Welfare Reform Bill: Lords amendments

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Section Social Policy Section

The *Welfare Reform Bill* received its Third Reading in the House of Lords on 3 November 2009. This note gives information on amendments to the Bill during its Lords stages. It complements the Library Research Papers 09/08 and 09/09 prepared for the Commons Second Reading, and Research Paper 09/23 on the Commons Committee Stage.

The House of Commons is due to consider the Lords amendments to the Bill on Tuesday 10 November.

Contents

1 The Lords stages

The Lords Second Reading debate on the *Welfare Reform Bill* was on 29 April 2009 and there were nine days in Grand Committee:

9, 11, 15, 18, 22, 25 and 30 June

2 and 7 July

Report Stage was over two days – 22 and 27 October – and third Reading was on 3 November.

Links to the proceedings on the Bill and associated documentation can be found via the Library's Bill Gateway.

Detailed background to the provisions in the Bill is given in Library Research Papers 09/08 and 09/09.

2 Social security provisions

The main elements of the Bill relating to social security are as follows (reference to clauses in the Bill as it was introduced in the House of Lords[1]):

- Provisions to establish a 'work for your benefit' scheme for long-term Jobseeker's Allowance (JSA) claimants (clause 1)
- Provisions to enable the piloting of the 'progression to work' regime for lone parents and partners of claimants with a youngest child aged 1-6 (clause 2), and claimants of Employment and Support Allowance (ESA) (clause 8)
- Powers to enable the future abolition of Income Support (clause 7)
- New powers to require problem drug users to follow a rehabilitation plan (clause 9)
- Reform of the Social Fund (clauses 15-19)

Detailed background is given in Library Research Paper 09/08.

In addition, at Commons Report Stage on 17 March the Government accepted a backbench amendment which had cross-party support to extend the higher rate Disability Living Allowance DLA mobility component to people with severe visual impairment.[2]

2.1 Lords amendments

The full list of Lords amendments to the *Welfare Reform Bill*, together with the *Explanatory Notes on Lords amendments*[3], can be found at the Parliament website.

Significant amendments to the social security provisions are outlined below. Footnotes refer to the paragraphs in the *Explanatory Notes* covering the relevant amendment or group of amendments

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1 HL Bill 32 2008-09

2 Two new clauses (clauses 12 and 13) relating to DLA for people with visual impairment were in fact added to the Bill in the Commons, both of which sought to make the same change. The second (clause 13) was deleted during the Lords Grand Committee Stage; HL Deb 25 June 2009 c540GC

3 Bill 159-EN

Repeal of provisions relating to sanctions for breach of community orders[4]

Sections 62-66 of the *Child Support, Pensions and Social Security Act 2000* introduced powers to reduce or withdraw certain benefits from offenders in Great Britain who breached community orders imposed on them by the criminal courts. Further background to the introduction of the provisions is given in Library Research Paper 99/108.

In Grand Committee, the Parliamentary Under-Secretary of State at the DWP, Lord McKenzie of Luton, tabled a new clause and associated Government amendments to repeal the provisions. He explained:

> In 2001, the Government introduced a pilot scheme in four areas to apply a benefit sanction to those found to be in breach of their community orders. The pilot covers Derbyshire, Hertfordshire, Teesside and the West Midlands and is a joint initiative run between the Department for Work and Pensions and the Ministry of Justice.
>
> The aim of the pilot was twofold: to link the receipt of benefit more closely to the fulfilment of responsibilities to society, and to encourage greater compliance with community sentences. The scheme applies to those offenders in the pilot areas who are aged between 18 and 59 and receiving jobseeker's allowance, income support or certain training allowances.
>
> The new clause to be inserted after Clause 22 will bring the pilot scheme to an end, and the other amendments are consequential on this. It was always the intention to evaluate the overall impact of these pilots before making a decision to introduce it nationally. Evaluations of the scheme have shown modest improvements in compliance, but any savings made in running it are outweighed by the overall running costs. Additionally, new measures introduced since the introduction of the pilots have proved to be more effective in holding offenders to account for non-compliance of community sentences. The Criminal Justice Act 2003 strengthened measures on compliance and enforcement and courts must hold offenders to account in all cases where they do not comply with their order. This includes the power to send the offender to prison for up to 51 weeks. In weighing up the improvements made with the introduction of other measures against the total cost-effectiveness of running the pilot scheme, we have concluded that it should not be rolled out nationally and should come to an end.[5]

