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GENERAL COMMITTEES

Public Bill Committee

ENERGY BILL [*LORDS*]

First Sitting

Tuesday 26 January 2016

(Morning)

CONTENTS

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Saturday 30 January 2016

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY FACILITATE THE PROMPT PUBLICATION OF THE BOUND VOLUMES OF PROCEEDINGS IN GENERAL COMMITTEES

The Committee consisted of the following Members:

Chairs: Philip Davies, † Mr Adrian Bailey

† Boswell, Philip *(Coatbridge, Chryston and Bellshill)* (SNP)
† Cartlidge, James *(South Suffolk)* (Con)
† Dowden, Oliver *(Hertsmere)* (Con)
† Fernandes, Suella *(Fareham)* (Con)
† Hall, Luke *(Thornbury and Yate)* (Con)
Harpham, Harry *(Sheffield, Brightside and Hillsborough)* (Lab)
† Heaton-Harris, Chris *(Daventry)* (Con)
† Hoare, Simon *(North Dorset)* (Con)
† Kinnock, Stephen *(Aberavon)* (Lab)
† Leadsom, Andrea *(Minister of State, Department of Energy and Climate Change)*
† Lewis, Clive *(Norwich South)* (Lab)
† Lynch, Holly *(Halifax)* (Lab)
† McCaig, Callum *(Aberdeen South)* (SNP)
† Maynard, Paul *(Blackpool North and Cleveleys)* (Con)
† Pennycook, Matthew *(Greenwich and Woolwich)* (Lab)
Reynolds, Jonathan *(Stalybridge and Hyde)* (Lab/Co-op)
† Smith, Julian *(Skipton and Ripon)* (Con)
† Sunak, Rishi *(Richmond (Yorks))* (Con)
† Warman, Matt *(Boston and Skegness)* (Con)
† Whitehead, Dr Alan *(Southampton, Test)* (Lab)

Katy Stout, Ben Williams, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 26 January 2016

(Morning)

[Mr Adrian Bailey *in the Chair*]

Energy Bill [*Lords*]

9.25 am

The Chair: Before we begin consideration of the Bill, I have a few preliminary announcements, as I recognise that it may be the first Public Bill Committee for a number of Members. First, please switch electronic devices to silent—I will just check that I am doing as I instruct. Tea and coffee are not allowed in the room during sittings.

Today, we will first consider the programme motion on the amendment paper and a motion to enable the reporting of written evidence for publication. Then we will begin line-by-line consideration of the Bill. In view of the time available, I hope we can take those motions formally without debate.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 26 January) meet—

(a) at 2.00 pm on Tuesday 26 January;

(b) at 11.30 am and 2.00 pm on Thursday 28 January;

(c) at 9.25 am and 2.00 pm on Tuesday 2 February;

(d) at 11.30 am and 2.00 pm on Thursday 4 February;

(e) at 9.25 am and 2.00 pm on Tuesday 9 February;

(2) the proceedings shall be taken in the following order: Clauses 1 and 2; Schedule 1; Clauses 3 to 73; Schedule 2; Clauses 74 to 84; new Clauses; new Schedules; remaining proceedings on the Bill;

(3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 9 February.—*(Andrea Leadsom.)*

Resolved,

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

The Chair: Copies of written evidence that the Committee receives will be made available in the Committee Room.

Clause 1

The OGA

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

Dr Alan Whitehead (Southampton, Test) (Lab): Good morning, Mr Bailey. It is a pleasure to serve under your chairmanship in this Committee.

The first clause of the Bill is about the very existence of the Oil and Gas Authority. In truth, it is a rather odd construction: it is a regulator, but at the same time it is a limited company, albeit one that does not have to use the word "limited". Essentially, it is a private company with one shareholder—the Government. Presumably, therefore, the Government may sell their share whenever they wish. The OGA's members, officers and staff are not, as we see elsewhere in the Bill, to be regarded as civil servants, but they do have access to civil service pensions. The OGA is quite an anomaly in the world of regulators.

My understanding of how regulators work across the board is that they have to perform a function that is clearly equidistant between Government, industry and other arrangements. In this instance, the set-up of the OGA does not appear to conform exactly to that principal definition of what a regulator should be. Why was it decided that this should be the formulation of the OGA? It is rather different from the precedent for regulators. An unworthy suggestion could be made that the OGA has been set up as it is to take it off Government books, although as far as staff of the OGA are concerned it will put them, at least in some instances, back on Government books again. However, I am sure that that is not the sole or the main purpose in deciding to set the OGA up in this particular way.

