Instruments in its recent report acknowledged that only the European Court of Justice can authoritatively rule on such a question. It is right for the JCSI to alert the House to this point. However, the Government's view is that EU law as it stands is sufficiently clear, and that EU member states have a wide margin of discretion in this area. In particular, member states do not need to provide compensation where an exception is likely to cause minimal or no harm, or where appropriate payment has already been made.

This view is supported by many, but perhaps most significantly by the UK's most eminent intellectual property professors, including a former Court of Appeal judge, Sir Robin Jacob. In a recent letter, they said:

> "We agree with the Government that in the light of the narrow scope of the exception envisaged, and the terms of the information society directive and case law of the Court, there is no clear requirement to pay compensation".

Therefore the Government remain confident in their opinion that these measures are intra vires. This new law is an important and overdue step forward in building respect for copyright law. It will make it easier and simpler for ordinary people to lawfully use copyright materials.

I now turn to the second instrument, which covers exceptions for quotation and for caricature, parody or pastiche. Parody and caricature are a valued part of our cultural heritage, from Swift and Hogarth to my particular favourite, "The Thick of It". In particular we need to protect the right to mock the high and mighty. Many works that are made for the purposes of caricature, parody or pastiche involve some level of copying from another work. Unlike counterparts in countries such as France, Germany, Canada and USA, creators in the UK currently have no defence in law if even a small amount of copying takes place when making a caricature, parody or pastiche. Permission may be granted in some cases, but is sometimes refused or can incur significant costs. Failure to secure relevant permissions can run the risk of legal action and potential damages. This means these creations often do not get published or are quickly removed as a result of action by the original copyright owners.

The critically acclaimed video installation "The Clock" by internationally renowned artist Christian Marclay is a pastiche of thousands of time-related film and television clips. Galleries which exhibit the installation currently risk legal action for copyright infringement. Online creative sites, which are about building grass-roots creativity, have told us that they have encountered sometimes insurmountable issues with lawyers and copyright owners over the years. A generation of people who are the bright new talents in the UK's creative industry started out by posting their work online, including Ben Wheatley, director of the hit film "Kill List".

One of the ways that campaigners are able to highlight questionable business practice is by parodying a company's own brand or slogans. Yet as the law stands, to do so carries considerable risk of legal action and with it the risk of campaign materials being blocked from publication. The Government believe it is time to change the law. The proposed change enjoys wide support: from British broadcasters, production companies, creators and performers; from campaigning groups; and from centres of learning, as the ability to re-edit copyright works in new and experimental ways is an important learning exercise for building creative skills.

The Government have, however, listened to some concerns about the potential for this new exception to harm the market for original works which might be used as part of the parody, caricature or pastiche. As a result, the exception is framed on the basis of "fair dealing". This is a concept that has been part of UK copyright legislation since 1911. Fair dealing will act as a limitation. In almost all cases, fair dealing will mean that copying a whole work without changing it will not be allowed. For example, it would not be considered "fair" to use an entire musical track on a spoof video. This will mean the market for the original work should be unaffected.

At present, when a whole work, such as a musical track, is used in a parody the copyright owner will often allow this in exchange for appropriate remuneration. The fair dealing exception means that such licensing will still be possible. Fair dealing, therefore, brings with it important protections for copyright owners. People and brands will also continue to benefit from the protection of other laws, such as the laws of libel and defamation. The UK's tough laws on libel are unaffected.

Copyright should incentivise creation, not obstruct it. It should allow people to voice their opinions, not stifle them. Digital technology has given rise to new types of creative works and copyright law needs to keep up.

I turn finally to the exception for quotation, which sits in the same instrument as the exception for caricature, parody or pastiche. I must own that when I looked up "copyright" and "quotation", I found this remark of Mark Twain's:

"Only one thing is impossible for God: to find any sense in any copyright law on the planet".

With that caution in our ears, I believe that one of the joys of rhetoric and of composition is to be able to quote from the works of others. Many a speech made in this House would be poorer were we unable to quote the words and wisdom of other people. This is a privilege that we enjoy because, as parliamentarians, we have our own exception to copyright. General copyright law is, however, more restrictive.

The right to quote is one of the freedoms that we expect in a modern democracy and many countries allow fair quotation from copyright works. Indeed, the Berne copyright convention requires that all countries should allow fair quotation. However, UK copyright legislation currently allows quotations and extracts only for the purpose of "criticism or review". So a whole range of activities which the average person is likely to consider reasonable risk infringing copyright because they fall outside the current "criticism and review" exception.

An academic paper or student essay which quotes a title of a journal, book or film, or uses a short extract to ensure proper citation, although likely to be considered fair by a court, is likely to fall outside the current "criticism and review" exemption. Small theatres and record companies have complained that they are often prevented from using quotes from newspaper reviews in their own promotional material. Newspapers themselves of course are able to rely on the "criticism and review" exception; for example, to quote a lyric.

Our proposed changes will remove this limitation and permit all types of fair quotation, as long as there is acknowledgement of the source of the quotation. There should be no obstacle to fair and honest quotation. British citizens should have no less a right to it than those of other democratic nations.

It is the responsibility of government to ensure that the law achieves an appropriate balance between protecting the rights arising from copyright and serving the wider public interest. The UK invests heavily in knowledge and ideas and has many IP-intensive industries. Protection of IP is an issue that dates back centuries, but the Government are committed to responding to the distinctly modern challenges set by technological advancements and to meeting fast-changing and fast-developing consumer needs. This is a delicate balancing act, but I believe that adoption of these regulations will bring us closer to that goal, and I commend them to the House.

Amendment to the Motion

Moved by ***Lord Stevenson of Balmacara***

At end insert "but that this House regrets that the Regulations fail to take account of concerns raised by the Secondary Legislation Scrutiny Committee about contract override; and fail to take account of the view of the Joint Committee on Statutory Instruments that there appears to be doubt as to whether it would be *intra vires* to introduce the proposed exception to copyright and rights in performance without also providing for a compensation scheme".

Lord Stevenson of Balmacara (Lab): My Lords, although I have some concerns about the two SIs which the Minister has so ably introduced, the argument that I will put is that, for a variety of reasons, and notwithstanding that the Government have the power to make these regulations, the Government made a grave error in not bringing forward these copyright exceptions in primary legislation. As a result, they have created great concern and confusion in one of our most important industries, and caused considerable disquiet within the creative industries. All this is a matter of regret.

My first point is that we do not have the right structure in place for the creative industries. I regret that this has an impact on our deliberations in this House when we deal with legislation affecting copyright. A proper industrial strategy for Britain which identifies our country's comparative advantages and global market opportunities must include the creative industries but, as we learnt in a debate in this Chamber only the other night, we have split the creative industries off from the other 11 sectors which BIS has selected and is championing in its drive for growth and a more balanced economy. The creative industries are in DCMS with separate Ministers but we retain the IPO in BIS, reporting to the noble Baroness, with all that this implies in terms of poor integration and a lack of joined-up government. We learnt the other day that the noble Baroness is the fourth Minister for IP in four years, which tells its own story.

5 pm

In earlier debates on this topic, Members from all quarters of this House wanted the noble Baroness's predecessor to become the Ivan the Terrible of IP. He was, of course, flattered by this, but in his characteristically modest way, declined to grow the beard or even don the amazing robes. I always meant to say to him—before his untimely removal—that he was really quite good at striking the poses redolent of Nikolai Cherkasov, who played Ivan IV in the eponymous Eisenstein films. It was the way that he turned slightly when criticised that seemed to bring to mind the idea that several palaces full of boyars had just been destroyed under his instructions. I digress. Despite the confusing appellation now accorded to the new Minister of State at DCMS, let us hope that the noble Baroness, Lady Neville-Rolfe, has aspirations to be the tsarina of IP. I see her perhaps adorned in a triple crown in glorious blue to complement her other attributes. She would be a wonderful commissar for IP.

More seriously, your Lordships will recall that during debate on both the Enterprise and Regulatory Reform Bill and the Intellectual Property Bill, there were calls from around the House for the chief executive of the IPO to become an advocate and proselytiser for IP

[Lord Stevenson of Balmacara]

and the creative industries more generally. Perhaps the Minister can respond on progress on these points at the end of the debate.

My second point is about whether having the primary powers is the right approach to introducing secondary legislation. Just because one has the power does not mean that it is sensible to use it. These copyright exceptions have been a long time coming. We have to go back to 2012, when the first sign that trouble was in the air was during the passage of the ERR Bill. In addition to containing a number of quite significant changes to our IP regime in respect of creative designs, new regulations on orphan works, regulating collecting societies and operating extended collective licensing, the Act also confirmed that future reforms to exceptions to copyright and rights in performance would be delivered through secondary, as opposed to primary, legislation.

This last point aroused a great storm of rumours and suspicion. The Government argued that they already had the power to change copyright law through secondary regulation, under the European Communities Act. However, in trying to rectify a different problem within the same clause of that Bill—something about aligning the penalties available under the two regimes—the Government set a hare running which eventually meant that they had to amend the Bill three times before both Houses were content.

I have no doubt that the Government always intended that the recommendations of the Hargreaves report on copyright exceptions, and only those, would be brought in by this route. However, because of the poor drafting of the ERR Bill, they failed to nail the suspicion in the creative industries that they had a great raft of other copyright exceptions ready to implement, and that proved deeply corrosive. Therefore the Government ought to have seen the problems that they were causing over that particular clause and set out to allay concerns raised by MPs, Peers and across the industry by promising to bring forward their copyright exception regulations by primary legislation, even though they did not have to. I regret that this approach was not adopted.

My third point is that if there are substantial changes to an existing regime, such as in IP, they need to be given proper legislative time. Copyright is an extremely valuable but often unrecognised or even misunderstood right, which protects a whole range of original materials, including written documents, software, artistic materials, designs, music and dramatic works. They are the underpinning elements of our creative industries, which are of course an essential element of a modern, successful and prosperous British economy. Those industries generate wealth and employment prospects, and are growing at a faster pace than the general economy. Given the importance of the creative industries, and notwithstanding that the Government were entitled to bring in regulations under the ECA, they should have taken the decision to introduce an IP Bill. If that had done nothing else, it would have reflected to the wider community the importance that the Government see in the sector.

On the back of debates and discussions around that Bill, measures to change the regime to permit more exceptions, so that users could get the content they want and the industry would be remunerated appropriately for its work, might have been applauded not just in the UK but around the world. Ironically, what did we find in the 2013 Queen's Speech? The Government introduced an IP Bill, which could have done the job. We wait for years for an IP Bill and then in successive years we have two which could have done the job. Why on earth did they not take that opportunity? Instead, the IP Bill of 2013, which is now an Act, set up new powers for the UK to implement the unified patent court agreement and introduce, as the blurb goes on to say,

"new protections for designers, as well as removing red tape and some of the uncertainties for businesses when protecting their designs".

It could have been a contender, and I regret that missed opportunity.

I also want to talk about scale, because when you have large quantities of secondary regulations, they have to be treated differently from one-off regulations. That is because secondary regulations are not subject to the same level of debate and scrutiny as Acts of Parliament—not least because there is no scope to amend their provisions, so there are no Second Reading debates on principles, no Committee and no Report. Any vote on a regret Motion is effectively on whether to accept or reject the regulations as they stand and as they happen to have been drafted.

It has taken two and a half years, with numerous false starts and unplanned withdrawals, but out of an original batch of 11 SIs on copyright exceptions on private copying and parody we are considering the final two, which the noble Baroness has introduced. The others were approved under the affirmative procedure, combined—in one case, rather artificially—into five SIs which were implemented earlier this year, if not on one of the standard commencement dates.

The Hargreaves report, which started all this, was commissioned by the Prime Minister in 2010 and reported in 2011 amid concerns that current legislation was outdated in the internet age. When he reported, Professor Hargreaves was said to have said that his recommendations were,

"designed to … ensure that the emergence of high technology businesses … is not impeded by our IP laws".

That may well have been the headline which the Government wanted but when you read the report, it is not quite what he was saying.

The Hargreaves review urged the UK Government to take,

"long overdue action to update copyright law in ways designed to increase consumer confidence in the way the law works".

Professor Hargreaves noted in the report that the UK had chosen not to implement all the copyright exceptions permitted and drew attention to the fact that, for example, it does not allow individuals to shift formats for personal use or deal with parody; nor does UK copyright law allow libraries to archive all digital copyright material. As he argued, taking full advantage of the EU-sanctioned exceptions would bring cultural and economic benefits, but the main purpose would be to make the copyright law better understood and acceptable to the public.

According to the review:

"The copyright regime cannot be considered fit for the digital age when millions of citizens are in daily breach of copyright, simply for shifting a piece of music or video from one device to

another. People are confused about what is allowed and what is not, with the risk that the law falls into disrepute".

Going back to the original recommendations of the review is very interesting. There is a world of difference between the Government's present arguments for the exceptions and what was originally proposed. Given that, I regret that the Government did not use primary legislation to confirm that the central plank of their argument is,

"action to update copyright law in ways designed to increase consumer confidence in the way the law work".

Finally in that list of regrets, I want to look more widely at the Hargreaves report, because it is instructive in another way. Looking back to 2011, it now feels that the recommendations were of their time but perhaps are not quite as relevant to today's world. Take the emergence of the Copyright Hub, developments in the EU, new and more flexible approaches by licence holders and the development of technology, all of which have rendered some of these exceptions largely redundant.

For example, UK Music, to which I am grateful for its briefing, makes the following points, which the noble Baroness may wish to respond to. The policy decision on those exceptions was made before the launch of licensed music services, such as Amazon's AutoRip, which enables consumers to buy CDs but also receive a digital copy of their purchase. The policy decision was made before the conclusion of the European Commission's mediation on private copying, led by former EU commissioner António Vitorino and published in 2013, and Françoise Castex MEP's own-initiative report from early 2014. The rules on private copying are currently the subject of an EU-level review, which could resolve some of the legal doubts. We are told to expect a White Paper on copyright from the European Commission in September 2014. The Government have not demonstrated that they are taking on board or responding to these market, policy and legal developments over the past 20 months. Instead, they intend for Parliament to adopt a measure which is, in some senses, already in need of review.

To conclude, I want to make a couple of points about the SIs before us today. I noted that in her introduction the Minister covered a large number of points but did not deal with the question of contract override, which was raised by the JCSI. When she comes to respond, will she cover any points that she feels are relevant to our debate, as I am sure that others will also raise them?

On the remaining question that has been raised, the issue of fair remuneration does not seem to have gone away. Article 5(2)(b) of the information society directive says that member states may provide exceptions,

"in respect of reproductions on any medium made by a natural person for private use and for ends that are neither directly nor indirectly commercial, on condition that the rightholders receive fair compensation".

The Government have argued that compensation schemes are unnecessary when the private copying exception is so narrow in scope and does not cause harm to rights holders or, for example, when rights holders have received payment in another form, such as a licence fee. No further evidence by the Government has been assembled to justify why "fair compensation" in the UK actually means no compensation. UK Music has published research indicating that the harm to its industry could amount to a loss of £58 million per year.

The Government have also said that compensation is already factored in at the point of sale of these goods. However, the IPO's report on private copying states clearly:

"We did not find any evidence in support of a widely-held view that stores are including in their price the permission to copy".

The recent Joint Committee on Statutory Instruments report highlighted concerns about whether it would be intra vires to introduce this copyright exception without also providing for a compensation scheme. It would be helpful if the Minister responded to this particular point. I think that the House would agree that in approving a regulation that experts suggest may have to be tested by the courts before it can be relied on, the Government are not promulgating best practice. An unacceptably high element of risk seems to be introduced here, which may mean that the regulation is ineffective in achieving its objectives. We have been told that the court has already pronounced on this. When this issue was raised in the other place the Minister brushed it away as being largely irrelevant, but it is clearly not.

I have some specific questions. Can the Minister confirm that the department took legal advice on the question of whether a private copyright exception can be introduced without the inclusion of a compensation scheme? If so, in the interests of transparency, will she put a copy of that advice in the Library? Did the Permanent Secretary of her department seek a direction from Ministers on this matter?

Turning to the exception of parody, I made the point in Committee on both the ERR Bill and the IP Bill that this exception does not really seem to do justice to the needs of the many talented artists and performers in the UK who perform parody live and in recorded shows, or to the rather different writers and performers who use pastiche as their preferred art form. I do not think that "fair dealing", with its very limited amount of material that can be quoted, covers this activity, and to leave in place the droit morale seems to compound the difficulties.

I am also concerned about the quotation issue. I am sure that the Minister will have received a great deal of correspondence recently from photographers, both members of various groups and individually. Their point is important because their argument is that photographs can be "quoted" for genuine criticism and review but are excluded from the exception to copyright when reporting current events. They say that this is a tried and tested definition which has worked. Introducing a more general right of quotation, however, introduces ambiguity and uncertainty that will require legal clarification in the courts, costing rights holders legal fees and lost revenue. I am sure that this will be raised by others, and I would be grateful if the Minister could respond.