It had first been announced in February 2009 that the 'Breach of Community Order Pilots' were to be discontinued.[6]

Lone parents with children under five: Opposition and Liberal Democrat amendment[7]

Under the Government's proposals lone parents with a child aged three or over may be required to undertake 'work-related activity'. Failure to undertake work-related activity, without 'good cause', may result in a sanction, including a reduction in benefit.

At Report Stage on 22 October, the Opposition Work and Pensions Spokesman Lord Freud moved an amendment – which was also signed by the Liberal Democrat Work and Pensions Spokespersons Lord Kirkwood and Baroness Thomas of Winchester – to provide that no financial sanction could be imposed on a 'single parent' with a youngest child under the age

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4 Bill 159-EN para 5
5 HL Deb 15 June 2009 cc178-179GC
6 HC Deb 27 February 2009 c37WS
7 Bill 159-EN para 6

of five.[8] A similar amendment had been tabled by James Clappison in Committee in the Commons[9], and by Lord Skelmersdale in Grand Committee.

Moving the amendment, Lord Freud said that it was "unacceptable" for lone parents with children under five to face a cut in benefit. He went on:

> We appreciate that this is a tricky area where many have struggled. We do not wish the absence of a sanction to be considered an incentive to do nothing but there are more ways to sanction someone than simply docking their benefit. The Government are promising a graduated approach with early sanctions being non-financial. Again, we support that.
>
> For lone parents who have the primary responsibility for a pre-school age child, we cannot see how it is in their interest or, more importantly, their child's interest to see a meagre budget cut further. We have carefully chosen the age of five in our amendment because that is the age at which children are expected to start school. At that point, many more hours a day become available to the parent for other activities. The child is introduced to a classroom with other children, teachers and classroom assistants, and no longer depends so totally for social support on his mother or father. So it is towards this point that we are looking with our amendment. Before that age is reached, we believe that the child is simply too vulnerable for the parent to suffer financial sanctions under this new system. Our amendment is drawn deliberately narrowly; we have not ruled out the possibility of non-financial sanctions. It applies solely to work-related activity, not to the regime that already has established financial sanctions for not complying with its rather light requirements.[10]

For the Government, Lord McKenzie of Luton said that the practical effect of the amendment would be that lone parents with a child under five would no longer be required to undertake work-related activity. He also pointed out a possible anomaly in that lone parents with a child aged as young as one could already face a sanction for failure to attend or take part in a Work Focused Interview (WFI).[11] He argued that it was important to start to engage with lone parents at an early stage to "build their confidence and skills", and emphasised that the requirements for lone parents with younger children were unlikely to be onerous, and that activities would be tailored to their individual needs and situations. He also drew attention to the various additional "safeguards" the Government had announced (see below).

With regard to the appropriate age threshold, Lord McKenzie said:

> We want to introduce the progression-to-work model to those lone parents who have a youngest child aged three to six so that we can test if this is the correct age range. After debates in Grand Committee, we are still convinced that starting this process with a lone parent who has a youngest child aged three is right. This is because of the strong foundation of childcare provision available for children in this age range. Parents can access free, part-time pre-school education when their children are aged three and four, while children aged five and six receive free education of up to 30 hours a week during school term time.[12]

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8 HL Deb 22 October 2009 c833
9 See Library Research Paper 09/23, pp 12-13
10 HL Deb 22 October 2009 cc834-835
11 *Ibid.* cc839-840
12 *Ibid.* c841

Lord McKenzie also said that the model the Government was developing emphasised "more upfront, in-depth engagement" with lone parents and that financial sanctions would be "the last resort".[13]

The amendment was agreed by 103 votes to 97.[14]