I would be very interested to hear from the Minister why this structure was chosen and what advantages it is thought to provide. Does she think any particular difficulties might arise from the Government company structure that the OGA is to have, and if so, can they be satisfactorily resolved by other aspects of the OGA's construction?

The Minister of State, Department of Energy and Climate Change (Andrea Leadsom): Mr Bailey, it is a great pleasure to play a role in the Committee scrutinising this very important Energy Bill, and I thank all hon. Members for being here this morning. I hope we are going to have some very interesting discussions.

Sir Ian Wood published his review on 24 February 2014. It concluded that the UK continental shelf is a very different and more complex operating environment now than in the past. The review proposed four key recommendations, which the Government accepted in full at the time of publication and reconfirmed in our response published on 16 July 2014. The four key proposals were: first, the adoption of a cohesive tripartite approach between the regulator, the Treasury and industry in developing and implementing a new shared strategy called maximising economic recovery UK, or MER UK; secondly, the establishment of a new arm's length regulator; thirdly, the introduction of a suite of additional regulatory powers for the new regulator; and fourthly, the development and implementation of new sector strategies on issues such as exploration and decommissioning cost reduction.

The Department of Energy and Climate Change is making strong progress in implementing the recommendations of the Wood review. In particular, the principle of maximising economic recovery of offshore UK petroleum was established in the Infrastructure Act 2015. We also took a power in that Act to charge a levy to fund the OGA. As the hon. Gentleman knows, the OGA was initially established as an Executive agency but will become a Government company as a result of this Bill. Classification as a Government company will enable the OGA to have operational independence from

Government and will provide a more suitable platform and the regulatory certainty that the industry requires to invest in exploration and production activity. It will also allow the OGA the necessary operational freedoms to recruit high-calibre individuals in a competitive employment market.

To be very clear, there are very well known precedents for Government companies, including the Prudential Regulation Authority, the Financial Conduct Authority and the Highways Agency. The Government-owned company is a private company under the Companies Act 2006, limited by shares, with the Secretary of State for Energy and Climate Change as the sole shareholder. The Secretary of State will appoint the chair and a non-executive director to the board. Of course as the hon. Gentleman knows, the OGA has a new independent chief executive who is already making strong progress. We absolutely support the establishment of the OGA in the terms in which it has been set up.

Dr Whitehead: I thank the Minister for that explanation of the set-up of the OGA, but I have to say that the Wood review did not at any point, as far as I can see, refer to the idea that the OGA should be a Government company with a single shareholder. Indeed, as the Minister correctly points out, Wood set out at some length what the activities and scope of the OGA should be—but perhaps that is a debate for another occasion. The issue now is the structure of the OGA in relation to its duties, to the industry and to the question of continuing to maximise the output and return of the North sea. It seems to me that a fairly carefully defined body is required to undertake that regulation.

Sir Ian Wood talked about an arm's length organisation that would be able to stand between the various interests and make sure that those interests worked collaboratively rather than competitively in securing the success of the North sea. I wonder whether the OGA as constructed will be able to do that in the way that Sir Ian envisaged and all of us in this House want. It is true that, in the past, a few—I emphasise: only a very few—Government agencies have had this construction. I should like to know why the proposed construction is uniquely good for the arrangements of the OGA, in so far as the requirements that Sir Ian Wood set down for the role of the regulator are concerned. What thought have the Government given to other ways of constructing the regulator so that it could provide the best arm's length arrangement for the industry?

Andrea Leadsom: I have to disagree with the hon. Gentleman. It was a clear recommendation of the Wood review that a step change was needed in Government stewardship and regulation of the UK continental shelf, and this required a new independent body with a strong CEO and greater independence from Government to focus fully on maximising economic recovery. As an arm's length body, the OGA will be in a much better position to play a strong role in catalysing, encouraging and facilitating actions and agreements within and between operators, and between operators and Government, to ensure the success of the tripartite MER UK strategy. It is simply not true to say that this was not part of Sir Ian Wood's recommendations; I think it was very much a part of those recommendations. The alternative, as the hon. Gentleman will be aware, is that the OGA continues to operate as an Executive agency, and that of course would not have the same extent of separation from Government as Sir Ian Wood envisaged.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clause 2

Dr Whitehead: I beg to move amendment 7, in clause 2, page 2, line 9, at end insert—

'(2c) The Secretary of State shall, within one year from the date of this section coming into force, undertake an assessment of the fitness for purpose of the OGA's powers in relation to relevant activities, and shall lay before each House of Parliament a report of the findings."