In moving this amendment to regret, I believe that the Government have not demonstrated that they are taking on board or responding to market, policy or legal developments over the past 24 months, and are

[Lord Stevenson of Balmacara]
instead making Parliament adopt a measure that may not be necessary and which may already be in need of review. The Government have proved unable to be responsive to the needs of the times when bringing these copyright exceptions forward under the secondary legislation route; they have missed an important opportunity to raise the status and knowledge of IP by not using primary legislation; they have ignored the comments and advice of the expert committees in Parliament; and they have failed to reach a consensus with key stakeholders involved in this policy debate. That is all to be regretted, and I beg to move.

5.15 pm

Lord Clement-Jones (LD): My Lords, I thank my noble friend the Minister for her introduction of the draft statutory instruments. Last week we welcomed her to her new role and to the debate on extended collective licensing. Today's debate, as we have already seen—and I agree with a huge amount of what the noble Lord, Lord Stevenson, said—is much more controversial.

We debated copyright exceptions on a number of previous occasions: during the passage of the Enterprise and Regulatory Reform Act on 5 December last year, and on 14 May, before Prorogation, when we debated the first set of exceptions. I suspect that today is the grand finale. In the mean time, we have seen the launch of *Create UK: Creative Industries Strategy*, which calls for,

"a stable legal framework that allows rights to be protected and commercialised",

and says that,

"any consideration of amendments to the IP framework",

needs to be,

"thorough, objective, evidence-based and transparent".

It has come too late, I fear, to inform these exceptions.

As I said previously, the reform of copyright should be handled sensitively, with the value of the creative industries and any negative impact caused by changes to the law in mind. The creative industries sector as a whole is alarmed, however—in exactly the way that the noble Lord, Lord Stevenson, described—by the potential negative impact the exceptions could have. The sector considers that they could deter investment, risk jeopardising market-led developments and weaken performers' and creators' ability to benefit financially from their work. As I also said, copyright exceptions should be adopted only in response to a well defined public policy objective and market failure. Nowhere is that more important than in respect of the three exceptions and two draft regulations that are being put forward today.

Set against those strong considerations are the very weak and poorly underpinned impact assessments of December 2012, on which the Secondary Legislation Scrutiny Committee itself raised its collective eyebrows. At this point I thank both the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee for their careful scrutiny of the draft SIs and for raising some important issues.

On each occasion that we debated these matters I have raised a number of issues, which I will repeat only briefly. First, there are the basic economics and commercial realities. Why, in formulating the contract override provisions in the exceptions, have they taken little or no account of developments in licensing, both during and after the Hargreaves process, such as commercial offerings through new technology and the Copyright Hub? Exceptions should not apply where commercially available alternatives already exist. Sadly, the Government have not accepted that important principle or, let it be said, the flexibility contained within the information society directive.

The noble Lord, Lord Stevenson, mentioned developments in the music industry. Another example regarding the personal copying exception is in the audiovisual sector. Products such as iTunes and UltraViolet allow legal and secure access to that content through the cloud among six family members for up to 12 personal devices.

The Secondary Legislation Scrutiny Committee in its report in May remarked from the outset on the strength of opinion on the question of contract override, which I attempted to highlight in our December debate. It expressly said that it was not persuaded by the then Minister's statement that the changes proposed are relatively minor, particularly as regards the personal copies for private use exception. Where does the figure of a total £500 million to the UK economy over 10 years come from? Can we have a complete breakdown?

In fact, there is likely to be a negative impact on rights holders given that under the personal copying exception they will have to give free licences for services such as cloud lockers, which are a potential source of valuable revenue. Photographers and photographic and news libraries make similar arguments in their evidence about potential loss of revenue under the quotation and parody exceptions. Minimal benefits are cited for those under the impact assessments, but it is clear that the risk of licensing revenue loss for them is considerable.

Furthermore, has any analysis of the impact of the exceptions on the UK's competitive advantage been carried out, in particular on whether it will encourage content companies to contract in other jurisdictions? Rather than encouraging innovation, these provisions could encourage challenge and breach of licensing terms. Will investors now turn away from the UK and invest in content made in other jurisdictions where they can freely negotiate contracts?

In the light of all the above, can my noble friend say whether any new economic impact assessments have been conducted or are contemplated? The Secondary Legislation Scrutiny Committee, noting that the instruments are to be reviewed by the Intellectual Property Office no later than April 2019, said:

"We would urge the Government to monitor the impact of the changes from the point of implementation, and in particular to respond effectively if it becomes clear that any negative potential is being realised".

How are the Government planning to monitor whether the expected benefits are being achieved?

There are, of course, multiple legal bones of contention. Will the exceptions meet the requirements of the Berne convention and of the three-step test set out in the 2001 information society directive? That states that an exception can be applied only: in certain cases; where

it does not conflict with a normal exploitation of a work; and when it does not unreasonably prejudice the legitimate interests of the copyright holder.

Many rights holders are strongly of the view that they do not meet these requirements. Exceptions create contract override provisions that would render unenforceable contracts that seek to restrict or prevent the relevant exception. As a new and untried concept in UK copyright law, this has not received nearly enough examination and consultation. Given their importance to these statutory instruments in particular, why have the proposed contract override provisions not been subject to their own separate consultation and discussion? This is particularly necessary for the enforceability of technical protection measures, as set out in Article 6 of the information society directive and Section 296ZA of the Copyright, Designs and Patents Act 1988.

Why are such fundamental changes to the application of UK contract law being made via secondary legislation? I entirely agree with the points made by the noble Lord, Lord Stevenson. All these exceptions could have been debated and introduced in the Intellectual Property Act. Indeed, if that had happened we would not be standing here now discussing these statutory instruments as the exceptions would have already been passed in the Act. Such fundamental amendments to sections of the CDPA would have been dealt with by discussions in a normal parliamentary process in both Houses, with amendments being debated in the ordinary way.

My noble friend Lord Younger, the previous Minister, referred to 50 exceptions having been introduced by regulations when he gave evidence before the Secondary Legislation Scrutiny Committee and when we debated the other exceptions. I am still not convinced: can we have chapter and verse about those 50 exceptions, please? Perhaps most important of all in terms of legal risk, how convinced are the Government that these exceptions comply with EU law?

As the JCSI pointed out in its report, the private copying exception as currently proposed would not provide any compensation to rights holders for the harm private copying might inflict on them. The JCSI quotes the Government as saying that no compensation scheme is required,

"where the private copying exception is narrow in scope and does not cause harm (or causes only minimal harm) to rightholders".

That wording was repeated by my noble friend. However, this claim, and whether or not a personal copying exception will cause harm, is hotly contested by rights holders. For example, we have heard from the noble Lord, Lord Stevenson, the estimate from UK Music that there is a potential loss of revenue to the music industry of some £58 million.

Why have the Government chosen to ignore, for instance, the CJEU ruling in the Padawan case, which makes clear that member states must include a mechanism for calculating compensation when introducing a private copying exception? How confident are the Government that these exceptions will survive legal challenge? The JCSI reflects the views of many when it points out that the Government must, if challenged in court, show that "no compensation" is "fair compensation". How confident too are they that the exceptions can legitimately be introduced under Section 2(2) of the European Communities Act 1972? The Government have not answered my direct question as to whether they have taken independent legal advice on this. Have they?

Surely also the Oakley v Animal case should be interpreted to mean that Section 2(2) can be used only when the UK is obliged to bring in a particular measure. The exceptions being introduced through these regulations are entirely optional. Then again, the contract override effect of these new exceptions is to render unenforceable a contract made at an earlier time. Surely, the Government's approach to contract override also falls foul of Schedule 2(1)(b) to the European Communities Act 1972. Then of course there have also been a number of significant CJEU opinions and judgments in a number of significant copyright cases from 2013 and 2014, all of which have implications for these copyright exceptions. Should not these cases at the very least give my noble friend pause for thought?

As anticipated, my noble friend prayed in aid the 12 professors of IP to allay some of these legal concerns. They, rather like the three tenors, spring up to sing in harmony on occasion. They did so on the then IP Bill and they have done so with these exceptions. However, there is a strong body of non-academic opinion that takes a contrary view on these matters and much of what they said in their evidence to the JCSI was opinion, not settled law. At the very least, the Government are taking a risk in proceeding with these exceptions.

On top of all this, there is the big new question of why we have to act alone on the personal copying exception in the context of simultaneous harmonisation discussions in the EU. Entirely as the noble Lord, Lord Stevenson, said, there are discussions and consultations taking place, and we are expecting a White Paper this September. This will set the direction for European copyright over the next five years. Surely it is unnecessary for the UK Government to take a risk now with this policy and proceed with implementing a measure which could prove costly, is unpopular in many quarters and may well have to be reversed.

There are also concerns about the specific wording of the personal copying SI, and in particular what is meant by awful acquisition. To save time, I shall not go through all the detail of that; the noble Lord, Lord Stevenson, went through some of the individual aspects. On the technical protection measures in particular, there is doubt about how the wording of the current SI is set out.

As for the wording of the quotation exception, what is fair dealing? It is not defined in any detail; all types of work are treated the same—so, for example, a whole photograph, perhaps, could be reproduced without permission. The noble Lord, Lord Stevenson, referred to a number of organisations representing photographers, and they are numerous—the British Photographic Council, Getty Images, the British Copyright Council and the British Association of Picture Libraries and Agencies. They all have in common the fact that they are deeply worried about the quotation exception.

New wording has been added about when acknowledgement does not need to be given. How will,

"impossible for reasons of practicality",

[Lord Clement-Jones]
be interpreted? Is it right that there should be this relaxation of moral rights? Surely, as regards photographs and video, is not all this premature before we have dealt with metadata in a proper fashion? Should they not have been excluded from the quotation exceptions in the first place?

The noble Lord, Lord Stevenson, discussed the parody exception and I shall not go into detail on that—but many of the same issues apply. There are not definitions of "parody" "caricature" and "pastiche" in UK law, so we have no precedent as to how the concept of fair dealing might be applied to the use of a copyright work in the making of a parody. How is this going to be consistent with what is called the moral right of integrity, allowing a right holder to prevent reputational damage? Surely, in these circumstances, is not a duty of acknowledgement even more important?

On top of all these, the whole issue of explanation to the consumer is of great concern. The guidance notes are defective and the Explanatory Notes, although they have been amended, are also defective. It seems extraordinary that the Government are proceeding with these exceptions in these circumstances. I am afraid that the statutory instruments will pass today, but they are fairly friendless and fraught with the risk of legal challenge. They are badly worded and unnecessary, and they are poorly explained, and the consumer will remain confused. In the old phrase, when asked for directions, "I wouldn't have started from here"—and I do not think that Professor Hargreaves should have done so either.

5.30 pm

Lord Berkeley of Knighton (CB): My Lords, I suppose I should declare an interest, being both a composer and a broadcaster. I am grateful to the Minister for underlining once again the Government's support, commitment and gratitude to the creative industries. I am not surprised at that gratitude, since they bring in a huge amount of money to this country and, perhaps even more important, a huge amount of cultural kudos.

However, I am profoundly concerned by these copyright exceptions. I will not rehearse completely the words of the noble Lord, Lord Stevenson of Balmacara, or, indeed, the noble Lord, Lord Clement-Jones, since they could not have been more clear, but I want to stress one very important point. The Government have argued—again, this follows on from the speech of the noble Lord, Lord Clement-Jones—that there is no more than minimal harm arising out of the private copying exception. However, what empirical evidence do the Government possess to support what may otherwise appear to be just an assumption? If the Minister has not already done so, please could she ask her departmental research team to commission further evidence on damage, given the questionable evidential base it is currently relying on? How, precisely, do the Government intend to monitor harm arising out of the exception once it has come into force, given that in practice it is likely not to be the same as has been predicted in theory? Indeed, the level of harm can be expected to change over time as markets develop. Will the Minister give the House an undertaking that if the Government find evidence of harm, the legislation will be promptly amended to provide for a compensation mechanism?

Many people working in the creative industries live on fairly modest means. Their royalties need to be protected—without them, they will find it very hard to survive. Not everyone has the kind of income generated by incredibly successful pop groups or commercial composers, yet those composers who are perhaps working at the sharp end—those artists and photographers—are precisely those who spread the word about the cultural life of this country. I fear that we may be bolting the stable door after the horse has disappeared; but I am hoping that we might be able to prevent more horses following suit. I strongly urge the Government to listen to the points that have been made by noble Lords thus far and which I am now emphasising.

Lord Scott of Foscote (CB): My Lords, I declare an interest in this debate. I was a member of the Select Committee that produced the report to which reference has been made. I agreed with the contents of that report wholeheartedly and recommended the forcefulness of the views expressed in it to your Lordships.

The importance of this is plain. There are a number of individuals who create copyright works on which they rely for their livelihood. They are entitled at the moment to the protection of the law of copyright so that the work they have brought into existence is not taken advantage of by others, without reward for them. The regulations now before the House will have a very serious effect indeed on people of that sort.

I agree with the noble Lord, Lord Stevenson, and others that this is a change in the law that would have been better brought about—if it was to be brought about at all—by primary legislation. The House could have gone into Committee and amendments could have been put forward and fully debated. To use regulations to bring about a change in the law of this extent seems to me a misuse of the legislative procedure that has been adopted.

I do not want to add to what the noble Lords, Lord Stevenson and Lord Clement-Jones, and my noble friend Lord Berkeley of Knighton said. I agree with what they said but want to draw attention to the aspect of contract override, which was discussed in the Select Committee. The Minister who gave evidence to the Select Committee was the noble Viscount, Lord Younger, accompanied by Ms Heyes. He defended the legislative proposals that your Lordships are now considering and raised the matter of contract override. He and Ms Heyes informed the Select Committee that the effect of the provisions in the regulations,

"would not be retrospective, but would apply only to new contracts; and that the provisions were precedented, inasmuch as an existing exception allowing material to be photocopied in schools could not be overridden by contractual terms".

However, we are not talking now about education but about private use.

The text of the private use regulation does not confirm the assurance that we thought was given by the noble Viscount, Lord Younger, that the provisions,

"would not be retrospective, but would apply only to new contracts".

However, in Regulation 3, new Section 28B(10) of the relevant Act states:

"To the extent that a term of a contract purports to prevent or restrict the making of a copy which, by virtue of this section, would not infringe copyright, that term is unenforceable",

so it is retrospective. It would apply to negate the content of contracts that have been entered into, perhaps since the Minister appeared before the Select Committee in May and gave the assurance to which I have referred, which is set out in the report. That assurance may have been relied on but the proposition that this retrospection can now be incorporated in the regulations seems to me quite wrong. I hope that the Minister will comment on that when she replies to the debate.

The proposition that personal use copying should be permitted and should be free from any copyright infringement is obviously a very important one for all producers of copyright material. What does personal use mean? Does it mean that it would be a breach of copyright for the person who acquires a copyright work to copy it for the benefit of his children? Presumably, that would not be his personal use. How would the personal use limitation be enforced? How could the copyright proprietor possibly know what was being done with his copyright work by the person entitled to copy it for his personal use? Can you copy it and give it to friends as Christmas presents or give it to your children to take to school to show their school friends?

I respectfully suggest that it is not a satisfactory limitation at all. I suggest that this is precisely the sort of legislation that ought to have been referred to Committee to be gone over paragraph by paragraph, with amendments being put forward, discussed and voted on. I thoroughly support the Motion of the noble Lord, Lord Stevenson.

Baroness Morris of Yardley (Lab): My Lords, I am grateful to the Minister for presenting the statutory instruments but I agree with everyone else who has spoken. I have real doubts about what they will mean for the creative industries. I know that her predecessor noted how much consultation had taken place round the issue, and my noble friend Lord Stevenson made the same point. The history of this is very long, and we are left asking if after all those years of consultation and all those meetings, with everyone being opposed to it, what is it doing here in the House about to be passed? Consultation has an element of taking people with you, or persuading people and putting them in the position of seeing the strength of the argument. That has not happened in the sector, which is the sadness of today. As it is not primary legislation we know that it will go through at the end of this debate, and in terms of a responsible House and good-quality legislation that is to be very much regretted.

I have two points to make on a particular aspect of the statutory instrument, but before doing so I declare an interest as a director of the Performing Rights Society and, along with the noble and learned Lord, Lord Scott, as a member of the Secondary Legislation Scrutiny Committee, which considered this legislation. I agree with the Minister that we need to bring the position up to date. I can see that the legislation looks old fashioned and is not fit for purpose, but people are unwittingly breaking the law day after day. It is not an argument against bringing legislation to the Houses of Parliament but an argument against the detail. If we take the example that we have to make it legal for somebody to download or transfer information from their CD to their iPod, I cannot disagree with that. It is what happens and it makes sense. It is allowing the user to take advantage of new technology and I do not think that many rights holders would complain about that.

I want to concentrate on the fact that the statutory instrument extends the right to private copying to the cloud service. This is new technology. A lot of the other private copying exceptions that have been given as examples are not about new technology; it is legislation catching up with the past. With the cloud service—locker service being new technology—this statutory instrument will set the framework for this technology for many years to come. It is a golden opportunity. New technology is not within the legal framework of protecting rights, so this is our chance to ensure that the signals we give do not repeat earlier errors of a creative sector that is not in line with the technology and the way in which people want to use it.