Lone parents: Government amendments

In Grand Committee, the Minister, Lord McKenzie of Luton, said that in the light of discussions and representations made both in the Lords and during the Commons stages of the Bill, the Government would table a series of amendments at Report Stage relating to conditionality for lone parents.[15]

Government amendments were tabled at Report Stage on 22 October[16] to-

- Allow lone parents in receipt of Income Support, Employment and Support Allowance or 'modified Jobseeker's Allowance'[17] to restrict the hours when they undertake 'work-related activity'.[18] The intention is to allow lone parents to fit their activity around the children's schooling and formal childcare.[19]

- Place in primary legislation an assurance that no lone parent with a youngest child under seven would be required to meet the full jobseeking conditions for JSA.[20]

- Specify in primary legislation that no lone parent with a child under the age of three would be required to undertake 'work-related activity'.[21]

- Remove the requirement for lone parents with a child under one to attend Work Focused Interviews (WFIs).[22]

- Require that the well-being of the child should be taken into account when a parent and personal adviser agree an action plan, or when drawing up a jobseeker's agreement.[23] This applies to all parents, not just lone parents, and follows an amendment moved by Lord Northbourne in Grand Committee.[24]

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13 *Ibid.* cc841-842

14 *Ibid.* c844

15 HL Deb 2 July 2009 cc133-134GC; see also DWP press release, *Supporting family friendly work at heart of welfare reform - Cooper*, 2 July 2009. In addition, Lord McKenzie had earlier given an undertaking that lone parents taking part in the 'progression to work' pilots working less than 16 hours a week would be able to earn up to £50 a week before their benefits were affected, rather than the current £20 disregard. This was in response to an amendment tabled by the former Work and Pensions Minister Baroness Hollis of Heigham: see HL Deb 22 June 2009 cc356-357; this will be introduced through delegated legislation

16 HL Deb 22 October 2009 cc862-863

17 The Government's long-term aim is to abolish Income Support and move any remaining claimants onto JSA but not to impose on them the usual 'jobseeking conditions', e.g. availability for and actively seeking work. For further details see Part II.C of Research Paper 09/08

18 Bill 159-EN paras 8 and 9

19 HL Deb 22 October 2009 cc862-863

20 Bill 159-EN paras 9 and 10

21 Bill 159-EN paras 7 and 9

22 Bill 159-EN paras 9 and 11

23 Bill 159-EN para 13; HL Deb 22 October 2009 cc874-876

24 HL Deb 11 June 2009 cc 162-174GC

The amendments were welcomed from all sides of the House, although Lord Northbourne questioned why the provision enabling parents to restrict their hours of availability for work-related activity only applied to lone parents.[25]

Following an amendment moved at Report by Baroness Thomas of Winchester[26], the Government also gave an undertaking at Third Reading to exempt lone parents with a child under 16 in receipt of the lower rate care component of Disability Living Allowance from the requirement to undertake work-related activity.[27] Under the original plans, only those with a child receiving the middle or higher rate DLA care component would have been exempt from the work-related activity requirement. The change is to be made via regulations.[28]

Domestic violence: JSA claimants[29]

In Grand Committee, Lord McKenzie announced that in the light of discussions the Government would bring forward amendments to allow persons in receipt of Jobseeker's Allowance who have been victims of, or threatened with, domestic violence to receive JSA for a period of 13 weeks without having to satisfy the jobseeking conditions (i.e. availability for work, actively seeking work, and having a jobseeker's agreement).[30] An amendment was agreed at Report Stage.[31] In the light of a recommendation by the Delegated Powers and Regulatory Reform Committee, the Government tabled a further amendment at Third Reading to provide that regulations defining what is meant by 'domestic violence' are subject to the affirmative procedure.[32]

'Good cause': availability of childcare and the claimant's health[33]

At Report Stage, Government amendments were agreed to ensure that regulations governing 'good cause' (or 'just cause') for an Income Support, ESA or JSA claimant's failure to comply with mandatory requirements expressly state that the availability of childcare and the claimant's physical or mental health or condition must always be considered.[34] The amendments followed extensive debate in previous stages on safeguards for claimants.