This amendment would require the Secretary of State to undertake an assessment of whether the OGA'S powers are fit for purpose within a year of this section coming into force.

The Chair: With this it will be convenient to discuss Government amendments 2 and 3.

Dr Whitehead: Amendment 7 seeks to reflect the newness of the concept of what the OGA is undertaking regarding the North sea. This regulator has previously existed as an Executive agency, as the Minister quite correctly says, and was essentially given authority under the Infrastructure Act; nevertheless, it will be operating in very new circumstances for a regulator.

Unlike some previous bodies, the OGA is not being set up at the same time as the emergence of a specific legislative structure or the development of a new industry. It is coming into an industry that is three quarters of the way through the operational history of North sea exploration, extraction and associated activities. It comes in with a number of new challenges, which include the maturity of the North sea basin and the need for different forms of working for future extraction, such as the sharing of infrastructure facilities and agreements on how the North sea can best be developed in its more mature phase. My central point is that the OGA arises at that new stage in the life of the North sea and the challenge is to get the arrangements right for the future.

A structure has been put in place that is substantially in line with many of the recommendations of the Wood review and seeks to get the best out of an admittedly difficult series of processes. My concern is whether, in setting up the powers and arrangements for the OGA, we have found the best way forward. We will perhaps know that only as the OGA gets under way. Although I do not believe that, with regulators in general, one should pull the plant up by its roots to see if the roots are growing, I think it is important when establishing a new agency to carry out an initial appraisal of its fitness for purpose and ability to achieve what we all want, as well as to inform how best to undertake its activities.

The purpose of the amendment is not to secure regular reviews of the agency's activities. I suspect the Minister may have one or two things to say about the status of regular reviews. Labour Members believe the Government amendments on regular reviews are about right. There is a different case to be made for the initial scoping of the purpose of the OGA and how it has been transferred from idea to purpose to action. An initial appraisal of whether we have got that right ought to be undertaken in the next year.

[Dr Whitehead]

It is vital that we get this right, because of the importance of the North sea having a successful future. An initial review would greatly enhance the faith that people will place in the OGA's ability to regulate activities in the North sea properly. Does the Minister think that that is a good idea in principle? If she does, would she be willing to accept amendment 7 or a similar amendment to inform the activity of the OGA over the next few years?

9.45 am

Andrea Leadsom: Amendment 7 would add a new requirement for the Secretary of State to undertake an assessment of whether the OGA's powers are fit for purpose within one year of clause 2 coming into force. The provision should be read in conjunction with clause 17, to which I have tabled my own amendments to overturn the amendments made in the other place. My amendments reinstate the original wording of clause 17 to require the Secretary of State to carry out a review of the OGA's performance and functions on a no more than three-yearly ongoing basis

Amendment 7 returns to the notion that a review of the OGA's powers should be carried out within one year of the Bill coming into force. Moreover, it would seek a much wider review than that specified in clause 17, covering all the OGA's powers. I remain of the view that the amendment is not necessary and risks damaging the OGA's effectiveness. The hon. Gentleman puts it very well when he says he does not want to pull the plant up the roots to see if it is growing, and I fear that that is exactly what would happen.

For such a wide-ranging review to be undertaken within one year, it would have to begin almost immediately, diverting significant OGA and Government resources from the urgent task at hand. It would also leave no time for the OGA to operate within the powers that it will have, making it difficult to reach any view on whether they are effective. It would also cut across Sir Ian Wood's recommendations, which remain crucial. Government and industry have made it clear that, more than ever, we need a robust and well resourced regulator to support the North sea oil and gas industry. It is crucial that the OGA is given the space it needs to fulfil that role as a new regulator with new powers. The amendment risks stifling the OGA and creating uncertainty over its functions at a time when it needs to be resolutely focused on providing urgent support to industry, so I hope that the hon. Gentleman will be content to withdraw his amendment.

Government amendments 2 and 3 overturn Opposition amendments made in the other place and reinstate the original wording of clause 17 to require the Secretary of State to carry out a review of the OGA's performance and functions on a no more than three-yearly ongoing basis. There is broad consensus that measures are needed to ensure that the OGA remains well equipped to address the diverse challenges faced by the oil and gas industry, and that its role and scope, particularly in relation to carbon dioxide and storage, is appropriate, sufficient and regularly evaluated. As such, the Government introduced provisions requiring a review of the OGA's effectiveness in exercising its functions, as well as a review of the fitness for purpose and scope of such functions. However, as I said, Opposition amendments made in the other place require an initial review to take place no later than one year after the Bill comes into force, and then annually for subsequent reviews. These time periods were reduced from the three-year periods that the Government had introduced.