I know that the statutory instrument says what is not allowed—but ask anyone in the film industry about how it has suffered from what was not legally allowed but what was easy to happen. In introducing the debate the Minister said that it is quite clear in cloud technology that it is for personal use only and does not allow friends, family or anyone else to use it. However, it is easy to happen. We will see exactly what happened in the film and music industries. Half the world will say it is illegal and the other half will say that it is easy and everyone does it, so it will continue. To introduce that for new technology with cloud services is a wasted opportunity. I wonder whether the Minister realises the full range of services operated by the cloud locker services. With Dropbox, which many people access now, it is so easy to share information and data with other people. It is almost possible to do it inadvertently or by accident. It is almost that easy that people will assume that that is what the technology is for.

Now is the time to give a message, but is there education on this? Is there any good-quality information in the guidance that goes with the legislation about how this should be interpreted and what should happen? There is not. Why have the Government not put an obligation on the people who run cloud locker services to provide information to customers about what they can or cannot legally do? None of that happens but there is legislation, which includes in its title,

"Personal Copies for Private Use",

and which by its lack of understanding of the cloud locker services gives the message that it is possible. We have missed the opportunity to give a message about what is and what is not legal. Moreover, we have given the opposite message that copying is possible with this new technology.

5.45 pm

Secondly, what makes this issue different is that these services are commercial. People are making money from them. They are monetised and revenue earning. Unlike many of the other new technologies, where the

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creative sector was very slow to act and to make it possible to legally download for personal use, on this new technology—to its credit—it has tried to get ahead of the game. Many of the cloud services are being licensed at the moment, so it is possible legally to pay money, return to the copyright holder and make, if you like, a legal market.

With this legislation there is confusion for the user over what is legal in relation to cloud services; and the Government are interfering in a new market that is building up, into which a lot of people have put a lot of hard work. They have tried for the first time to ensure that it is easier for people to use this new technology, while still providing a return to the licence holder.

Finally, I have a great deal of sympathy with the argument that the lack to compensation to rights holders is what the Government have wanted to do, and that they have looked through every bit of case law and every word in every directive to justify their decision. Rather than looking at the evidence and weighing up the different cases—which I know are contradictory—the Government have sought a few phrases with which to justify a decision that they wanted to make. The cloud will stand to benefit financially from this legislation. It will make it financially a more attractive service because of personal copying. Because of that, the people who will lose are the rights holders and the creators. If nothing else in this statutory instrument makes the Government pause to revisit the issue of whether compensation should be paid, their action on cloud locker services should do so.

Lord Grade of Yarmouth (Con): My Lords, I find myself agreeing with so much of what the previous speakers have said. What I have not got at any time from the Government since the publication of the discredited Hargreaves report is any sense that there is a public interest in investment in content and that thereafter it becomes available in forms of which those who have invested are in control.

What has been unleashed is a global army of parasites who live off the investment that creative people have made in the UK and throughout the world. I publicly described Google as a parasite. I was picked up by one of its leaders, who asked: "Why did you describe us as parasites?". I said, "Last week you used a clip of Susan Boyle on 'Britain's got Talent' and had 300 million hits on YouTube. That piece of material cost us a great deal of money, you did not ask permission, and you put it out there to promote YouTube and Google's fortunes". He replied, "Well, if you had called us, we would have taken it down". I replied, "If I go to Harrods and steal a Cartier watch; if they ring me up and say 'Can we have it back?', and I give it back it is not shoplifting". What the Government have failed to understand throughout their deliberations on copyright since the Hargreaves report is that there is a direct correlation between investment and the investor's ability to control and police its copyright, and to protect that investment to ensure that it gets value for it.

The Government seem to think in all the deliberations that I have heard, read and seen that there should be a free for all, that everything should be made free for the public and that there is a public interest in everything being made available as easily and freely as possible. Yes, there is a public interest in that but it will last about five years because in the end there will be no more investment in original content.

Throughout the creative industries, particularly the film, television and games industries, people are struggling to avoid piracy, and struggling to get value for the risk investment that they have made in the content. Since that wretched Hargreaves report, I have heard nothing from the Government to suggest that they understand that there is a public interest in continued investment in the creative industries.

Today's Motion is yet another step forward in liberalising the copyright laws and chipping away at one of the great success stories. On the one hand, this Government have been tremendous at supporting the creative industries. I myself, as chairman of Pinewood Studios, have been a beneficiary of that, so I should declare an interest. But at the same time the Government are demonstrating a complete ignorance of the economics of investment in the creative industries. Today's Motion is yet another example. It is time they tore up the Hargreaves report and listened to the people who make the investments. Then we might get some serious deregulation and some serious thinking about how we can modernise the copyright laws. But if this continues, I have to tell the Government that they are putting the creative industries at risk.

The Earl of Erroll (CB): My Lords, I want to say a few things about this subject, because everyone seems to be so much against these regulations. I, and many other members of the technical community and the general public, welcome them, as they bring some common sense into an area in which the world has moved on from the days of the printing press. That was when copyright was first conceived. Those old laws managed to adapt to encompass the physical sale of performances that were recorded, such as music, films and so on. But now, in the internet age, they need some major modernising modifications.

One thing keeps coming up and causing confusion, and I want to talk about it up front, because I have great difficulty getting my head round it, and I think a lot of other people do too. The terms "creators" and "rights holders" keep getting put together as if they meant the same thing. They do not. There are the talented performers, who might actually have been put together by programme creators and producers. Then there are the rights holders, who buy rights to the performances, and the distributors, who also take a chunk or two. How many of the talented performers have gone bust? They often go broke quite early, because they have sold all their rights. Yet that is what the rest are all feeding off. When I hear all this great cry about how badly the poor rights holders are suffering, I sometimes look at some of those broken performers who at some point have performed brilliantly, but who at the end of the day have been milked dry. So I am sorry, but I do not always listen to those cries of woe.

The noble Lord, Lord Clement-Jones, asked why we do things differently from some other members of the EU. There is a clever idea—I think that this is what

they did with Philips cassette tapes—whereby people put a levy on every bit of hardware. That is all supposed to go into a big pot to reward the creative industries, which get the benefit of it. But that means the big boys again. The trouble is that this puts extra cost on to every bit of equipment—every iPhone, every iPad, every Microsoft Surface, and everything else that I buy. The trouble is that these things break down with monotonous regularity.

Let us say that I go and buy myself an MP4 player and download some music on to it, and then it breaks down. That causes problems, particularly if you are involved in one of those proprietary chains. If the device breaks down and you have to move on to another one, you often have to pay again—and if it is all wrapped up in the hardware levy, you are paying again and again. All that does is inflate the cost of the machines—the gadgets that we buy.

That is a brake on innovation, productivity and so on among the small people and the small businesses, who cannot afford to be shelling out the whole time. I have seen reports that had different statistics from those in all the others, and suggested that if the EU were to remove those levies, it would be better off by nearly €2 billion a year. I have no idea whether that is true—people may well be sitting in front of dartboards when they produce such figures—but it is probably just about as genuine as some of the others. Certainly, when you have a broken machine you suddenly find you have to pay out and buy the material again, because format-shifting is not allowed and the digital rights management is different. Some of that has now changed, and some of it is better.

Turning to the subject of parodies, I see satirical students taking clips from the internet and making mashups, which are wonderful and very interesting and bright. But all that is illegal. I can see that politicians want to protect themselves from that sort of stuff, but where would all those wonderful satirical programmes of the past be if we had not quietly permitted it? Now that we are trying to crack down on it, we have to be very careful. That is why I think exceptions for parody and artistic creativeness are essential.

If you copy a newspaper article or something like that, which is illegal, because you have some memorable, magical moments that you want to keep about your family, you will have to put it in a locker and store it, and you will have to keep format shifting and changing it to new media the whole time. But it will not last for ever as CDs will fall apart after a number of years. The original newspaper will fall apart in 50 to 100 years and will be unreadable. If you have it electronically, that will fall apart unless you keep moving it. If it becomes illegal to copy, you will lose those memories and everything like that. The trouble is that most people are getting around these things in practical ways but what they are doing is illegal and, in some cases, illegal under the Digital Economy Act. Under that Act, certain things that used to be a civil offence became a criminal offence and the waters were muddied even more.

The really important thing is that if the law creates rules and laws which diverge significantly from the way in which the general public behave, the rule of law falls into disrepute and people start to disregard it. When that happens, they start to pick and choose which laws they will obey. I do not think that that is a good principle. There are moments when we have to admit that the world has moved on, although that means tough luck on some people. We see retrospectivity the whole time in a lot of areas. For example, as regards leases, rentals, landlords, tenants and all sorts of other arrangements, the Government have interfered with contracts that were set up and they have tampered with them in such a way that you no longer have protection of your own property, which you used to have. In general, they say that provisions apply only to new contracts but very often they tamper with existing ones. We have been tampering retrospectively for a very long time. I do not like it and I disapprove of it but sometimes we have to do it in order for the law to catch up with what is happening anyway.

Baroness Neville-Rolfe: I thank colleagues for the points raised in this debate and for the high level of technical expertise that they have shared with me, so new to the Dispatch Box. First, I will address some of the points made by the noble Lord, Lord Stevenson. As noble Lords know, the Government support growth of the creative industries in multiple ways. I am a new and passionate advocate for doing this broadly and through intellectual property. We recently announced £16 million funding from the Employer Ownership of Skills pilot to boost skills in the creative industry sector. We have welcomed the launch of the Creative Content UK scheme and have provided £3.4 million to co-fund the Creative Content UK educational campaign. The campaign will help to reduce online copyright infringement and to promote the use of legal digital content, which is an important theme of this debate.

The Government have welcomed the industry-published creative industries strategy and will continue to work with industry to help to achieve the growth and export success outlined in the vision and strategy for 2020. The IPO, along with other government departments, is fully involved with this strategy. In thanking the noble Lord, Lord Stevenson, for his kind words about my potential role as the Minister for the IPO, I remind the House that my friend in the other place, Ed Vaizey, now is also a Minister of State in the business department as well as at DCMS. On arriving in the department, he gave me helpful suggestions about who I should see and talk to. Joined-up government can work and it is our determination that we will make it work.

The noble Lord, Lord Stevenson, expressed his regret, as did some others, as to why the Government were using secondary legislation rather than primary legislation for these measures. I repeat the point—that he indeed has made—that changes have been carefully developed with wide and extensive consultation. We have also published the draft regulations for technical review and have welcomed many debates in this House and the other place.

6 pm

The fact that these regulations are affirmative has afforded us the opportunity to have this debate today and I welcome that. The two regulations were indeed unbundled to allow the opportunity for this important

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debate, which as a new Minister I very much welcome. I agree that copyright is valuable and sometimes misunderstood so it is right for us to debate it, to talk more about it and to emphasise its economic contribution to our country. You go right round the world and you find people's admiration for our creative industries.

The measures in these SIs, in the SIs that have already passed and in the Intellectual Property Act, which my predecessor helped to facilitate through this House, have long been fought. Much time has been devoted to going, to some extent, this way and that way. I think we should now press ahead with the full package of measures. We need to bring our legislation in this area up to date, as the noble Baroness, Lady Morris, very helpfully said and to bring some common sense, as the noble Earl, Lord Erroll, said. Obviously we will continue to review the arrangements but it is important that this set of changes come in and together can be communicated to all the important stakeholders on 1 October.

The noble Lord chided me for not covering the question of contract override in my opening remarks but I wanted to hear what he was going to say on this important issue. The presence of the contract override clause gives users, consumers and businesses certainty and clarity that the exceptions apply in all circumstances regardless of the detail of a contract. Without such clauses restrictive contract terms could prevent the uses permitted by the exceptions, thus preventing benefits from being realised. This is not merely a hypothetical fear. Many responses to the various consultations have told us that contracts permitting access to copyright works frequently contain terms that prevent users from carrying out activity that otherwise would be permitted by law.

The noble and learned Lord, Lord Scott of Foscote, in an interesting intervention talked about retrospection. When we say a law is retrospective we mean that it takes effect in the past and therefore could affect the legality of an action that took place in the past. Obviously we are not allowed to do that with this legislation and we do not intend to. However, that does not mean that the new law will apply only to new contracts. The law will apply to contracts regardless of the date on which they were formed but will take effect only after the new law comes into force. The contract override provisions simply ensure that, where the law provides for an exception to copyright, people are able to rely on that law without having to work out whether there is a contract term to the contrary creating a whole patchwork of different legal situations.

Ensuring that the personal copying exception cannot be overridden by contract terms will mean that consumers are given clarity and certainty over what they can do with the media they buy. Most people assume that the law already allows them to make the type of personal copies covered by our legislation. Very few people read the detailed licensing terms that accompany digital downloads. We want the goods so we just tend to accept the terms. Ensuring that the new law on personal copying applies in all circumstances, regardless of contract and licensing terms, will bring much needed clarity to the law and fairness for consumers, which I welcome.

The noble Lord mentioned the cost to the industry of £58 million and asked me to comment. That report is based on assumptions that do not seem to take account of the status quo, where we know a large proportion of the public already copy music for personal use. The report also appeared to compare this to a situation where unlimited copies could be made, whereas the Government's private copying exception is for personal use only and so does not permit unlimited copies. Therefore, the Government have a number of doubts about the robustness of the research report's conclusions and that figure of £58 million per annum. The Government's impact assessment was based on a number of sources, including independent economic research and consumer surveys.

While I am on the subject of impact assessments, perhaps I could turn to the points made about that by my noble friend Lord Clement-Jones. He raised a number of points and asked about the figures on the total benefit to the UK economy of £500 million over 10 years. My predecessor spoke in this place on 14 May on the other exceptions in the package and gave a detailed breakdown of the figures. I will not repeat those today, but the predicted impact of the regulations in the two statutory instruments is £260 million over 10 years, mainly from the personal copying exception. A small benefit of £3 million over 10 years is also predicted from the quotation exception. That is the net present value figure, discounted to today's terms, in line with HM Treasury guidance.

My noble friend Lord Clement-Jones also asked why the impact assessments were not updated. When credible new evidence has been provided relating to any of the exceptions, the impact assessments have been updated. For example, the personal copying impact assessment was updated, as I have said, following the submission of new evidence by the music industry.

In his helpful and detailed speech, my noble friend Lord Clement-Jones addressed a number of other questions which I will try to answer. If I am not able to answer them all, perhaps I can follow up in writing. He referred to the Padawan case on private copying and questioned whether the outcome means that a compensation mechanism must be included. As my noble friend Lord Younger said in his letter at the time, the exception before us today is,

"different to the one considered in the Padawan case".

As the letter says:

"The Padawan case confirmed that compensation is due when a private copying exception causes harm to copyright owners which is more than minimal".

A payment obligation does not arise where harm is minimal, something which I will come back to in a minute.

The noble Lord, Lord Stevenson, and my noble friend Lord Clement-Jones asked whether the change would apply to existing contracts. From October 2014, if you undertake an act that is permitted by a copyright exemption, you will be able to do that without fear of copyright infringement, regardless of the contract terms. As the noble Lord, Lord Howarth, observed in the debate on 14 May, contract override clauses are not uncommon in other legislation and it is therefore

entirely reasonable that legislation, in the public interest, should modify the enforceability of existing contracts in the field of copyright.

My noble friend Lord Clement-Jones asked why there was no separate consultation on contract override and whether the impact on inward investment had been fully considered. Again, as my predecessor stated in the December debate, contract override has been fully consulted on and considered, including in respect of the impact on inward investment.

Lord Scott of Foscote: The noble Viscount, Lord Younger, gave evidence, in terms, that the new provisions would apply only to new contracts.

Baroness Neville-Rolfe: I thank the noble and learned Lord and will come back to him on that. I think that I addressed the issue—perhaps we could look at *Hansard* together and have a further word on this important point.

The noble Lord, Lord Stevenson, my noble friend Lord Clement-Jones and the noble Baroness, Lady Morris, were interested in compensation schemes and the EU law on this, which is set out in the EU copyright directive, also known as the information society directive, or infosoc. Article 5(2)(b) of the copyright directive permits member states to introduce exceptions for private copying, such as the one before us today. The article requires that any exception must include certain conditions, for example that the copy must be for ends which are neither directly nor indirectly commercial. The exact wording is on page 2 of the instrument before us. The article states that the right holder must receive fair compensation when copying takes place under the exception. It is what exactly is meant by "fair compensation" that is at the crux of this question. In interpreting this phrasing, the Government have been guided by recital 35 of the copyright directive. This states:

"In cases where rightholders have already received payment in some other form, for instance as part of a licence fee, no specific or separate payment may be due".

Later it goes on to say:

"In certain situations where the prejudice to the rightholder would be minimal, no obligation for payment may arise".

In other words, fair compensation can mean no compensation, as long as the exception causes no, or minimal, harm, or if an appropriate payment has been received. This is how the exception before us has been designed, and it therefore falls within the margin of discretion that the directive allows.

As I said earlier, this view is supported by many, including several eminent legal experts. The JCSI noted in its report that there are persuasive arguments in the Government's favour. Furthermore, European case law to date, although not directly addressing the question as to what is meant by minimal harm, is consistent with the Government's approach. I would add that there is no guarantee that the European Court ruling in the Copydan case will have any bearing on the UK's exception for personal copying. The recently published Advocate-General's opinion confirms once again the wide latitude that member states have in this area.