Medical or surgical treatment and 'work-related activity'[35]

Government amendments were moved at Report Stage to provide that claimants of Income Support, ESA or (in the future) modified JSA cannot be directed to undertake 'medical or surgical treatment' to satisfy any work-related activity requirement.[36] Claimants may still be able to submit to such treatment to meet their work-related activity requirement, but any decision to do so would be "voluntarily and with informed consent".[37]

For the Government, Lord McKenzie of Luton said:

> We have deliberately not defined medical or surgical treatment in the Bill, but we will produce detailed guidance for advisers on what are and are not appropriate activities

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25 HL Deb 22 October 2009 cc865-869
26 HL Deb 22 October 2009 cc826-833
27 HL Deb 3 November 2009 c152
28 *Ibid.*
29 Bill 159-EN para 21
30 HL Deb 2 July 2009 cc133-134GC
31 HL Deb 22 October 2009 cc919-922
32 HL Deb 3 November 2009 cc151-154
33 Bill 159-EN para 15
34 HL Deb 22 October 2009 cc876-882
35 Bill 159-EN para 14
36 HL Deb 22 October 2009 cc871-874
37 *Ibid.* c872: Lord McKenzie of Luton

> to direct customers into. We would never, for example, direct customers into treatments such as physiotherapy, psychotherapy, a condition-management programme, or a diet or exercise regime. We are also confident that healthcare professionals will not deliver anything that constitutes treatment against a customer's will. This would be against medical ethics and codes of practice.[38]

Abolition of Income Support: parliamentary control[39]

Government amendments agreed at Report ensure that any order to abolish Income Support at some point in the future would be subject to the affirmative procedure.[40] This was in response to a recommendation of the House of Lords Delegated Powers and Regulatory Reform Committee.

Claimants dependent on drugs[41]

At Report Stage, Government amendments were agreed to Schedule 3 of the Bill, which makes new provision for ESA or JSA claimants who are dependent on or have a propensity to misuse drugs.[42] They provide that no claimant covered by the Schedule is to be required to submit to 'medical or surgical treatment' without their consent. The Crossbencher Baroness Meacher welcomed the amendment, saying:

> The Government have thus agreed to the principle that no claimant, including those dependent on or with a propensity to misuse of any drug, should be subjected to compulsory treatment under the welfare reform legislation. Clinicians and patients up and down the country can breathe a sigh of relief that they will not be involved in a benefits-based compulsory treatment regime.[43]

Further detailed Government amendments to Schedule 3 were agreed, including provisions to tighten up data-sharing powers.[44]

Social Fund[45]

Two Government amendments were agreed at Report Stage; both in response to recommendations of the Delegated Powers and Regulatory Reform Committee. The first provides that the Secretary of State's power to restrict the making of Social Fund loan in areas where 'external providers social loans' are in place is exerciseable by regulations rather than Social Fund 'directions'. The second makes regulations relating to the unauthorised disclosure of information in relation to external provider social loans or grants subject to the affirmative rather than the negative procedure.

Uprating of social security benefits[46]

A Government amendment at Report stage inserted a new clause to enable social security benefits – and the Basic State Pension in particular – to be uprated in the current climate of negative inflation. The DWP Minister Lord McKenzie explained why the amendment was necessary:

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38 *Ibid.*
39 Bill 159-EN para 16; see also Part II.C of Library Research Paper 09/08 for background
40 HL Deb 22 October 2009 cc894-896
41 Bill 159-EN paras 22-24 and 36-37
42 HL Deb 22 October 2009 c913
43 *Ibid.* c911
44 Bill 159-EN
45 Bill 159-EN para 18
46 Bill 159-EN para 20