I have already set out how a mandatory annual review would be an incredibly onerous process for the Government, the OGA and industry, and is likely to have myriad unintended consequences. It would require the almost continuous evaluation of the effectiveness of the OGA, with very little time to implement the recommendations from each review. Reviews would be extensive, needing to cover both statutory and non-statutory functions, and an assessment of effectiveness against external factors, such as changes in the regulatory landscape, operational practices across the UK continental shelf, and environmental and economic factors. All of this would be required as part of the review to enable the Secretary of State to produce a report setting out the findings of the review, which is to be laid before Parliament. This would create significant resource burdens for the OGA and the Government and risk obstructing the work of the OGA. The process would be inefficient and would therefore risk producing an ineffective review. It would weaken the ability of the OGA to act as an independent regulator free from Government intervention. It would also create a review process significantly out of step with those to which other regulators are subject.

It is worth noting that other mechanisms will be in place to ensure that the OGA is held to account for its performance and functions. It will publish, on an annual basis, a refreshed five-year business plan and an annual report and accounts. The need for an arm's length body charged with effective stewardship and regulation of the UK continental shelf was a central recommendation of the Wood review. I believe the original three-year review periods introduced by Government must be reinstated to avoid conflict with that recommendation.

Callum McCaig (Aberdeen South) (SNP): I look forward to serving under your chairmanship, Mr Bailey. It is incredibly important that we establish the OGA, as dealt with in clause 1, and we wholeheartedly support the OGA having the powers that it requires to fulfil its role of securing maximum economic recovery. That principle is enshrined in the Wood review, which was conducted some 18 months ago, albeit in a climate where the price of oil was considerably higher than it is now and the challenges facing the sector were likewise considerably different.

The Scottish National party supports amendment 7. The principle that the Secretary of State should look at the OGA to see whether it has the required powers is fundamental, given the change in circumstances. That said, we are content to support the Government amendments. The principle of establishing the OGA, and looking at it after a year, is sound. However, once that has been done, the OGA should be looked at on a three-year rolling basis. The Minister has made a sensible case not to over-burden the OGA with regular reviews and we support that. In conclusion, the SNP will support both the Labour and Government amendments.

Dr Whitehead: I thank the Minister for her response to my explanation of why the amendment is useful for the longer term operational strategy of the OGA. However, I gently suggest that she may have slightly misunderstood my earlier comments. I am certainly not saying that the OGA should be reviewed on an annual basis. I share the Minister's concerns that were that to be the case, it could well stifle the OGA's activities.

That is an operational point: how can the OGA best operate over a period of time and how can we make sure that it has the wherewithal to do so? It would have a negative effect to put its operations continually under the microscope, and could stifle its ability to do what we hope it will do best, as far as the future of the North sea is concerned.

We have to look back through the legislation to see exactly where the construction of the OGA comes from. The whole question of strategy arises from the amendment of the Petroleum Act 1998 by the Infrastructure Act to provide the principal objective. Interestingly, that measure refers to "collaboration among"—not regulation between—"the following persons", and lists some consequences of the principal objective, including the

"development, construction, deployment and use of equipment used in the petroleum industry".

In other words, under that objective, there is a fairly close relationship between the petroleum industry and the OGA.

That is a particular way of proceeding, and it is what is in the legislation, but it may not, as it turns out, be the best way for the future operation of the OGA. The authority could be carrying out its ongoing activities wonderfully, but be stifled by the way in which its powers and objectives have been set up. The review seeks not to run regular speed checks as the OGA goes down the road in the early stages of operation but to look at whether the vehicle in which it has been designed to travel is the best one. It would at the very least be prudent to take the opportunity to consider the situation one year into the OGA's operation, to ensure that we have got it right, and it could be useful for the authority's future, whereas longer-term review methods, undertaken too regularly, could cause operational problems.

I am happy to withdraw the amendment. I hope, however, that the Minister will consider carefully how the OGA has been set up. Can we be certain that the authority will be as fit for purpose in the future as we think it is today, and might there be mechanisms for reviewing that as the OGA undertakes its operations?