The Government do not deny that ultimately only the European Court of Justice can rule definitively on the definition of minimal harm, and it has not done so to date. However, uncertainty—for the reasons I have already articulated—is not a justification for inaction, particularly when the evidence and reasonableness of a change is clear. For all these reasons, the Government believe that the regulations are intra vires.

In response to the request from the noble Lord, Lord Stevenson of Balmacara, the Government do not routinely publish their legal advice, and I am not persuaded that an exception should be made in this case. The Government are confident in the advice they have received that the exception proposed is compatible with all the relevant EU case law and also with our international obligations, such as the Berne convention. On the question of EU law, it was right to mention that there are talks going on in Brussels in this important area. This is a new area that I will be looking at, and I have spent a lot of time in Brussels. But the fact that there may be new measures coming in at an EU level is no reason not to proceed with a package which is useful and important, both to copyright holders and to consumers. The personal copying exception before us today is narrowly drawn, and merely legitimises existing consumer behaviour. This policy is right and fair to both rights holders and consumers.

The noble Lord, Lord Clement-Jones, asked whether the changes will be evaluated, as did others. I reassure the House that the impact of these changes will be evaluated in line with evaluation best practice, and the results of this evaluation will be published within the five-year evaluation period. The Government believe that these changes will have a positive effect on the economy including the creative industries. Additionally, the strategy for carrying out the evaluation will be published. The evaluation will seek to study a range of impacts, including on the creative industries. The Government will obviously be keen to hear from experts and from noble Lords on the proposed evaluation.

The noble Lord, Lord Clement-Jones, asked whether there were really 50 exceptions to copyright law. There are around 50 exceptions in Chapter 3 of the Copyright Designs and Patents Act 1988. They are found in sections 28-76.

Lord Clement-Jones: I asked whether there are 50 exceptions that have been introduced by secondary legislation.

6.15 pm

Baroness Neville-Rolfe: I think that the answer is that some were in the original Act, and some were introduced via secondary legislation. Of those present in the original Act, some have since been modified by secondary legislation, but I will set out more detail in a letter if the noble Lord would find that helpful.

The noble Lord, Lord Clement-Jones, also asked about the use of the European Communities Act to make changes. I am aware that this has been discussed before, but to reiterate, the Government are confident that they can make these changes by means of Section 2(2). That section allows provisions to be made in relation to obligations arising from treaties entered into by

[Baroness Neville-Rolfe]
the EU. Use of this Act is therefore not limited to implementing provisions in the infosoc directive. Case law, like in the TV catch-up case, makes it clear that Section 2(2) can also cover matters arising out of or related to UK rights and obligations.

The noble Lord asked whether government had taken independent legal advice on the legality of the use of Section 2(2). Again, the Government are confident that they have a sound legal basis for the proposed changes. This analysis is presented in the Explanatory Memorandum accompanying the statutory instruments.

The noble Lord asked about what is meant by "lawfully acquired".

Lord Berkeley of Knighton: I am sorry to interrupt. This may be a point that the Minister has covered; if it is one that she is about to come on to, I await the answer eagerly. If the research which she has said will be undertaken to see how the policy works finds that there has been harm, will a compensation scheme be brought about to compensate right holders who have been found to have lost out?

Baroness Neville-Rolfe: I thank the noble Lord for that question. I think that we will need to wait and see what the evaluation looks like—I urge him to make some input on the nature of evaluation. It is a bit of a hypothetical question. As a representative of the Government, I would be uneasy about making any promises, but I thank the noble Lord for the point made.

I should move on, as time is pressing, to say a little about fair dealing, which the noble Lord, Lord Clement-Jones, raised. Fair dealing is an established legal concept that has been part of copyright law for more than 100 years. It is a question of fact, degree and impression and will take into account a number of factors, the main ones being whether the alleged fair dealing is in commercial competition with the owner's exploitation of the work; whether the work has already been published or otherwise exposed to the public; and the amount of work which has been undertaken and the importance of it. We did not intend to define it further in the legislation, because doing so would upset this well established case law and undermine its main benefit, its ability to adapt to the circumstances of any specific case.

The noble Lord, Lord Berkeley, asked what evidence the Government had relied on in developing their policy proposals. The Government have worked hard to ensure that the proposed changes are based on evidence. The impact assessments are based on the best evidence available and were reviewed and validated by the independent Regulatory Policy Committee.

The noble Baroness, Lady Morris, referred to cloud services. This is a difficult and very important area which was explored as part of the Government's impact assessment. However, we were not provided with sufficient data to enable us to determine what the impact would be. The majority of evidence received related to licence services, which would not fall within the scope of the exception; for example, because they provided streamed content so were not relevant. The music industry has accepted unlawful private copying for many years, so one might reasonably assume that the ability of the consumer to make copies of CDs is already taken into account when licensing deals are negotiated. Negotiation of contracts between businesses is a matter for those businesses. If, however, this is an issue of market abuse, it would obviously be a matter for the competition authorities.

The Government have published the changes through social media and website updates and through contacting interested stakeholders, such as those who responded to the technical review. They have published plain English guidance aimed at different user groups as well as an unofficial consolidated version of the copyright Act. We would expect wider education initiatives, such as the recently announced education campaign, to include educational messages—

Lord Clement-Jones: I alluded briefly to inaccuracies in the guidance. If those inaccuracies are clearly shown to the IPO, will the Minister undertake that those guidance notes will be changed? They are extremely important for consumers.

Baroness Neville-Rolfe: My Lords, I accept that the guidance notes are important and I will take the point away, if my noble friend is kind enough to give me the detail. I also say to the noble Baroness, Lady Morris, that I will keep an eye on the cloud aspect, which she rightly raised. I feel that it is important to include the cloud, because it is part of modern life, but clearly we need to look at how it is going.

My noble friend Lord Grade of Yarmouth felt that changes would harm rights holders. I would say that the exception legitimises what millions of people already do, something that the market has accepted for many years. This is aimed at consumers who have paid for content and support the creative industries by paying for music, films and books.

Many points have been made. I will study *Hansard* carefully and come back if there are points that I have not addressed in my summing up. As I said in my opening speech, this is a delicate balancing act. The Government believe that the copyright system has not kept pace with the digital revolution. As a result, a great many intuitively acceptable activities are illegal or uncertain. These changes relating to private copying, parody and use of quotations form part of a package that should make copyright works more valuable to all, give users clarity about their rights and build respect for copyright in the process. They will contribute to a more modern statute book that meets the challenges of an increasingly digital and changing world.

Lord Stevenson of Balmacara: My Lords, I thank all those who participated in this debate. It was wide-ranging and many noble Lords made helpful and informative speeches, even matching those points picked out by the noble Baroness when she referred to the noble Lord, Lord Clement-Jones. The point of having the debate was made in the range and diversity of the issues raised all round the House. I am glad that a number of noble Lords were able to pick up on the concerns which I raised in my speech.

I would make one point to the Minister. I regret that I did not welcome her to her first substantive position on the Front Bench in this Chamber, although she has appeared in the Moses Room. She is turning out to be a formidable performer and we are all impressed by her ability to grasp such a complex issue in such a short time. However, she was quite wrong to say that these two statutory instruments were unbundled simply to provide us with the opportunity for a further and more substantial debate. They were unbundled because they had a car crash on the way to being approved. As a result, they had to be brought back in a different Session, separated from the other statutory instruments. I do not think that the noble Baroness should gloss too much over that.

Would we have got to the same place we are in today had we proceeded down my recommended route of going primary in these matters? Probably, but I suspect that we would still face, as many noble Lords have said, the prospect of these rather imperfect instruments being brought into law. However, as the noble and learned Lord, Lord Scott, said, the advantage would have been that we would have had some sensible, mature discussion—in the right order and at the beginning of the process, not the end—about what was going on, what the purposes were of these exceptions and whether they fitted some overall narrative, as my friend the noble Lord, Lord Grade, said in his prescient point. It would also have presented the opportunity, as my noble friend Lady Morris said, of trying to raise the whole level of the debate in the country about this really important issue. If we cannot get people on board in terms of what IP is and what it can do for them, we have lost the battle.

In putting down this amendment to regret, my challenge was to raise the question of why the Government had gone for a secondary legislation route rather than a primary route and how it had come to be so badly handled, as we heard from the evidence of those who were consulted about this issue. Why did the Government not raise the questions asked during the debate about changes in the licensing regime, which have now caught up with—and in some cases overtaken—this set of SIs? Why was no real consideration given to the Copyright Hub, which is going great guns in solving a lot of problems in the copyright area; and why and how is this at variance with what we think will be the way that some developments take place with our EU colleagues?

I do not think that I have had satisfactory answers to those questions. I have had the detail, but not the overarching view. Perhaps in a subsequent letter that is yet to come, some of these points might be picked up. In particular, I hope that the letters that come will recognise that the point made by the noble and learned Lord, Lord Scott, about contract override has not been resolved; that the question of whether the regulations —in particular, with respect to remuneration—are intra vires lies open to judgment; and that the question of whether the Government should legislate in an area where they are not yet fully certain still raises questions of propriety. I felt that my noble friend Lady Morris was right in her jibe that the way that the Government argued the case on intra vires was really a question of looking for appropriate fig leaves for their position. They may be right, but it is unfortunate that it has been left for the courts to decide.

The feeling in the industry is that the battle over these regulations is over and that those affected have been consulted to death but not listened to and, as a result, are simply exhausted. That, more than anything, suggests that the Government have got this completely wrong from beginning to end—although, in fact, I do not think that we have heard the last of these proposals.

Having listened to the debate and having been buoyed by the support of those around the Chamber who picked up on the points I made, I still think that we should accept the inevitability that the regulations will come into law, and therefore, with the leave of the House, I beg leave to withdraw my amendment to the Motion.

Amendment to the Motion withdrawn.

Motion agreed.

Copyright and Rights in Performances (Quotation and Parody) Regulations 2014

Motion to Approve

6.28 pm

Moved by ***Baroness Neville-Rolfe***

That the draft regulations laid before the House on 9 June be approved.

Relevant documents: 3rd Report from the Joint Committee on Statutory Instruments

Motion agreed.

House adjourned at 6.28 pm.

Second Reading Committee

Tuesday, 29 July 2014.

3.30 pm

The Deputy Chairman of Committees (Lord Skelmersdale) (Con): My Lords, Godot has arrived. Before the Minister moves that the Bill be considered, I remind noble Lords that the Motion before the Committee will be that the Committee do consider the Bill. I should perhaps make it clear that the Motion to give the Bill a Second Reading will be moved in the Chamber in the usual way, with the expectation that it will be taken formally.

Insurance Bill [HL]

Considered in Committee

3.30 pm

Moved by ***Lord Newby***

That the Committee do consider the Bill.

Lord Newby (LD): My Lords, this Bill updates some important elements of insurance law. The existing legislation is outdated and does not reflect the commercial expectations of businesses purchasing insurance. That leads to disputes between insurers and policyholders, causing delay, expense and uncertainty. This undermines the reputation of one of the UK's leading industries.

The Bill is based on the recommendations of the Law Commission and the Scottish Law Commission. The policy underlying the provisions has been the subject of extensive consultation, the results of which have been reflected in the Bill where possible. I am pleased to say that there is a broad consensus of support for the changes to the law from a wide cross-section of the insurance market. The Bill has therefore been deemed suitable to be considered by your Lordships under the procedure for Law Commission Bills.

The Bill covers two different topics relating to insurance: the law of insurance contracts, which forms the core of the Bill; and some provisions allowing the Third Parties (Rights against Insurers) Act 2010 to be brought into force. In relation to insurance contract law, the Bill addresses three main areas: first, disclosure in business insurance contracts; secondly, insurance warranties; and, finally, the insurer's remedies for fraudulent claims.

Currently, the law is set out in the Marine Insurance Act 1906, which embodies principles developed in the 18th and 19th centuries. It is now out of step with modern commercial practices. Those principles were originally designed to protect a fledgling insurance industry against exploitation by the policyholder. The law therefore gives insurers wide-ranging opportunities to refuse liability for claims due to a policyholder's breach of obligation, even where it seems completely out of proportion to any wrongdoing by the policyholder.

The law as it currently stands increases the likelihood that insurance may fail to respond as expected, or at all. This can significantly hinder UK businesses. Policyholders cannot always predict whether insurers will pay out or rely on technical legal arguments to deny claims. If they cannot assess quality, policyholders will buy on price alone, which could reduce the quality of insurance products available in the market. Insurance is a crucial UK export. It is important that the law does not undermine the confidence which international buyers place in the UK insurance market.

The Bill is short and principles-based. Where the language of the 1906 Act has acquired a particular meaning, the Bill adopts the same language to avoid unnecessary change or uncertainty. Many of the provisions are based on existing judicial precedent and will operate within the existing legal structure.

I shall now say a few words about each area of reform. First, regarding the duty on the policyholder to disclose information to the insurer, prospective policyholders must provide the insurer with information about the risk before the insurance contract is signed. This allows the insurer to price the risk accurately. However, the existing legal requirements can be difficult to understand and can be even more difficult to adequately comply with. A failure by the policyholder to provide all material information allows the insurer to refuse all claims under the contract.

The Bill updates and replaces the existing "duty of disclosure" with a "duty of fair presentation". Policyholders still have a duty to disclose information and there is a duty on them to search for information, but there is also an obligation on insurers to ask the policyholder if they require further clarification. If a business fails to make a fair presentation of the risk, there is a new system of proportionate remedies for the insurer, based on what the insurer would have done if the failure had not occurred.

The Bill also deals with insurance warranties. An insurance warranty is typically a promise by the policyholder to do something which mitigates the risk. Under the current law, any breach of warranty completely discharges the insurer from liability from the point of breach, even if the breach is remedied before any loss is suffered. Modern insurance contracts are full of warranties, yet policyholders and brokers are often unaware of the harsh consequences of breaching them. The Bill provides that an insurer will be liable for insured losses arising after the breach has been remedied. This brings the law into line with best practice.

The Bill also abolishes "basis of the contract" clauses. These clauses convert every statement made by a policyholder on a proposal form into a warranty. Judges have been criticising these clauses for many years.

The Bill also introduces clear statutory remedies for the insurer where the policyholder has made a fraudulent claim. Insurers are particularly vulnerable to fraud by policyholders, and the law needs to provide clear and robust sanctions. A policyholder should not be able to think that fraudulently exaggerating a claim is worth a shot. The Bill puts into statute the remedy already upheld by the courts: that is, if a claim is tainted by fraud, the policyholder forfeits the whole of that claim. The Bill also clarifies an area of uncertainty: the insurer may choose to refuse any claim arising after the fraudulent act. However, previous valid claims should be paid in full.

[LORD NEWBY]

The provisions of the Bill are a default regime for business insurance contracts. Parties may agree alternative arrangements if they do so transparently.

The Bill also contains provisions to amend the Third Parties (Rights against Insurers) Act 2010. The Government are committed to bringing the 2010 Act into force as soon as practicable. The amendments in the Bill will achieve this.

The Bill before us updates some important elements of insurance law and has widespread support. I beg to move.

3.36 pm

Lord Carrington of Fulham (Con): My Lords, I do not intend to detain the Committee very long, but I just want to say how pleased I am that we have before us today this modest little Bill. I hope that we will find, as we get into the detail, that it is largely uncontroversial, simplifying and clarifying as it does the responsibilities of both the insured and the insurer in narrowly defined circumstances. Anything which brings clarity into the insurance market must be welcomed by everyone.

I have spent a lifetime in financial services—when I was not being a Member of Parliament—and, indeed, I still am closely involved as deputy chairman of a small bank, as in the *Register of Lords' Interests*, but I should add that I was never in the insurance industry. I reckon that I am reasonably financially savvy, but I have never been able to work out how the insurance industry calculates its risks and arrives at the premiums that it demands from its clients. Obviously, statistical analysis of the probability of an event occurring plays a large part, but I suspect that some elements in the insurance industry have not been above exploiting the ignorance of the insured to refuse to pay out a valid claim and, equally, that some of the insured have not been above making questionable and at times fraudulent claims to the cost of all of us.

I remember that, years ago, I was asked to lend a large amount of money to an insurance syndicate. A senior underwriter took me through all the risks and the small probability that it would have to pay out to the insured under the policy. When I insisted that I still thought the risk was not, to use the jargon, "bankable", he explained that the documentation was so confusingly written that he was sure that, even if a valid claim was made, it would be capable of being refused by the underwriters. Noble Lords will be glad to know that I did not make the loan. The claims that came in eventually, some of which were highly questionable, bankrupted the syndicate. However, this was a long time ago, and I am sure things have changed. By clarifying the relationship between the insured and the insurer, this Bill makes a start on bringing a welcome openness to the relationship.

In this Bill, I particularly like that the insured has to provide information to the insurer in a clear and accessible manner and that it specifies what information insurers can reasonably be expected to know. I hope that this will go a long way towards removing areas of misunderstanding between the insured and the insurer. Equally, the requirement is long overdue for the insurer to be transparent about disadvantageous terms in the policy.

This little Bill is stuffed with useful things and takes us further along the path of openness between the insured and the insurer. I look forward to its coming into force in due course.