> My Lords, this amendment is intended to give the Government the flexibility to uprate the basic state pension by the commitment of 2.5 per cent and to uprate other social security benefits as the Secretary of State thinks fit, even though the level of prices, as measured by the retail prices index, has not increased.
>
> Announcements of the following year's benefit rates are made at the Pre-Budget Report and the subsequent uprating statement. The proposed rates of benefit that will apply from 2010 will be announced in the normal manner. Noble Lords will therefore appreciate that I am not in position to pre-empt those announcements in our deliberations on this amendment. That said, as the Chancellor made clear in this year's Budget, the Government's commitment to increase basic state pension annually by a minimum of 2.5 per cent stands, and other benefits will not be reduced in the event of negative inflation. The new clause proposed by this amendment allows the Government to fulfil their promise to pensioners.
>
> It may helpful to noble Lords if I give a brief technical explanation of why we have tabled this amendment. The proposed new clause is inserted into the Social Security Administration Act 1992. This provision dates back to the mid-1970s, a time of double-digit inflation, when the likelihood of negative inflation is unlikely to have been at the forefront of the draftsman's mind. Section 150 of the Social Security Administration Act 1992 requires that the Secretary of State reviews the rates of benefits and pensions in each year to establish whether they have kept their purchasing power. Where the general level of prices has increased, the Secretary of State is required to lay the draft of an uprating order. Since the power was introduced, the benchmark for the review of prices has been the retail prices index. Since 1980, the reference point has been the retail prices index for September, which this year is minus 1.4 per cent. This technical amendment, for 2010 only, allows the Secretary of State to make an uprating order in the absence of an increase in prices, as measured by the retail prices index, and to deliver the increase in the basic state pension from April, which will be worth around £1 billion to pensioners over the year.
>
> The amendment makes a change to Clause 51 and ensures that the new power will come into force on Royal Assent. It will therefore allow there to be a benefit uprating for April 2010 in line with the normal uprating timetable. I feel sure that this will have the full support of noble Lords. I beg to move.[47]

Council Tax Benefit: change of name[48][49]

The Government tabled an amendment (a new clause after clause 28) at Report Stage to allow the name of Council Tax Benefit to be changed.[50] Parliamentary Under-Secretary of State Lord McKenzie of Luton explained that a change to "council tax rebate" would "reflect the true nature of the benefit" and could help improve take-up by pensioners:

> A change has the potential to improve the take-up of this important entitlement. We respect that many pensioners, for various reasons, are reluctant to claim a benefit, despite the fact that council tax benefit is, in essence, a rightful reduction in the council tax that they are liable to pay, and despite the fact that claiming it could help to lift them out of poverty.[…] I am very happy to state that the Government intend to make this name change to "council tax rebate". I wish to put that clearly on the record.[51]

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47 HL Deb 22 October 2009 c918
48 This section by Djuna Thurley, Library Business and Transport Section
49 Bill 159-EN para 25
50 The means-tested benefit to help people pay Council Tax. For a brief overview see Council Tax Benefit.
51 HL Deb, 27 October 2009 c1106

In Committee, there had been considerable support on all sides for such a change[52], which had originally been suggested by the Royal British Legion and Age Concern.[53] The amendment did not specify the new name or set out a timetable for change because further work was needed to understand the best way of proceeding:

> As we made clear in Committee, though, the introduction of a name change is not a trivial matter for the 380 local authorities that administer the benefit. There are practical administrative implications and potentially significant costs to central and local government; for example, in making changes to IT and reference to the benefit in all manner of forms and leaflets. We need to get this change right and therefore need to carry out further work to understand how best to go about doing so and the implications.[54]

At Third Reading, the Government accepted a further amendment tabled by the Labour Member Baroness Turner of Camden to substitute the word 'may' with 'shall'; the Minister, Lord McKenzie of Luton, said that he was "happy to the accept this amendment and state unequivocally in the Bill that the Government intend to make this change."[55] However, he emphasised again that could not give a firm timeframe.[56]

3 Right to control provision of services

Part 2 of the Bill: Disabled People: Right to Control, would confer regulation-making powers to allow adult disabled people to have a 'right to control' the way in which specified relevant services are provided to them. It would extend the use of individual budgets for social care to allow disabled people greater control over how other services, such as further education, employment assistance and training, are provided. The Bill would also allow temporary 'trailblazer' pilots of the scheme to be set up to assess whether the concept should be given statutory force. The provisions received broad support during the stages in the House of Commons.

3.1 Government amendments

During the debate in the House of Lords, the Government introduced amendments relating to the powers of Welsh Ministers and community care services.

Regulation-making powers for Wales

Minor Government amendments were agreed to on 2 July 2009, the eighth day of the House of Lord's Committee Stage, to the clause 37 regulation-making power in relation to individual budgets.

Without the amendments, the effect of clause 37 would have meant that Welsh Ministers would have the power to make regulations relating to individual budgets only if the National Assembly for Wales had legislative competence in that policy area. The Minister for Work and Pensions, Lord McKenzie of Luton, explained that the provision was inconsistent with the current devolution settlement in Wales and that the amendments were designed 'to give

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52 HL Deb 2 July 2009 cc99-103GC
53 Further information on their 'Return to Rationing' campaign can be found at the Royal British Legion website
54 HL Deb 27 October 2009 c1107
55 HL Deb 3 November 2009 c161
56 *Ibid.* cc162-163

Welsh Ministers the power to make secondary legislation to bring devolved funding streams and services within the scope of the right to control.'[57]

The amendments were agreed.[58]

Adult community care services

The House of Lords considered amendments to Part 2 of the Bill during its second day of Report on 27 October 2009. The Government moved a number of amendments relating to the operation of the pilot scheme for individual budgets and other consequential amendments[59]

The Bill as originally drafted excluded the provision of community care services from the relevant services for which individual budgets could be provided. The Government position was that those services were already covered through the provision of direct payments. However, following debate during Committee Stage,[60] the Government tabled the amendments with the intention of aligning adult community care with the right to control in the trailblazers.[61] The amendments would:

- add the provision of residential care as a relevant service for which individual budgets could be provided;[62]
- remove the exclusion of adult community care services for the trailblazer pilot scheme;
- insert a new clause into the Bill to allow the Secretary of State to remove the exclusion of community care services from the Bill following the pilot scheme.
- amend the regulation making power in clause 33 to allow regulations to be made specifying that authorities must inform a disabled person of their right to control and the amount of money that is available for their support; and must produce a support plan reflecting the individuals needs and ambitions.[63]

The amendments were agreed.

At Third Reading the Government moved an amendment to the new clause[64] added at Report which would give Ministers the power to fully repeal the exclusion of community care services from individual budgets. The amendment would require the power to be exercisable by statutory instrument.[65] The amendment was agreed to without debate.[66]

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[57] HL Deb 2 July 2009 GC130
[58] *Ibid*; Bill 159─EN, para 34
[59] HL Deb 27 October 2009, cc1113-1121
[60] HL Deb 2 July 2009, GC103-111
[61] Clauses 31, 33, 34, 35, 36, 39 & 40; Bill 159─EN, paras 26-30
[62] Bill 159─EN, para 26
[63] Bill 159─EN, paras 27-29
[64] New clause 47
[65] Bill 159─EN, para 30
[66] HL Deb 3 November 2009 c165

4 Child maintenance

Part 3 of the Bill would increase the enforcement powers of the Child Maintenance Enforcement Commission (the Commission), established under the *Child Maintenance and Other Payments Act 2008*. The Commission would be permitted to disqualify parents from holding or obtaining a driving licence or travel authorisation without first having to apply to the courts. Further proposals in the Bill include extending the range of information offences relating to the withholding of, or giving false information in connection with, child support.

The debate in the House of Commons centred on the powers to disqualify non-resident parents from holding or obtaining driving licences and travel documents with some Members querying why the Commission required further enforcement provisions following last years *Child Maintenance and Other Payments Act 2008*.

4.1 Lords debate

Debate in the House of Lords concentrated on the different arrangements for introducing provisions to remove driving licences from non-resident parents compared to travel authorisation documents.