3.39 pm

Lord Sheikh (Con): My Lords, at the outset I make the point that I very much support the provisions in the Bill, which has been welcomed by all sides of the insurance industry, including insurers, insurance brokers and their trade associations. The Bill is also supported by the Chartered Insurance Institute. I commend the Law Commission and the Scottish Law Commission for the considerable, valuable work that they have undertaken, which has resulted in the Bill being presented in your Lordships' House. Businesses are expected to benefit by about £100 million over the next 10 years, as there will be less litigation and transaction costs will be reduced.

The United Kingdom has led the world in the field of insurance. The London market is well respected globally. The market is well known for its ability to be innovative, and it provides cover for a very wide range of risks. Some of the risks that it accepts and continues to cover are unusual, and the market is therefore unique. The market is made up of Lloyd's, British and foreign companies. Britain's insurance industry is a major success—employing more than 300,000 people across the country—and the market generates considerable invisible earnings, which help the country to balance its books.

At this juncture, I should like to state that I have business interests in insurance. I have been president of the Insurance Institute of Croydon and a director and regional chairman of the British Insurance Brokers' Association.

Insurance law was developed in the 18th and 19th centuries but was codified in 1906 with the enactment of the Marine Insurance Act 1906. Although the codified Act related to marine insurance, its provisions applied to other types of insurance, as the Act brought together common law principles. The 1906 Act was enacted when the United Kingdom was expanding its insurance activities, and the legislation worked in favour of insurers. The insurers were granted wide powers. They have been able to repudiate liability under certain circumstances and their refusal to pay such claims was unfavourable to the policyholders. A number of overseas countries have modified the legislation and the insurance contracts issued by these countries are more customer friendly. It is therefore important for us to reform our legislation in order that we can maintain our prime position in the international insurance market. We can abolish clauses of the Marine Insurance Act 1906 only by primary legislation; hence, we need to introduce and pass this Insurance Bill.

At present, when an insured enters into a contract with an insurer, he is not sure whether a claim arising in the future will be dealt with adequately. When I started writing insurance business in the London market, I used to have a face-to-face meeting with the underwriter. Before my meeting with the underwriter, I used to write brief details of the risk on a slip, which the underwriter initialled, setting out the terms on which

he would accept the risk. The world has now moved on. There are new systems and sophisticated data analyses, and we therefore need to reform the legislation relating to insurance.

Looking at the Bill, I welcome the fact that it provides clear definitions of "consumer insurance contract" and "non-consumer insurance contract". Part 2 refers to the "duty of fair presentation", which applies to non-consumer insurance contracts where most of the problems arise. I am pleased that, in regard to consumer insurance, the Consumer Insurance (Disclosure and Representations) Act 2012 applies, and the policyholder needs only to answer the insurer's questions carefully and honestly.

With regard to non-consumer insurance, the duty of disclosure is set out clearly in the Insurance Bill and has two parts. I note that the Bill makes clear what the insured knows or ought to know, and this clarification will help the insured and the insurer. Under the Marine Insurance Act, any breach by the insurance broker fell on the insured, not the insurance broker. This is unfair, and I welcome the change so that insured will not be required to know what the broker has learnt from sources other than the policyholder. I also welcome the remedies which are set out in the Bill in the event of breach of the duty of fair presentation. I emphasise that breaches of utmost good faith have previously resulted in disputes between insurer and insured, and I hope that the situation will now improve.

Part 3 relates to warranties. There have been problems relating to claims where it was felt by the insurer that there had been a breach of a warranty. Any warranty must be complied with strictly, whether or not it is relevant to the circumstances of the loss. I always felt that the application of warranties was, in certain circumstances, unfair and a more common-sense approach could have been followed in instances where the wording of the warranty does not have any bearing on the circumstances of the loss. Clause 9 relates to the application of warranties, and Clause 10 explains the situation where there is a breach. I welcome both clauses.

Part 4 discusses issues relating to fraudulent claims. Fraudulent claims are a major issue and are indeed a very serious matter. Fraudulent claims arise in all types of policies. They could, for example, relate to someone pretending that he or she has lost money while travelling overseas, and the amount involved may not be much. On the other hand, there are serious claims related to arson or staged motor accidents where there are allegations of whiplash injuries. Some people have benefited by making fraudulent claims, which result in higher premiums being charged for all policyholders, and honest policyholders therefore suffer. In 2013, there were nearly 120,000 fraudulent claims which resulted in payments of more than £1.3 billion. It is felt that fraudulent claims are easy to commit, and unfortunately the police do not take effective action where it is established that the claim is fraudulent. The industry therefore needs protection. It is understood that we cannot eliminate fraudulent claims, but we must take action to alleviate the problem.

Clause 11 sets out remedies where there are fraudulent claims. The Bill does not define "fraudulent claims" in statute, and the matter will therefore be dealt with under the common law principles. In regard to group insurance policies, I am very pleased to note that under such policies, if a fraudulent claim has been submitted by a member of the group, such a person would be the only one to be penalised and no severe action would be taken against other members of the group.

I would now like to refer to the Third Parties (Rights against Insurers) Act 2010. This Act is important, as it provides rights to an aggrieved party in the event of the insolvency of a policyholder, and the aggrieved party has the right to bring an action against the insurer. Clause 17 of the Bill grants the power to change the meaning of "relevant person", and I feel that this change is desirable. I hope that the 2010 Act can now come into force.

Let me now deal with the issues where there has been late payment of a claim by an insurer. This has caused some problems, but I am pleased that the issue has not been included in the Bill as the matter needs to be looked into further—there may be legitimate reasons why the insurer is unable to pay the claim promptly. The issue must be fully discussed and assessed, and appropriate provision can be included in future legislation.

Apart from late payment of claims, there are other issues which need further consideration and these relate to the principle of insurable interest and brokers' liability for payments of premiums. I hope that these issues will be looked into fully and we can legislate on these matters in due course. I support the Bill and I look forward to backing it as it progresses through your Lordships' House.

3.51 pm

Lord Davidson of Glen Clova (Lab): My Lords, the Minister is to be commended for bringing this Bill before the House and agreeing the procedure for Law Commission Bills. A Bill modernising important elements of the UK's insurance law is perhaps not likely to achieve public acclaim, but it genuinely contributes to strengthening the UK's global position in insurance markets. One might also observe that, when the constitutional position of Scotland is under challenge, the Bill is a useful reminder of how Westminster legislation can have direct value to an industry that is a significant employer throughout the UK and a significant contributor to the UK's overseas earnings. The noble Lord, Lord Sheikh, spoke eloquently identifying the importance of the industry to the UK.

The noble Lord, Lord Carrington of Fulham, described this as a modest little Bill. It is certainly a little Bill—and doubtless it has a becoming modesty—but it is a very useful Bill. He spoke to the question of its clarity. Unlike many Bills that seek to produce clarity, this Bill actually does. Again, that is to be commended.

Turning to the proposed duty of fair representation, I agree that a shift from a remedy confined to avoiding the contract, in the event of a breach of the duty of disclosure, is welcome. The experience of losing insurance cover as a result of a failure in disclosure, which may be wholly unconnected with the loss claimed, has often seemed unnecessarily harsh—or, to put it another way, to have worked disproportionately in favour of insurers. The widespread welcome for these reforms

[Lord Davidson of Glen Clova]
by both insurers and insured demonstrates perhaps that such a change is overdue. The Law Commission correctly identified that the "all or nothing" nature of the consequences of a breach of the disclosure duty actively promotes adversarial disputes, whereas the new proposal should encourage more rational resolution of claims.

One notes that contracting out of these provisions remains possible. Of course, one recognises that as being consonant with freedom of contract. The Law Commission identifies the possible use of "boilerplate clauses" to contract out of the consequences of this reform. The Bill's use of transparency requirements, however, at Clause 16, should either discourage or make expressly clear where any such contracting out obtains, and that is a useful addition. It would be interesting to know whether the Government are proposing to monitor and test the efficacy of Clause 16 to make sure that it works and to avoid relentless contracting out simply by way of forms. Plainly, the widespread use of contracting out, were it to occur, would undermine much of the benefit of this reform.

The restriction of conversion of representations into warranties in non-consumer contracts and the abolition of avoiding contracts for breach of utmost good faith per se are also welcome changes. The application of the old law regarding "basis of contract" warranties—what in Scotland we still call "uberrimae fidei"—has sometimes left the insured with the sense that they have been cheated out of what they took to be their entitlement. Would it be prudent for some monitoring of contracting out regarding these provisions also to be undertaken?

Turning to fraudulent claims, I think that the greater clarity that the clauses concerning fraudulent claims provide is a useful addition to the armoury against the pernicious but not especially visible area of crime that is insurance fraud. Again, the noble Lord, Lord Sheikh, identified eloquently how this problem requires to be tackled. Fraud by a member of a group insurance scheme has raised a number of jurisprudential difficulties and paradoxes which the Bill seeks to remove—a plainly welcome development.

The statutorily stated exclusion of liability to pay fraudulent claims should have the positive effect of discouraging the notion that deliberately exaggerating an insurance claim is somehow fair game. Expressly identifying the point at which the insurer may treat the contract as terminated should further improve clarity. The past uncertainty of legal advice in this area—I declare an interest as being a member of the Bar, and doubtless some of my advice may not always have been pellucid—has not served either insured or insurers particularly well. On the other hand, the decision not to define "fraud" itself in the Bill is wise reticence where facts and circumstances are so variable and where new means of committing fraud tend to emerge often unforeseen, especially given the various technological developments that we are heir to.

In relation to the amendment to the 2010 Act, I have nothing further to add.

Before concluding, I observe that it is perhaps unfortunate that the Bill could not have found a way to cover the issue of late payment by insurers—I depart from the position adopted by the noble Lord, Lord Sheikh, in this regard. This is not simply a dispute on the grounds of ideology. A remedy for the insured whose businesses have been severely disadvantaged by late payment of a claim is available in Scotland, and that has been the case for many years. It is unfortunate that the remedy cannot yet be extended to the rest of the UK, and the noble Lord, Lord Sheikh, might, in his leisure time, like to examine some of the Scots law in this fascinating area.

However, from this side we welcome the Bill and are pleased to see the latest efforts of the Law Commission and the Scottish Law Commission regarding insurance being rendered into statute relatively speedily.

3.58 pm

Lord Newby: My Lords, I thank all noble Lords who have spoken in this debate. I think that they all stressed the importance of greater clarity in the areas covered by the Bill, and indeed they felt that the Bill achieves that clarity. Certainly, as a non-expert, I was able to get quite a long way into the Bill before I felt that I was losing my way, and that is a good way of testing how clear it is going to be. I thought that it was very clearly drafted in an area where there is plainly a lack of clarity at the moment.

I loved the description of the Bill given by the noble Lord, Lord Carrington, as being stuffed with useful things. Possibly that should be incorporated into the mission statement of the Law Commission—to stuff all their Bills with useful things. It is a delightful concept.

The noble Lord, Lord Sheikh, reminded us of the history of the sector and its current success, which is considerable, particularly in the UK. He pointed out that one of the consequences of the Bill, once passed, will be to reduce insurance litigation. That is clearly a most welcome prospect, given the very high levels of litigation that currently take place because of the ambiguities and problems that the Bill seeks to deal with. I was also grateful to the noble Lord for explaining from a practitioner's point of view how specific provisions in the Bill will help to reduce current difficulties and make the sector and the UK market more competitive.

The noble Lord, Lord Sheikh, and the noble and learned Lord, Lord Davidson of Glen Clova, discussed a provision that is not in the Bill which relates to late payment. Originally, there was a draft clause in the Bill, but it did not receive consensual support across the market as a whole and the Government decided to remove it at this point. However, that was not because the Government and the Law Commission think that we should drop it as an area. Attempts continue to be made to reach a degree of agreement on this because it is a difficult area. If we can get a resolution of it quite quickly with drafting that would satisfy the noble Lord, Lord Sheikh, while meeting the basic requirements of a late payment provision, we think it would be worth doing. Efforts are ongoing. We hope that we might yet be able to bring that to a consensual point, which will enable us to legislate on it.

The noble and learned Lord, Lord Davidson, also asked about monitoring the efficacy of Clause 16 and pointed to the danger of widespread contracting out.

At the moment, we do not see any pent-up demand for widespread contracting out, but the Government have committed to conduct a post-implementation review of the Bill after five years. We need a bit of time to see whether people in the market think that there is an advantage to contracting out. At the moment, we do not feel that there is a great danger in that area, but we will be watching it and will have a formal review after five years.

I hope that I have dealt with the specific questions raised by noble Lords. I am extremely grateful for the support they have shown so far, and I look forward to joining at least some of them in the Committee on the Bill.

Motion agreed.

Committee adjourned at 4.02 pm.

Written Statements

Tuesday 29 July 2014

House of Lords: Tabling Questions for Written Answer

Statement

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): It has been agreed through the usual channels that the three dates for tabling Questions for Written Answer during the Summer Recess this year will be Monday 1 September, Monday 8 September and Monday 6 October.

Answers to Written Questions will be made available online once a week and an edition of Hansard will be published on 29 September in which Answers received by that time will be published together with Written Ministerial Statements.

Military Medals

Statement

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): The Prime Minister appointed Sir John Holmes in April 2012 to conduct an independent review of the policy governing the award of military medals. He issued his report in July 2012, which concluded that the existing guiding principles were reasonably based but that there should be greater readiness to review past decisions. Sir John was therefore commissioned to review independently a number of cases which had been brought to his attention as possible candidates for changed medallic recognition. The aim was to draw a definitive line under issues which in some cases had been controversial for many years, ensuring that consistency and fairness were respected as far as possible, in a context where the judgments are often difficult, but need to be clear and defensible.

This substantial and complex piece of work is now complete. Each of the reviews has been subject to detailed discussion by the Committee on the Grant of Honours, Decorations and Medals and its conclusions submitted for Royal approval. All will be placed in the Libraries of both Houses.

The outcomes where detailed reviews were carried out are listed in the Annexe to this statement. Where medallic recognition has been agreed, the Ministry of Defence will issue guidance on how individual claims may be submitted.

Sir John also reviewed the case for a National Defence Medal. An options paper produced by the Cabinet Office will also be placed in the Libraries of both Houses. The Committee on the Grant of Honours, Decorations and Medals is not persuaded that a strong enough case can be made at this time, but has advised that this issue might usefully be reconsidered in the future. In such circumstances, the criteria for the award of a medal would need careful consideration, including length of service, good conduct and the possibility of retrospection. In the meantime, Ministers have agreed that the eligibility requirements for the Long Service and Good Conduct Medal, which is currently awarded only to other ranks and not to officers, should be harmonised for the future.

Taxation: Childcare

Statement

The Commercial Secretary to the Treasury (Lord Deighton) (Con): The Government has today published *'Tax-Free Childcare: the government's response to the consultation on childcare account provision'* – a response to the further consultation on the delivery of childcare accounts within the Tax-Free Childcare scheme. The document is available at www.gov.uk/government/consultations/tax-free-childcare-consultation-on-childcare-account-provision, and copies have been deposited in the Libraries of both Houses.

The government has carefully considered the responses to this consultation alongside the responses to the previous consultation, and the evidence on all of the options. The government's decision is that National Savings and Investment (NS&I) will be the scheme's account provider, working in partnership with Her Majesty's Revenue and Customs (HMRC).

As announced in the March 2014 document "*Delivering Tax-Free Childcare: the government's response to the consultation on design and operation*", the government is committed to introducing Tax-Free Childcare in autumn 2015 and the scheme will be rolled out to all families with children under the age of 12 within the first year.

The Tax-Free Childcare scheme was announced at Budget 2013, and will be available to up to 1.9 million working families, providing 20% support for childcare costs up to £10,000 per year for each child. As such, it will be worth up to £2,000 per child per year.

Parents will qualify for the scheme if all parents in a household are in work, with income less than £150,000 a year, and are not already receiving support through tax credits or Universal Credit.

Written Answers

Tuesday 29 July 2014

Administration of Justice: Scotland

Question

Asked by ***Lord MacKenzie of Culkein***

To ask Her Majesty's Government what consideration they have given to the transfer of suspects and convicted criminals to and from an independent Scotland, whether or not it remains a member of the European Union. [HL1098]

The Minister of State, Ministry of Justice (Lord Faulks) (Con): Both the UK Government and Scottish Government have said that there can be no "pre-negotiations" on independence in advance of the referendum. The question of how the transfer of prisoners to and from the Scottish prison estate and other parts of the United Kingdom would be affected by Scottish independence cannot be answered now because it would depend on multiple negotiations that could only take place if people in Scotland vote to leave the UK in September's referendum.

Air Force: Military Bases

Question

Asked by ***Lord West of Spithead***

To ask Her Majesty's Government, further to the Written Answer by Lord Astor of Hever on 6 May (WA 319), how many non-operational airfields not capable of supporting fixed-wing military aircraft are owned by the Royal Air Force. [HL1322]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever): It is the MOD rather than the single services who own airfields. The RAF does not use any non-operational airfields, which are not capable of supporting military fixed wing aircraft. For the purposes of answering this question, volunteer gliders have been included as fixed military wing aircraft.

Armoured Fighting Vehicles

Question

Asked by ***Lord Moonie***

To ask Her Majesty's Government why they have not named the contractor awarded the contract for the Warrior Capability Sustainment Programme in April; and whether they will now do so. [HL1198]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): The Ministry of Defence (MOD) awarded the Warrior Capability Sustainment Programme Converted Vehicle Part 2 Safety and Environmental Case contract to BAE Systems Global Combat Systems Limited in April 2014. A notice was published on 17 January 2014 through the Defence Contracts Online facility, that confirmed the MOD's intent and rationale in placing a single sourced contract with the company. Due to a processing error the name of the contractor was omitted from the contract award notice. However, the MOD has since rectified this and the contractor's name was issued for publishing to Defence Contracts Online on 17 July 2014.

Burma

Question

Asked by ***Baroness Kinnock of Holyhead***

To ask Her Majesty's Government when details of the training course provided by the United Kingdom to the Burmese army will be released to Burma Campaign UK following Burma Campaign UK's successful appeal under the Freedom of Information Act 2000 to obtain such information. [HL1229]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): The information requested was released on 22 May 2014 within the statutory 20 working day timescale prescribed for information requests under the Freedom of Information Act. It has not been subject to an appeal.

Cabinet: Aberdeen

Question

Asked by ***Baroness Seccombe***

To ask Her Majesty's Government what is the estimated cost to the Exchequer of holding the Cabinet meeting in Aberdeen on 24 February. [HL1361]

Lord Wallace of Saltaire (LD): The central cost of holding Cabinet in Aberdeen was £1,800. This is a considerable reduction from the cost of regional Cabinet meetings under the previous Administration, which were reported through Parliamentary Questions to have cost between £50,000 and £100,000.

As was the case under previous Administrations, Departments and agencies may also have incurred costs in terms of travel, staff time and other support. The cost of police security is a matter for the relevant police force.

Capita

Question

Asked by ***Lord West of Spithead***

To ask Her Majesty's Government, further to the Written Answer by Lord Astor of Hever on 6 May (WA 367–8), what specific figures they have for (1) savings, and (2) asset realisations, delivered by Capita. [HL1321]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): The Ministry of Defence (MOD) obtains best value for money in its contracts by maximising competition. Not all contracts

have specific figures relating to savings because of the nature of the requirement. This is the case for most contracts between the MOD and Capita.

However, Capita is currently working in partnership with the Armed Forces to deliver the Recruiting Partnering Project. This contract is expected to deliver savings of around £254 million over 10 years. This contract also identified £3.5 million in asset sale realisation in 2012-13.

In June 2014, the Defence Infrastructure Organisation awarded a contract for its strategic business partner to Capita, working with URS and PA Consulting. The 10-year contract, worth around £400 million, will help transform the facilities and services that allow our armed forces to live, work, train and deploy on operations. It also has the potential to deliver substantial savings for the taxpayer, which could reach over £300 million a year during the contract.

The MOD uses a Cabinet Office Crown Commercial Services Framework Agreement with Capita for the provision of temporary manpower resource. However, as this framework was only let in November 2013, savings figures for MOD overall are not yet known.

CCTV

Questions

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government whether, in the light of changes proposed in the Deregulation Bill, local authorities will be allowed to use CCTV cameras to enforce rules regarding the use of bus lanes. [HL1162]

Lord Wallace of Saltaire (LD): The Government is proposing to ban the use of CCTV for parking enforcement, subject to a very small number of exceptions that emerged following the public consultation, including parking in bus lanes. The proposals do not affect any moving traffic offences. Therefore local authorities will still be able to use CCTV to enforce against either parking or driving in bus lanes.

A copy of the Government's response to the consultation is in the Library of the House.

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government whether, in the light of changes proposed in the Deregulation Bill, there will be a grace period for drivers whose parked cars cause obstructions in bus lanes or at yellow box junctions. [HL1163]

Lord Wallace of Saltaire: In December, the Government's consultation on parking asked for comments on the scope for introducing new grace periods for parking, including what areas it should apply to. In the Government's response to the consultation, we announced we will introduce a mandatory 10 minute free period (a) at the end of paid-for on-street parking, (b) at the end of free on-street parking, and DCLG will also lead work to extend the same grace period to local authority off-street parking. I have placed in the Library a copy of the Government's response to the consultation. We have not announced any grace periods for bus lanes or yellow box junctions.

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government whether, in the light of changes proposed in the Deregulation Bill, police forces will be able to use for existing purposes CCTV cameras that they control.[HL1164]

To ask Her Majesty's Government whether, in the light of changes proposed in the Deregulation Bill, shops and garages will be able to use CCTV cameras to combat theft. [HL1165]

Lord Wallace of Saltaire: The Government's proposals relate to the use of CCTV by local authorities to issue parking fines. They do not relate to or limit the use of CCTV by police forces or others to tackle crime. Indeed, Ministers believe that public confidence in CCTV is strengthened if it is used to catch criminals not make money.

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government whether, in the light of changes proposed in the Deregulation Bill, hospitals, schools and colleges will be able to request local authorities to enforce parking restrictions. [HL1166]

Lord Wallace of Saltaire: Local authorities will continue to be responsible for parking enforcement on public highways, therefore hospitals, schools and colleges can continue to request local authorities to enforce parking restrictions on public highways. I have placed in the Library a copy of the Government's response to the consultation, which outlines in detail what the Government is proposing.

Central African Republic

Questions

Asked by ***Baroness Kinnock of Holyhead***

To ask Her Majesty's Government what assessment they have made of the reports of security incidents affecting aid workers and aid operations in the Central African Republic. [HL1231]

Baroness Northover (LD): Conditions in CAR are extremely challenging for communities affected and for humanitarian workers. The Office for Coordination of Humanitarian Affairs (OCHA) has reported over 770 security incidents throughout CAR since January 2014. 67 of these incidents have affected humanitarian personnel. DFID is working with agencies which have appropriate systems and a level of community acceptance to enable them to access some of the most vulnerable populations in CAR. In 2014 DFID has funded the ICRC, UN agencies and international NGOs to support communities who have suffered from the violence.

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government what steps they are taking to promote humanitarian access and improve ambient security in the Central African Republic. [HL1245]

Baroness Northover: Security is the overriding factor in enabling humanitarian access and the UK is playing a strong role as part of the international community's response. We provided early support to the deployment of the African Union mission (MISCA), as well as to the EU security mission (EUFOR) and co-sponsored the UN Security Council Resolution that authorised a UN Peacekeeping Operation (PKO) which will deploy in September.

Child Abuse in Cleveland Judicial Inquiry

Question

Asked by ***Lord Watson of Invergowrie***

To ask Her Majesty's Government whether a Government response was prepared following the submission by the Northern Regional Health Authority of its report *Action Taken Following the Judicial Inquiry into Child Abuse* in Cleveland in 1988; and, if so, what that response contained. [HL1219]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): The information requested is not available. Retention of such records as were held by the Department would have expired. We are continuing to research records in order to cooperate fully with the Review of the Home Office investigations announced on 7 July 2014, and with the Inquiry Panel into child sexual abuse.

Copyright

Question

Asked by ***Lord Clement-Jones***

To ask Her Majesty's Government, in the light of the recommendations of the report by the Prime Minister's intellectual property adviser, Mike Weatherley MP, what consideration is being given to the measures necessary to provide statutory underpinning of industry-wide codes and initiatives to tackle the funding of copyright infringement by advertisers and financial providers. [HL1296]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Baroness Neville-Rolfe) (Con): Government welcomes the work undertaken by Mike Weatherley MP in highlighting a "follow the money" approach to assist in the battle against online Intellectual Property crime.

There is collective agreement across government, industry and law enforcement that influencing intermediaries is an effective approach. Initiatives such as the Infringing Website List online portal and the Intellectual Property Office supported WhiteBullet Intellectual Property Infringement Index are at the early stages of implementation and offer flexibility that would not be achievable under a statutory approach.

Defence: Procurement

Question

Asked by ***Lord Moonie***

To ask Her Majesty's Government how many companies have signed up to the Framework Agreement for Technical Support since 2010; and at what cost. [HL1199]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): 392 companies have signed up to the Framework Agreement for Technical Support (FATS) since 2010. There is no direct cost to companies for joining FATS, but they would have incurred individual tendering costs as part of the bidding process.

Dementia

Question

Asked by ***Baroness Finlay of Llandaff***

To ask Her Majesty's Government whether they will seek to issue commissioning guidance to improve links between neurological and dementia services with a view to enabling Parkinson's dementia to be diagnosed at the earliest opportunity. [HL1299]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): Clinical commissioning groups are responsible for commissioning services for people in their area and are responsible for ensuring that people with dementia get the care and support they need.

The dementia enhanced service (DES) requires practices who take up the DES to offer a dementia assessment for patients on the GP register who are "at risk" of developing dementia including people with long-term neurological conditions which have a known neurodegenerative element e.g. Parkinson's disease.

Developing Countries: Abortion

Question

Asked by ***Lord Lester of Herne Hill***

To ask Her Majesty's Government what steps they will take to ensure that the implementation of the European Commission's policy on humanitarian aid for medical treatment for service women and civilian girls raped in armed conflict or forced into pregnancy provides effective access to safe abortions where national law forbids such treatment. [HL1190]

Baroness Northover (LD): The UK is in regular dialogue with other EU bilateral donors and the European Commission to protect and promote women's and girls' access to comprehensive sexual and reproductive health services. This includes safe abortion services in line with our policy on safe and unsafe abortion.

Devolution

Question

Asked by ***Lord Mawhinney***

To ask Her Majesty's Government, further to the answer by Baroness Randerson on 16 July (HL Deb, col 588), under what circumstances the Sewel Convention would be set aside in order for the national interest to prevail. [HL1285]

The Parliamentary Under-Secretary of State, Wales Office (Baroness Randerson) (LD): Under the Sewel Convention, Parliament would not normally legislate with regard to devolved matters except with the agreement of the devolved legislature. This is an important element of the understandings by which devolution operates across the UK, and we would be reluctant to depart from it in anything other than exceptional circumstances.

Disability Aids

Questions

Asked by ***Lord Hunt of Kings Heath***

To ask Her Majesty's Government what measures they are taking to ensure that there is equality of access to disability assistive technology systems in different parts of the country. [HL1301]

To ask Her Majesty's Government what measures are they taking to ensure that people with disabilities are receiving the best assistive technology for their needs and requirements. [HL1305]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): NHS England is responsible for the oversight of commissioning of Assistive Technology by the National Health Service.

NHS England advises that it is committed to improving and assuring the continued development of assistive technology through the publication and monitoring against national service specifications. It recognises the potential of assistive technologies to improve health outcomes, empower patients to self-manage their conditions, and provide care that is convenient, accessible and cost-effective. The Technology Enabled Care Services (TECS) programme at NHS England aims to improve the lives of people with long-term conditions through the use of technologies such as telehealth, telecare, telemonitoring, telecoaching and self-care apps. The ambition is to create the right commissioning environment that supports and encourages the innovative use of technology to improve health outcomes and deliver more cost effective services.

NHS England has also identified an additional £22.5 million funding for Augmentative and Alternative Communication and Environmental Controls in 2014-15. It is currently engaged with clinicians and service providers to ensure equitable and timely access to these services for the population of England.

EU Justice and Home Affairs

Question

Asked by ***Lord Browne of Belmont***

To ask Her Majesty's Government whether they intend to oppose any further moves towards the integration of justice and home affairs within the European Union; and in particular, whether they intend to opt in to the European Arrest Warrant. [HL1100]

The Parliamentary Under-Secretary of State, Home Office (Lord Taylor of Holbeach) (Con): This Government will approach forthcoming EU legislation in the area of justice and home affairs on a case-by-case basis, with a view to maximising our country's security, protecting Britain's civil liberties and preserving the integrity of our criminal justice system.

On the specific issue of the European Arrest Warrant, the Government set out its position during debates in the House of Commons on 10 July 2014, Official Report, column 485 as well as in the House of Lords on 8 May 2014, Official Report, column 1585. The House of Lords had the opportunity to discuss the measure further during the debate in that House on 17 July 2014.

The Government intends to seek to rejoin this measure in the national interest.

European Fighter Aircraft

Question

Asked by ***Lord West of Spithead***

To ask Her Majesty's Government what assessment they have made of the causes of the shortage of fully qualified Typhoon pilots, and in particular of the impact of redundancy programmes. [HL1167]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): There is no shortage of qualified Typhoon pilots in the Royal Air Force.

Falkland Islands Review

Question

Asked by ***Lord Tebbit***

To ask Her Majesty's Government, further to the comment by Lord Wallace of Saltaire on 1 July (HL Deb, col. 1709), whether they consider the Franks inquiry into the Falklands War to have been thorough and vigorous. [HL1347]

Lord Wallace of Saltaire (LD): As I stated on 16 July (HL col. WA127), the Franks Report was an important inquiry for the public record, establishing events and learning lessons.

Fracking

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government, further to the Written Answer by Baroness Warsi on 7 July (WA 8), why they have not sought evidence from NATO regarding claims that Russia is funding non-governmental organisations opposed to fracking in the United Kingdom; and whether they will now do so. [HL1141]

Lord Wallace of Saltaire (LD): I would like to clarify for the noble Lord, the North Atlantic Treaty Organisation (NATO) Secretary General has not claimed to possess evidence that Russia is funding non-governmental organisations opposed to fracking in the UK or elsewhere.

The Secretary General is reported to have said during a speech at Chatham House that it was his belief, following discussions with Allies, that "Russia, as part of their sophisticated information and disinformation operations, engages actively with so-called non-governmental organisations, environmental organisations working against shale gas – obviously to maintain European dependence on imported Russian gas. That is my interpretation."

The UK works closely with NATO and Allies to refute misinformation disseminated by Russia.

Gastrointestinal Cancer

Questions

Asked by ***Lord Hunt of Kings Heath***

To ask Her Majesty's Government what is their assessment of the current National Health Service ability to meet the needs of paediatric, adolescent, wild-type and syndromic gastrointestinal stromal tumour cancer patients. [HL1367]

To ask Her Majesty's Government whether they will develop a National Service Framework for paediatric, adolescent, wild-type and syndromic gastrointestinal stromal tumour cancer patients. [HL1368]

To ask Her Majesty's Government what information is made available to patients about paediatric, adolescent, wild-type and syndromic gastrointestinal stromal tumours. [HL1369]

To ask Her Majesty's Government what their assessment is of the treatment available for paediatric, adolescent, wild-type and syndromic gastrointestinal stromal tumour cancer patients. [HL1371]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): This Government wants England to lead the world in tackling cancer and ensure the National Health Service is able to meet the needs of all cancer patients. That is why our 2011 Cancer Outcomes Strategy set the ambition to save a further 5,000 lives a year from cancer by 2014-15. The Strategy is backed with more than £750 million over the four year Spending Review period (2011-12 to 2014-15).

A number of treatments have been recommended by the National Institute for Health and Care Excellence (NICE) for the treatment of gastrointestinal stromal tumour (GIST) including the paediatric, adolescent, wild-type and syndromic (PAWS) sub-variants.

NHS commissioners are legally required to fund treatments recommended by NICE in its technology appraisal guidance. NICE regularly reviews its guidance to take into account new evidence.

Treatment for PAWS GIST is commissioned through NHS England's Specialised Services. Treatment for individuals is managed through multi-disciplinary teams. GIST Support UK have in partnership with Addenbrookes Hospital in Cambridge, established a PAWS-GIST clinic that is led by Dr Bulusu working with a United Kingdom national alliance of doctors. NHS England, through its Children's Cancer and Sarcoma Clinical Reference Groups, is monitoring the clinic as it develops and progresses.

We know how important it is for patients to receive the information they need and a range of initiatives have been used in the NHS, such as information prescriptions, advanced communications training and support for clinical nurse specialists.

NICE guidance on improving outcomes in children and young people with cancer also emphasises the importance of providing patients, families and carers with the information they need.

NHS England has no plans to develop a National Service Framework for paediatric, adolescent, wild-type and syndromic gastrointestinal stromal tumour.

Health and Wellbeing Boards

Question

Asked by ***Lord Grocott***

To ask Her Majesty's Government, further to the answer by Earl Howe on 9 July (HL Deb, col 216), how many managerial and clerical staff were appointed to each of the Health and Wellbeing Boards established by the Health and Social Care Act 2012. [HL1473]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): The information requested is not collected centrally.

Health Services

Questions

Asked by ***Baroness Masham of Ilton***

To ask Her Majesty's Government what steps they are taking to promote the use of out-of-hospital urgent care providers to the National Health Service and patients. [HL1402]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): Information on the various urgent and emergency care services that operate in England is available on the NHS Choices website to help patients and the public make good choices about what type of facility may best suit their needs. This is supported by a "Find Urgent Care services" portal which allows users to enter a postcode and obtain directions to their nearest facility.

More broadly, NHS England is currently conducting a review into urgent and emergency care services in England. The Urgent and Emergency Care Review aims to reduce pressure on accident and emergency (A&E) by delivering a system that enables more patients to be treated outside of hospital.

The end of first stage Report on the Review, published in November 2013, recognised the need to deliver highly responsive urgent care services outside of hospital so people no longer choose to queue in A&E. The Review further recognised that there are a range of urgent care services currently open including 'walk-in centres', 'minor injury units', 'urgent care centres' and other similarly named facilities that all offer slightly different services, at slightly different times, in different places.