Disqualification from holding travel authorisation

At Grand Committee, Lord Skelmersdale led the debate on a group of amendments to clause 43 which would provide for a review period before the introduction of powers relating to disqualifying non-resident parents from holding travel authorisation.[67] Clause 43 of the Bill would provide the Secretary of State with a review period of 24 months during which time he would be required to prepare a report on the operation of amendments[68] in relation to disqualifying parents from holding driving licences. The amendments would require equivalent reporting procedures for the use of the power disqualifying parents from holding travel authorisation. Lord Skelmersdale explained the intention behind the amendments:

> What I suggest in these amendments is that the Government are allowed to test the administrative withdrawal of all travel authorisations, including passports and identity cards, for the two years they are proposing for driving licences alone. I do not believe that I have yet had an answer to the question I asked on Second Reading; namely, by what logic the Government are demanding to have a sunset clause only for driving licences and not for all travel authorisations. That position is as illogical as it would be for me to accept the Bill's proposals for driving licences, including the sunset clause, but not for passports.[69]

The amendments were supported by Lord Goodlad who concurred that 'if Parliament confers powers over passports to the commission, it, too, should be included in the sunset clause and that would be revisited.'[70]

The Minister, Lord MacKenzie of Luton, attempted to explain why the Government believed it unnecessary to pilot disqualification from holding travel authorisation:

> Unlike with passports, we did not attempt to introduce administrative driving-licence powers in the 2008 Act due to quite legitimate concerns about the potential consequences for third parties. A person who drives while disqualified not only commits a serious motoring offence but also invalidates his or her insurance. By

[67] That power was set out in the then clause 42
[68] Made by clause 42
[69] HL Deb 2 July 2009 GC148
[70] HL Deb 2 July 2009 GC148

> contrast, we do not believe that it is necessary to have a piloting power with regards to passports. While the withdrawal of a person's passport or ID card suitable for travel is a severe measure, it does not carry any risk of harm to innocent third parties.[71]

Lord Skelmersdale disagreed with the Minister's explanation for a piloting period stating that purpose of the pilot should be to make sure the powers work. He added:

> If they do not, I hope that we can get rid of them—that applies equally to driving licences and passports.[72]

He did not press the amendment to a vote but stressed that 'unless the Minister can come up with some rather better arguments' he would be raising the amendments again at a later date.[73]

At Report Stage, Lord Freud resurrected the issue of the sunset clause for the removal of travel authorisation documents by moving an amendment to include them in clause 43. The amendment would require a report to be prepared on the use of the powers to disqualify parents from holding travel authorisation.[74] In response, the Minister agreed that the Government would return to the matter at Third Reading:

> I hope that I can seek to allay any such concerns by accepting the amendments in principle and thereby giving Parliament the ability to review the travel authorisation provisions in the same way as already provided for in relation to the driving licence provisions by Clause 43. While the wording proposed in the noble Lord's amendment is adequate for this purpose, I should be grateful if he did not press it at this stage so that I can return to the House with a more suitable form of amendment at Third Reading. The amendment that we would look to introduce would ensure that a report on the operation of the driving licence and travel authorisation powers must be put before Parliament within six months of the end of a two-year review period. Based on the success of the measures, the Secretary of State would have the option of making the administrative system permanent or reverting to the existing court-based powers. Any decision to maintain the administrative system would need to be made by an order subject to the affirmative procedure and noble Lords would thereby have an opportunity to debate the success of the measures prior to a permanent administrative system being introduced.[75]

On the basis of the Minister's assurances, Lord Freud withdrew his amendment.[76]

Government amendments: disqualification from holding travel authorisation

Following the commitment made at Report Stage, the Minister moved an amendment at Third Reading to introduce a new clause 51 to require provisions to remove travel authorisation documents to be piloted, thereby aligning them with the provisions relating to the removal of driving licences. The Minister explained:

> It will help to ensure that Parliament can properly review the effectiveness of the power to disqualify a recalcitrant, non-resident parent from holding travel authorisation. It will do this in the same way as already provided for in relation to the driving licence provisions by Clause 51, prior to the legislation coming into permanent effect.