In response to this, the Review proposed to support the co-location of community-based urgent care services in coordinated urgent care centres. These will be locally specified to meet local need, but should consistently use the "urgent care centre" name, to replace the multitude of terms that are available at present. Urgent care centres may provide access to walk-in minor illness and minor injury services, and will be part of the wider community primary care service including out-of-hours general practitioner services.

Since November last year, the Review team at NHS England has been working collaboratively with a wide range of stakeholders from across the system to work out the practicalities for delivering this change, to ensure that all urgent care centres are able to provide access to a broad range of physical and mental illness and injury care, for both adults and children. Final decisions on how urgent care centres might be organised will rest with local health economies, but a more consistent offer from such facilities will be advantageous in promoting them as an alternative to hospital based urgent care.

NHS England will update on progress with the Review later this year.

Asked by ***Baroness Masham of Ilton***

To ask Her Majesty's Government what assessment they have made of the impacts on costs and patient outcomes of the use of out-of-hospital urgent care providers. [HL1403]

Earl Howe: NHS England is currently conducting a review into urgent and emergency care in England. The Review, led by Professor Sir Bruce Keogh, aims to help build an improved, safer and more sustainable system for the future.

The end of first stage Report on the Review, published in November 2013, set out NHS England's vision for the future delivery of urgent and emergency care, but recognised that this vision will take three to five years to implement the transformational change proposed.

Since November last year, the Review team at NHS England has been working collaboratively with a wide range of stakeholders from across the system to work out the practicalities for delivering the transformational change required. Work on the cost implications and benefits in terms of patient outcomes, for all aspects of the Review (not just in relation to out-of-hospital urgent care), is ongoing.

NHS England will update on progress with the Review later this year.

Health Services: Disability

Question

Asked by ***Lord Hunt of Kings Heath***

To ask Her Majesty's Government what assessment they have made of current measures and the compliance of the National Health Service in ensuring that all official paperwork and all types of communication are adapted appropriately for people with sensory disabilities. [HL1366]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): The Department has not made any such assessment.

NHS England is committed to the development and implementation of a new information standard for accessible information and communication.

ISB 1605 Accessible Information aims to establish a consistent, standardised framework and approach to the identification and recording of the information and communication needs of patients, service users, carers and parents, where they relate to a disability, impairment or sensory loss; establish "flags", alerts, prompts and other mechanisms to ensure that such needs are highly visible to appropriate staff; and set out clear expectations as to how such needs should be met, supported or addressed.

Final approval of the standard is scheduled for spring 2016. Following the announcement, organisations are currently anticipated to have 12 months to achieve full compliance.

HMS "Victory"

Question

Asked by ***Lord Renfrew of Kaimsthorn***

To ask Her Majesty's Government, further to the answer by Viscount Younger of Leckie on 28 November 2012 (HL Deb, col GC 124) and the Written Answer by Lord Astor of Hever on 20 May 2013 (WA 26), when they expect to announce a decision on the future of HMS Victory (1744); and when they expect to publish the key management principles formulated by the Advisory Group for HMS Victory. [HL1415]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): Ministers and Officials from the Ministry of Defence (MOD) and the Department for Culture Media and Sport (DCMS), drawing on advice from the independent Advisory Group, continue to engage with the Maritime Heritage Foundation over the future management of the wreck site of HMS VICTORY (1744). The Project Plan must be consistent with the UNESCO Convention on the Protection of Underwater Cultural Heritage and its associated Annex.

Considerable progress has been made over the last two years but no date has been set for an announcement.

The DCMS and the MOD have published guidance, including Key Management Principles, on the Protection and Management of Historic Military Wrecks outside UK Territorial Waters, this can be found at the following link:

https://www.gov.uk/government/publications/protection-and-management-of-historic-military-wrecks-outside-uk-territorial-waters

More information specific to HMS VICTORY (1744) will be published once the way ahead is determined.

Housing Benefit: Social Rented Housing

Question

Asked by ***Lord German***

To ask Her Majesty's Government, in the light of their recent *Evaluation of Removal of the Spare Room Subsidy: Interim Report*, what incentives they intend to make available to social landlords to encourage offers of alternative housing to be made to people affected by the removal of the spare room subsidy. [HL1492]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): The Government has already taken steps to support mobility of tenants in the social rented sector.

Our social housing reforms have given social landlords, including councils, much more flexibility when allocating housing. Our statutory guidance on social housing allocations stresses the importance of giving under-occupying social tenants appropriate priority for a transfer. It also encourages authorities to re-consider the parameters of their allocation schemes which may prevent under-occupiers from being able to move.

The introduction of the national HomeSwap Direct scheme has made it easier for tenants wanting to move to find a suitable property. A guide was issued in February 2014 to support landlords seeking to facilitate mutual exchanges; highlighting various steps landlords can take to make mutual exchange a more attractive and viable proposition for tenants. Indeed, many social landlords are helping affected tenants by holding "mutual exchange fairs", where tenants who want to downsize can meet those looking for larger properties.

The 2015-18 Affordable Housing Programme also encourages housing providers to build appropriately sized social homes to meet local need, 77% of successful bids have been for 1 and 2 bedroom homes, increasing the stock of housing available for those working to downsize.

Human Papillomavirus

Question

Asked by ***Lord Hunt of Kings Heath***

To ask Her Majesty's Government what information is in place to inform girls of the human papilloma virus vaccine and its risks. [HL1118]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): A wide range of information about human papillomavirus (HPV) immunisation is available. This includes leaflets, vaccination record cards, information on the NHS Choices website, and more detailed clinical guidance to health professionals who are able to advise girls on both the benefits and risks of HPV immunisation. The potential side effects of HPV vaccine are also described in the product information (the Summary of Product Characteristics for healthcare professionals and the Patient Information Leaflet which is included in the pack of each dose of vaccine).

HPV immunisation has a very good safety record, and plays a significant role in reducing the risks of girls contracting cervical cancer as they grow older.

Jobseeker's Allowance Sanctions Independent Review

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government what their evaluation is of the report by Matthew Oakley, commissioned by the Department for Work and Pensions, on the imposition of benefits sanctions. [HL1381]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): The Government welcomes and accepts all of Matthew Oakley's recommendations.

As Matthew himself confirmed, sanctions play an important role in the system. We have already started to make improvements as part of our continuous review of sanctions policy and will continue to build on these through Matthew's recommendations.

Joint Strike Fighter Aircraft

Questions

Asked by ***Lord Moonie***

To ask Her Majesty's Government how many United Kingdom pilots have flown in F-35B planes to date; in how many sorties; and for how many aggregate flying hours. [HL1201]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): Six serving Royal Navy and Royal Air Force pilots have flown some 497 hours on F-35B aircraft. In addition, one retired Royal Air Force pilot and three BAE Systems pilots have flown the F-35B. However, the Ministry of Defence does not hold details of their flying hours.

Asked by ***Lord Moonie***

To ask Her Majesty's Government how many United Kingdom pilots have flown in F-35B full flight simulators situated in the United Kingdom; on how many occasions; and for how many aggregate hours. [HL1202]

Lord Astor of Hever: There are currently no full F-35B simulators in the United Kingdom.

Asked by ***Lord Moonie***

To ask Her Majesty's Government what estimates they have made of the savings in development costs for the integration of F-35B aircraft flight operations into the Queen Elizabeth class aircraft carriers as a result of the use of simulators. [HL1224]

Lord Astor of Hever: There are no specific figures available which estimate the savings in development costs due to the use of simulators. This lack of data is because the development programme was planned from the outset to include the use of synthetics. Consequently, all flight test activity will have been estimated on the basis of the Programme having successfully completed a phase of concept demonstrations and risk reduction using simulators.

Asked by ***Lord Moonie***

To ask Her Majesty's Government what estimates they have made of the improved capabilities of the F-35B fling from Queen Elizabeth class aircraft carriers as a result of modifications evaluated by the use of simulators. [HL1225]

Lord Astor of Hever: Simulators are being used to better inform our understanding of the F35's operational capability in all contexts, including carrier-based operations. I am withholding further information as its disclosure would, or would be likely to prejudice the capability, effectiveness or security of the Armed Forces.

Asked by ***Lord West of Spithead***

To ask Her Majesty's Government, further to the Written Answer by Lord Astor of Hever on 30 July 2013 (WA 263–4), how many F-35B aircraft the United Kingdom has purchased, and whether any more will be purchased before the next Strategic Defence and Security Review in 2015. [HL1319]

Lord Astor of Hever: The UK has placed orders for four F-35B aircraft and, to date, has taken delivery of three of these. The F-35 programme has been established as an incremental acquisition programme, with production contracts being let initially on an annual basis. As such, there is the potential for contracts to be let for UK aircraft in Low Rate Initial Production (LRIP) Lot 8 (2014) and LRIP 9 (2015), before the next Strategic Defence and Security Review in 2015.

Asked by ***Lord West of Spithead***

To ask Her Majesty's Government whether a decision has been made as to how many F-35B aircraft will be allocated to the Operational Conversion Unit, and what are the estimated costs of setting up and running the Operational Conversion Unit. [HL1320]

Lord Astor of Hever: The numbers of F-35B aircraft within the Operational Conversion Unit will vary over time, dependent on the operational output required for the UK Lightning II force.

An estimate of costs associated with establishing and sustaining an Operational Conversion Unit for the F-35B has been made. The Department does not publish cost estimates as to do so would prejudice its commercial interests.

Landslips

Question

Asked by ***Lord Bassam of Brighton***

To ask Her Majesty's Government whether they are supporting, or plan to support, work to repair damage caused by landslips and coastal erosion in the South-East. [HL1149]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord De Mauley) (Con): The Government announced a support package totalling over £560 million to overcome the immediate and longer-term recovery issues faced by local authorities, communities, individuals and businesses following the severe weather of winter 2013/14. Coast protection authorities in the South-East are responsible for the management and recovery of coastal land slips under the Coast Protection Act 1949.

Learning Disability: Nurses

Question

Asked by ***Lord Wigley***

To ask Her Majesty's Government how many learning disability nurses have been trained in the United Kingdom in each of the last five years. [HL1258]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): The following table shows the number of new learning disability nurse training places that were filled in the last five years in England. The department in England does not collect this information for the rest of the United Kingdom.

The table includes the students enrolled on both the degree and diploma courses.

	2009-10	*2010-11*	*2011-12*	*2012-13*	*2013-14*
Learning disability nurse trainees	723	642	574	618	603

Source:
Multi-professional education and training budget monitoring returns.

Lyme Disease

Question

Asked by ***The Countess of Mar***

To ask Her Majesty's Government, further to the Written Answer by Earl Howe on 25 June 2012 (WA 21-2), whether they consider that the use of the CE-marked Trinity Biotech EU Lyme western blot test, when used with cerebrospinal fluid, would constitute "use of an in-house test" as defined by the Medical and Healthcare Products Regulatory Agency guidance. [HL1358]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): Use of a sample type not indicated by the manufacturer would be considered to be off label use of the device. This off label use is not regulated by the Medicines and Healthcare products Regulatory Agency and would be the responsibility of the laboratory.

McKinsey and Company

Question

Asked by ***Lord Moonie***

To ask Her Majesty's Government which departments currently have contracts with McKinsey and Company. [HL1332]

Lord Wallace of Saltaire (LD): Since January 2011, as part of the Government's transparency programme, details of contracts above the value of £10,000 are published on Contracts Finder:

https://www.gov.uk/contracts-finder

Mesothelioma

Question

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government what is their current estimate of the total number of fatalities from mesothelioma expected in the next 30 years. [HL1501]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): Based on the latest data available the Health and Safety Executive estimate that there will be around 58,000 mesothelioma deaths in Great Britain over the 30-year period 2013-2042.

The statistical model used suggests an uncertainty range of 53,000 to 64,000 deaths on that estimate. However, the true uncertainty range may be wider as longer-range predictions are reliant on assumptions about asbestos exposures that cannot currently be fully validated.

The annual number of mesothelioma deaths in Great Britain is projected to peak towards the end of this current decade.

Military Aircraft

Question

Asked by ***Lord Moonie***

To ask Her Majesty's Government what is their estimate in cost per capita of pilot training of the savings made by using full flight simulators. [HL1203]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): The use of full flight simulators has been an integral part of flying training for a number of years. Simulators are used for a number of reasons. These include: improved availability compared with aircraft; teaching effectiveness; flight safety (as trainees move onto more complex aircraft); affordability; and environmental impact (such as, reduced noise and emission).

As such, we do not hold this information.

National Crime Agency: Northern Ireland

Question

Asked by ***Lord Mawhinney***

To ask Her Majesty's Government, further to the answer by Baroness Randerson on 16 July (HL Deb, col 588–9), what are the specific ways in which the Secretary of State for Northern Ireland is "fully engaged" in speeding up the National Crime Agency's full introduction. [HL1286]

The Parliamentary Under-Secretary of State, Wales Office (Baroness Randerson) (LD): Ministers and officials in the Northern Ireland Office remain actively involved in seeking to ensure the full extension of the NCA's remit in Northern Ireland. In recent weeks the Secretary of State has discussed the issue with the Home Secretary, Justice Minister Ford, Chief Constable Hamilton and the SDLP. The Parliamentary Under Secretary of State has raised the issue with Justice Minister Ford and Chief Constable Hamilton. The previous Minister of State also raised the issue during recent meetings he had with the SDLP, Justice Minister Ford and Chief Constable Hamilton. Officials remain closely involved in ongoing discussions with the Department of Justice and Home Office on securing further progress.

National Institute for Health and Care Excellence

Question

Asked by ***Lord McColl of Dulwich***

To ask Her Majesty's Government what was the cost in 2012–13 and 2013–14 of running the National Institute for Health and Care Excellence; and how many people are currently employed by that organisation. [HL1414]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): The National Institute for Health and Care Excellence's (NICE) comprehensive expenditure in 2012-13 and 2013-14, taken from its published annual report and accounts[1], was:

2012-13[2] - £64,955,000

2013-14[3] - £60,754,000

We understand that 588 staff were employed by NICE in June 2014.

Notes:

[1] www.gov.uk/government/uploads/system/uploads/attachment_data/file/330381/NICE_annual_report_2013-2014_PRINT.pdf

[2] The 2012-13 figure includes £6,628,000 attributable to the National Clinical Assessment Service, which NICE hosted for one year before its transfer on 1 April 2013 to the NHS Litigation Authority.

[3] On 1 May 2013 the National Technology Adoption Centre transferred to NICE from the Central Manchester University Hospitals Foundation Trus.

NHS: Social Enterprises

Questions

Asked by ***Baroness Masham of Ilton***

To ask Her Majesty's Government what steps they have taken to engage with social enterprise organisations in respect of the provision of healthcare. [HL1401]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): The Government recognises the important role that social enterprise organisations play in the provision of healthcare, and is committed to ensuring that patients receive healthcare services from the providers that are most capable of meeting their needs and improving the quality of services that they provide.

The Department engages frequently with social enterprise organisations that provide healthcare in a wide variety of ways. This includes through initiatives such as the Mutuals Support Programme and the Investment and Contract Readiness Fund both run by Cabinet Office and the Technology Spin-out Fund launched earlier this year by the Department, Big Society Capital and local partnerships. As part of a recently published independent report commissioned by the Department on staff engagement and empowerment in the National Health Service, interviews were held with over thirty providers and workshops with over 150 stakeholders.

Asked by ***Baroness Masham of Ilton***

To ask Her Majesty's Government what assessment they have made of the impact of social enterprise providers in the delivery of National Health Service services; and what plans they have to enhance opportunities for social enterprise in the National Health Service. [HL1404]

Earl Howe: This Government believes that social enterprise providers make a valuable contribution to the delivery of NHS services.

In October 2013 the Government commissioned an independent review of staff engagement and empowerment in the National Health Service, led by Chris Ham, Chief Executive of the King's Fund. The report was published in July 2014 sets out the impact of staff owned mutuals and social enterprises.

The publication notes that "a period of 'accelerated evolution' and evaluation of existing and alternative models would enable further evidence to be gathered about the impact of different organisational forms on staff engagement and performance."

The publication by the Kings Fund can be found at:

www.kingsfund.org.uk/publications/articles/improving-nhs-care-engaging-staff-and-devolving-decision-making

In response, the Government has set up a £1million fund to support "pathfinder" organisations in the acute sector explore how mutual models could increase staff engagement across their organisations.

Asked by ***Baroness Masham of Ilton***

To ask Her Majesty's Government whether they plan to amend the Public Services (Social Value) Act 2012 to enhance opportunities for social enterprises in the National Health Service. [HL1405]

Earl Howe: While the Public Services (Social Value) Act 2012 is kept under constant review, there are no current plans to amend it. Under the Act commissioners must consider how improvements to the social well-being of their local area can be achieved from the services they are procuring. The Government believes that this is the right approach to improve the quality of public services, whilst creating better value for money for taxpayers.

Asked by ***Baroness Masham of Ilton***

To ask Her Majesty's Government what measures are in place to encourage commissioners to award National Health Service contracts to social enterprise providers. [HL1406]

Earl Howe: The Government firmly believes that patients must receive healthcare services from the providers that are most capable of meeting their needs and improving the quality of services that they provide, regardless of what sector that organisation comes from, including public, private, social enterprises and voluntary services.