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[71] HL Deb 2 July 2009 GC149
[72] *Ibid*
[73] *Ibid*
[74] HL Deb 27 Oct 2009 c 1121
[75] HL Deb 27 Oct 2009 c 1125
[76] HL Deb 27 Oct 2009 c 1126

> This amendment will ensure that a report on the operation of the driving licence and travel authorisation powers must be put before Parliament within six months from the end of a two-year review period. Based on the success of these measures, the Secretary of State will have the option of making the administrative system permanent or reverting to the existing court-based powers for either or both. Any decision to maintain an administrative system must be made by an order subject to the affirmative procedure and noble Lords will thereby have an opportunity to debate the success of each of these measures prior to a permanent administrative system being introduced.
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> As I said on Report, I appreciate the movement that the Opposition have made on this issue since it was first raised in 2007. I believe this amendment represents a significant workable compromise. I beg to move.[77]

Lord Kirkwood of Kirkhorpe was however unimpressed by the amendment believing it did not go far enough. He remarked:

> I feel a bit short-changed in regard to this matter. I thought that we were talking about sunset clauses, but actually this is a pilot scheme. A pilot scheme is not a sunset clause. […] I wish to register that objection but, more importantly, what will the report contain that will make it a useful tool for the House to consider in two years' time to enable it to decide whether it is sensible to continue with these powers? The House will have nothing to compare the report with. It would be much more sensible to, say, run one system in Callendar Park and another in Plymouth and compare and contrast them after two years. You would then be able to see what the counterfactual was. CMEC and the Child Support Agency will change their behaviour as soon as this amendment is passed and motor as hard as they can for the next two years to ensure that the measure looks as good as possible and then present the House with no alternatives. What are we expected to say? What will the report contain that will enable us to weigh in the balance whether the current system, which contains the protection offered by the court, is better than or different from the new system? All we will get is a report on whether the new system has worked. The Government will pile resources into this to ensure that it works, count up the extra child maintenance that is paid—I am in favour of that—and then say that there is no alternative. I do not know how the proposed report will enable the House to make a sensible judgment at a future date on whether to keep the new powers or to revert to the status quo. Until I receive reassurance on that, I am not sure that I support the amendment.[78]

The amendment received the approval of Lords Freud and Skelmersdale who believed it achieved the objective set out at Report and brought the measures into line with those on driving licences. The amendment was agreed without division.[79]

5 Birth registration[80]

Part 4 and Schedule 6 of the Bill would establish new provisions (in a number of cases supplemented by an order making power) to deal with birth registration. The Bill would amend the *Births and Deaths Registration Act 1953* (the 1953 Act) in order to promote the joint registration of the births of children whose parents are not married to each other and are not civil partners of each other. It is not intended to affect the registration of births by married parents or female civil partners. It is intended that either parent would be able to initiate the

[77] HL Deb 3 November 2009, c166
[78] HL Deb 3 November 2009, c166-167
[79] HL Deb 3 November 2009, c168
[80] This section by John Woodhouse, Home Affairs Section

registration (or re-registration) process to include on the birth record details of the second parent. Much of the detail of the new system would be included in regulations.

In addition, the Bill would amend the provisions in the 1953 Act which relate to the late registration of births. Amendments to the *Children Act 1989* would modify the way in which parental responsibility could be acquired by unmarried fathers, and where appropriate, second female parents.

5.1 Government amendments

On Report, the Government brought forward a group of technical amendments to Schedule 6, necessary to effect new sections 2B, 2C and 2D of the 1953 Act. These sections would cover the registration processes to be followed where unmarried parents acted separately to register a birth (rather than jointly, in the usual co-operative way). Baroness Crawley (Government Whip) explained that in some cases the mother would give the registrar her required information in advance of the father providing his details:

> At this time, she will also give details of the father to the registrar, so that the registrar can contact him and require him to co-operate with the registration process. These amendments ensure that the mother will not be required to return again to the register office to sign the register once the father has been contacted. Instead, she will discharge her duty to sign the register by signing a declaration when she first attends. Therefore, when the birth is registered, once the father's information has been obtained, the entry will be considered to have been signed by the mother.[81]

The amendments were agreed without debate.[82]

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81 HL Deb 27 October 2009 c1127

82 *Ibid*