It is right that these decisions should be taken independently by local commissioners in the best interests the populations for which they are responsible.

Northern Ireland Office

Question

Asked by ***Lord Mawhinney***

To ask Her Majesty's Government, further to the statement by Baroness Randerson on 17 July (HL Deb, col 738), when they expect to have in place properly designed systems to ensure that Northern Ireland Office policy has proper lines of responsibility, accountability and safeguards against error. [HL1350]

The Parliamentary Under-Secretary of State, Wales Office (Baroness Randerson) (LD): Northern Ireland Office policy continues to be decided by Ministers. The NIO's Senior Management Board monitors the delivery of all NIO policy, ensures lines of responsibility and accountability are clear, and checks that safeguards against error are sufficiently robust. As a result of significant changes in responsibilities and priorities, the Northern Ireland Office is a very different department from that which existed prior to devolution. The Department will be reflecting carefully on the conclusions and recommendations of the Hallett report, and considering whether there are further steps that need to be taken within the NIO to strengthen existing processes and ensure that appropriate lessons are learned. This work will be led by the Permanent Secretary and the Senior Management Board.

Nutrition

Question

Asked by ***Lord Mawhinney***

To ask Her Majesty's Government, further to the Written Answer by Earl Howe on 17 July (WA 145), which supermarkets have signed up to the calorie reduction pledge; what action each has taken to demonstrate its commitment to the pledge; who is responsible for monitoring the behaviour of supermarkets with reference to the pledge; and whether any sanction exists for failure to adhere to the pledge. [HL1287]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): Eight supermarket chains have committed to take voluntary action to support and enable their customers to eat and drink fewer calories. A table giving each supermarket chain's calorie reduction pledge annual returns for 2013 and 2014 has been placed in the Library.

Annual returns provided by companies are published on the Responsibility Deal website each summer. An independent evaluation of the whole Responsibility Deal is under way. The Department does not monitor the returns against delivery plans. If a company fails to provide an annual return it may be removed as a signatory to that pledge.

Ofsted

Question

Asked by ***Lord Black of Brentwood***

To ask Her Majesty's Government what arrangements they have in place to assess the performance of the Office for Standards in Education, Children's Services and Skills Board overall, and of its individual members. [HL1419]

The Parliamentary Under-Secretary of State for Schools (Lord Nash) (Con): Her Majesty's Chief Inspector reports to the Education Select Committee at least twice a year on matters relating to Ofsted's performance.

The performance of the Ofsted Chair is reviewed by the Permanent Secretary at the Department for Education on behalf of the Secretary of State.

The Chair undertakes performance reviews of the Chief Inspector and Ofsted Board members.

Orders and Regulations

Question

Asked by ***Lord Goodlad***

To ask Her Majesty's Government how many statutory instruments from the Cabinet Office have been laid this calendar year; of those, what percentage corrected errors in a previous instrument (including drafts of affirmative instruments that had to be superseded by correcting drafts); and what steps that Department is taking to reduce the need for correcting instruments. [HL1421]

Lord Wallace of Saltaire (LD): All legislation is published online at legislation.gov.uk

The lessons gained from any errors in Statutory Instruments are fed back into the department's quality assurance process, ensuring that the planning process takes sufficient account of the time required for pre-laying scrutiny of instruments.

Pakistan

Question

Asked by ***Lord Ahmed***

To ask Her Majesty's Government whether they have provided any financial support to internally displaced people in Khyber Pakhtunkhwa following the recent military operation conducted by the army of Pakistan in North Waziristan. [HL1196]

Baroness Northover (LD): DFID has allocated up to £5 million to support the Government of Pakistan's efforts to help some of the most vulnerable internally displaced people following the military operation in North Waziristan. This will provide people with ration packs, non-food items such as cooking utensils and solar lanterns, and water and sanitation services.

Parades Commission

Questions

Asked by ***Lord Laird***

To ask Her Majesty's Government whether they will require the Northern Ireland Parades Commission (1) to publish the presentations made to it in connection with a determination, (2) to publish the reasons for a determination, and (3) to list which commissioners attended the meeting to make the determination and how they voted; and, if not, why not. [HL1213]

The Parliamentary Under-Secretary of State, Wales Office (Baroness Randerson) (LD): Determinations are an operational matter for the Parades Commission acting independently of Government. The Noble Lord may wish to write to the Parades Commission directly on these matters.

Asked by ***Lord Laird***

To ask Her Majesty's Government what plans they have to change the legislation concerning the Northern Ireland Parades Commission to require it to give detailed reasons for its decisions and to publish the minutes of its discussions regarding determinations. [HL1460]

Baroness Randerson: Her Majesty's Government has no current plans to change the legislation concerning the publication of information about determinations made by the Northern Ireland Parades Commission. Under the Public Processions (NI) Act 1998, determinations are an operational matter for the Parades Commission acting independently of Government.

Asked by ***Lord Laird***

To ask Her Majesty's Government what assessment they have made of the importance of effective media relations with respect to the role of the Northern Ireland Parades Commission. [HL1461]

Baroness Randerson: Her Majesty's Government has made no assessment of the importance of effective media relations with respect to the role of the Northern Ireland Parades Commission. Media relations are an operational matter for the Parades Commission, acting independently of Government.

Asked by ***Lord Laird***

To ask Her Majesty's Government what discussions they have had with the Northern Ireland Parades Commission about the publication of reasons for that body's decisions. [HL1463]

Baroness Randerson: Her Majesty's Government has had no discussions with the Parades Commission about the publication of reasons for that body's decisions.

Under the Public Processions (NI) Act 1998, determinations are operational matters for the Parades Commission acting independently of Government.

Patients

Questions

Asked by ***Lord Bradley***

To ask Her Majesty's Government how many patients whose treatment was incomplete there were at each NHS Trust and NHS Foundation Trust for every month since May 2010. [HL1430]

To ask Her Majesty's Government how many patients whose treatment was incomplete there were at each NHS Trust and NHS Foundation Trust in each of the last five years. [HL1431]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): Information has been placed in the Library which shows the number of patients who were waiting to start consultant-led treatment for non-urgent conditions at the end of each month from June 2009 to May 2014 in each National Health Service trust and NHS foundation trust in England. These data are collected each month as part of the monitoring of performance against referral to treatment waiting time standards, and are known as incomplete pathways. The data do not sum to published national figures, because they exclude independent sector organisations.

Police Intellectual Property Crime Unit

Question

Asked by ***Lord Clement-Jones***

To ask Her Majesty's Government what plans they have for future funding of the Police Intellectual Property Crime Unit. [HL1295]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Baroness Neville-Rolfe) (Con): The Government provided £2.56 million of seed funding to establish the Police Intellectual Property Crime Unit in 2013. This funding was provided on the understanding that, from 2015, industry stakeholders would be encouraged to make future investments in the unit, as a result of its demonstrated success in reducing online Intellectual Property (IP) crime.

The unit has been well received by industry and early indications suggest that it will reduce online IP crime.

The Government is currently discussing options to ensure the future sustainability of the Unit with industry.

Prerogative of Mercy: Northern Ireland

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government, further to the Written Answer by Baroness Randerson on 10 July (WA 76), which other parts of government aside from the Northern Ireland Office are being contacted about the missing files on the provision of the Royal Prerogative of Mercy (RPM) in Northern Ireland between 1987 and 1997; which bodies played a role in RPM grants in that period; and which department would now maintain files on such use. [HL1210]

The Parliamentary Under-Secretary of State, Wales Office (Baroness Randerson) (LD): Officials from the Northern Ireland Office have contacted colleagues in the Department of Justice, The National Archives, the Public Record Office of Northern Ireland and the Royal Household to ascertain if they hold relevant information. During the period 1987-1997 the Secretary of State for Northern Ireland was responsible for recommending the exercise of the RPM to HM the Queen in Northern Ireland cases. At this time, the use of RPM was relatively common, since this pre-dated the establishment of the Criminal Cases Review Commission. It appears that during this period, the use of the RPM was not recorded in a single central list. Individual case records, including information about RPM use, are likely have been destroyed in accordance with proper protocols. The Northern Ireland Office maintains files relating to its use of the RPM, in line with public records legislation and National Archives guidance. Other departments are responsible for the paperwork relating to their own use of the RPM in GB.

Prescription Drugs: Visual Impairment

Question

Asked by ***Lord Hunt of Kings Heath***

To ask Her Majesty's Government whether they have any plans to introduce talking labels as standard on medication for blind patients to ensure that they are able to understand their medication. [HL1306]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): The requirements for medicines labelling are set out in European and national legislation. These state that for blind and partially sighted patients, the name must appear in Braille on the packaging and that the package leaflet is made available on request in formats suitable for the blind and partially sighted.

The Government is aware of other technological initiatives which can be used by blind patients to access additional information. However, these are not mandated within the regulations and there are no plans for changes to the current European legal framework.

Prisoners: Travellers

Question

Asked by ***Baroness Whitaker***

To ask Her Majesty's Government what is their response to the recommendations in the report by HM Inspectorate of Prisons People in prison: Gypsies, Romany and Travellers that there should be further research into the reasons why people from those communities are in prison and how they are supported; and that the number of young people of Gypsy, Romany and Traveller background in Secure Training Centres should be investigated. [HL1158]

The Minister of State, Ministry of Justice (Lord Faulks) (Con): The Ministry of Justice is considering how best to take forward Her Majesty's Inspectorate

of Prisons (HMIP) report recommendation for research into the reasons why people from Gypsy, Roma and Traveller (GRT) communities are in prison.

To address the historically low declaration rates of GRT prisoners and to improve the support received by GRT prisoners, the National Offender Management Service (NOMS) has carried out extensive work to increase the declaration rates of GRT prisoners including work to increase the confidence of GRT prisoners to declare their ethnicity.

In March 2014, NOMS implemented a new tool to monitor various outcomes for prisoners against a range of protected characteristics, including GRT prisoners. NOMS is now monitoring outcomes for this group of prisoners.

The Youth Justice Board (YJB) commissioned and jointly published (with HMIP) the report: 'Children and Young People in Custody 2012-13: An Analysis of 12-18 year olds' perceptions of their experience in secure training centres'. This was the first published annual summary of children and young people's self-reported experiences and perceptions from surveys carried out with young people in each of the four Secure Training Centres (STCs).

The YJB will continue to commission these reports and monitor the findings from this survey in future years to gain a better understanding of the representation GRT young people within STCs.

Russia

Question

Asked by ***The Marquess of Lothian***

To ask Her Majesty's Government how many airborne sorties have been carried out by United Kingdom armed forces in the last month to intercept Russian military aircraft approaching or entering British airspace. [HL1412]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): None.

Segregation of Prisoners

Question

Asked by ***Lord Knight of Weymouth***

To ask Her Majesty's Government how many prisoners with known mental health problems have been kept in segregated custody for longer than 24 hours in the last year. [HL893]

The Minister of State, Ministry of Justice (Lord Faulks) (Con): Figures recording the number of prisoners with known mental health problems who have been placed in segregation for longer than 24 hours during the last year are not gathered centrally and could only be provided at disproportionate cost by collating the information from records held at each prison.

Social Security Benefits: Asylum

Question

Asked by ***Lord Roberts of Llandudno***

To ask Her Majesty's Government how many refugees granted indefinite leave to remain did not access mainstream benefits support within the 28-day grace period in each of the last five years. [HL1456]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud) (Con): The information requested is not readily available.

South Sudan

Questions

Asked by ***Baroness Kinnock of Holyhead***

To ask Her Majesty's Government what assessment they have made of the level of funding allocated to education in South Sudan. [HL1233]

Baroness Northover (LD): Donor financing committed to education for the period 2012 to 2017 is currently around £220 million. No donor financing is channelled through government systems. South Sudan will be making an application for further Global Partnership for Education (GPE) financing from September 2015 to September 2017.

In 2012, DFID supported the Government of South Sudan (GRSS) to appraise its General Education Sector Plan (2012 to 2017) which aims to achieve at least 80% primary net enrolment. This included the costing of the 5 year plan, which was estimated at £940 million. The current annual allocation of domestic funding, around 7% of the national budget, would cover approximately £490 million of the total cost. The UK continues to press the GRSS to spend more of its own resources on the delivery of basic services, including education, to its citizens.

Asked by ***The Lord Bishop of St Albans***

To ask Her Majesty's Government how they are supporting the role of churches and other civil society groups in the peace and reconciliation process in South Sudan, and in the delivery of humanitarian assistance. [HL1383]

Baroness Northover: The UK is one of six donors funding the United Nations Development Programme (UNDP) Community Security and Arms Control (CSAC) Project, which includes provision of technical support for national and community-level community reconciliation process, including working with faith-based partners. Furthermore, under the Africa Conflict Pool Programmes, the UK is funding civil society organisations to build the capacity of local populations to identify and resolve conflicts that affect them.

Through the Common Humanitarian Fund (CHF), the UK has supported work by national civil society to provide health, education, food security and livelihood, water and sanitation and mine awareness services for the most vulnerable. In addition, some United Nations

agencies supported by the UK (such as the Food and Agriculture Organisation (FAO) and the World Food Programme (WFP)) work in close collaboration with local partners. To improve basic services the UK funded Girls Education South Sudan (GESS) project is working through Episcopal Church of Sudan (ECS) in two of South Sudan's 10 States, and the UK-led Health Pooled Fund (HPF) will support faith-based county hospitals as well as government ones.

Statins

Question

Asked by ***Lord Taylor of Warwick***

To ask Her Majesty's Government whether they consider that offering statins to more people will discourage the adoption of long-term healthy lifestyles. [HL1272]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): Earlier this month, the National Institute for Health and Care Excellence (NICE) published guidance on the modification of blood lipids (cholesterol) for the primary and secondary prevention of cardiovascular disease (CVD).

The guidance recognises the place of statins in the primary prevention of CVD. However, it does not propose that statins should be used instead of the lifestyle adjustments that people at risk of CVD need to make—such as stopping smoking, being more active, drinking less alcohol, eating more healthily and losing weight.

The guidance encourages general practitioners to fully explore with their patients the ways in which people can reduce their risk of CVD, presenting all the options promoted by NICE's guidance, including lifestyle changes, and to allow patients to make their own decisions.

Warships

Question

Asked by ***Lord Moonie***

To ask Her Majesty's Government when the last two Warship Support Modernisation Initiative contracts were awarded for (1) HMNB Clyde, (2) HMNB Devonport, (3) HMNB Portsmouth; what cost-saving targets were set for each of those contracts; and whether those targets were achieved in each case. [HL1200]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): The Warship Support Modernisation Initiative (WSMI) contracts awarded for Her Majesty's Naval Bases at Clyde, Devonport and Portsmouth did not include specific savings targets. The three WSMI contracts were placed under Target Cost Incentive Fee (TCIF) arrangements, through which the companies were incentivised (via gain-share arrangements) to deliver the agreed contractual outputs within or below the agreed Target Cost for each contract.

The three contracts all delivered gain-share benefits.

Wheelchairs

Questions

Asked by ***Lord Hunt of Kings Heath***

To ask Her Majesty's Government what assessment they have made of the National Health Service wheelchair voucher scheme. [HL1302]

To ask Her Majesty's Government what the approval process is for mobility aids and wheelchairs to be approved for use under the National Health Service wheelchair voucher scheme; and whether they consider that it allows sufficient patient choice. [HL1303]

To ask Her Majesty's Government what assessment they have made of the impact of the power of local National Health Service providers to set their own level of the National Health Service wheelchair vouchers on levels of access to the scheme in different areas. [HL1304]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe) (Con): The Government has not made any assessments relating to the wheelchair voucher scheme. NHS England is leading work with all groups involved in wheelchair services to improve current services.

World War II: Military Decorations

Question

Asked by ***Lord West of Spithead***

To ask Her Majesty's Government how many Arctic Stars have been presented since 1 October 2013, and how many claims for that award are outstanding. [HL1318]

The Parliamentary Under-Secretary of State, Ministry of Defence (Lord Astor of Hever) (Con): Since 1 October 2013, the total number of Arctic Stars that have been issued is 6,781, with 7,554 applications waiting to be assessed.

Written Questions: Government Responses

Question

Asked by ***Lord Stoddart of Swindon***

To ask the Leader of the House whether she will discourage ministers and spokespersons from answering Questions for Written Answer by referring to websites, in order to accommodate those without internet access. [HL1142]

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): On 13 May the House agreed a new set of rules to govern the content of written answers, in response to the introduction of a new electronic system for submitting them. While the digital copy of answers will be the definitive record copy, all written answers will continue to be published, and a signed copy will continue to be sent to the Peer asking the question.

These rules make clear that all answers should be complete and comprehensible, and not rely on references to external documents or webpages. They also make clear that supporting documents should be included as attachments, not hyperlinks, and referred to in the answer itself. Any attachments that are included will be available in the Library to be printed out on demand.

All of these rules will help to accommodate those without internet access. I will remind all Lords Ministers to adhere to them.

Asked by ***Lord Mawhinney***

To ask Her Majesty's Government how many Questions for Written Answer have been answered by reference to websites (1) by department, and (2) in each Parliamentary session, since the 2010 General Election. [HL1284]

Lord Wallace of Saltaire (LD): The information requested could only be obtained at disproportionate cost.

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