Andrea Leadsom: I think that the hon. Gentleman and I agree in principle—clause 17 was introduced because of the need for regular review—but we disagree about how soon the review needs to take place. It would be unsettling for the industry that supported the establishment of the OGA if within a year everything could change, so I feel that one year is too short a time. I am grateful to the hon. Gentleman for withdrawing the amendment.

Dr Whitehead: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 2 ordered to stand part of the Bill.

Schedule 1

TRANSFER OF FUNCTIONS TO THE OGA

10 am

Question proposed, That the schedule be the First schedule to the Bill.

Dr Whitehead: On the OGA's functions regarding the disposal of gas by flaring, what does the Minister think is the best arrangement for the regulation of flaring and for ensuring that it is undertaken in the safest and most environmentally acceptable way, and in a way that is most conducive to the overall purpose of a platform? The schedule states:

"The OGA's consent is required for natural gas to be disposed of (whether at source or elsewhere)…by flaring, or by releasing it unignited into the atmosphere",

and so on.

The schedule also states:

"This section applies to all natural gas of the United Kingdom, whether obtained there or in territorial waters, or in areas designated under the Continental Shelf Act 1964",

which suggests that the proposed new section applies to the flaring of all natural gas in the United Kingdom, whether onshore or offshore. I might not have read the provision entirely correctly, but if it does apply to all natural gas flaring in the United Kingdom in general, then the role of the Environment Agency in looking at how such flaring works might need to be added to the schedule, given the agency's proper interest and indeed expertise, in particular in respect of the environmental considerations of flaring that under the schedule as drafted appear to be deputed entirely to the OGA.

I do not seek to overturn the schedule, because it is an important part of the process of getting the OGA under way, but that particular part of the proposed new section appears to be a lacuna on how the function is undertaken. Has the Minister considered, formally or informally, the role of the Environment Agency in the process? Might a function onshore also apply to a function offshore? I seek clarification from the Minister, so we may be as clear as possible that where flaring is undertaken it is done so with the best possible safety and environmental safeguards. Safeguards should also have a relationship to the purpose of the exploration or extraction in the first place.

Andrea Leadsom: I am grateful to the hon. Gentleman for raising the issue. As he is aware, although the Wood review looked only at offshore oil and gas, it acknowledged that there were synergies between offshore and onshore. We agree that there are such synergies. In particular, the licensing regimes, technologies and necessary regulatory expertise are all similar. We therefore decided that the OGA will take on a larger range of regulatory functions than originally envisaged by the Wood review.

The clause and the schedule provide for the transfer of DECC's functions in relation to oil and gas to the OGA, covering offshore oil and gas licensing and regulation, but not health and safety or environment; onshore oil and gas licensing and regulation for England, but not health and safety or environment; carbon capture and storage; and gas storage and unloading. We will transfer the powers that at present lie with the Secretary of State

[Andrea Leadsom]

and are exercised by the OGA as an Executive agency. As we have just discussed, an Executive agency has no separate legal identity and so exercises powers that are conferred on the Secretary of State. For the OGA to carry out its functions, the powers will therefore need to be transferred to it as a Government company through legislation.

The Secretary of State's regulatory functions in relation to the environment will not be transferred, but will stay with DECC. The regulation of health and safety is undertaken by the Health and Safety Executive, and that will remain so. Powers will need to be transferred to the OGA so that it can fulfil its remit. Those include powers to award petroleum licences, issue consents for related activity and regulate third party access to upstream petroleum infrastructure.

With regard to the hon. Gentleman's particular point, venting is agreed to under licence, but that is determined by safety reasons. Those functions will be under licence to the OGA—so it will take on some of those licensing functions.

Matthew Pennycook (Greenwich and Woolwich) (Lab): It is a pleasure to serve under your chairmanship, Mr Bailey. May I press the Minister for a bit more detail on why the offshore safety directive regulator will remain within DECC under the proposals? In other countries, where an oil and gas authority—or similar—has been set up, that part has also been outsourced to a separate, independent regulator.

Andrea Leadsom: As we have made clear, these were very specific recommendations of the Wood review—namely, that there needs to be tripartite co-operation between the industry, the regulator and the Government. In the UK, health and safety and environmental functions are taken on by independent regulators. Careful thought was given to where the boundaries should lie, and therefore health and safety and the Environment Agency will continue to have roles to play.

Question put and agreed to.

Schedule 1 accordingly agreed to.

Clause 3

TRANSFER OF PROPERTY, RIGHTS AND LIABILITIES TO THE OGA

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

The Chair: With this it will be convenient to consider clauses 4 to 7 stand part.

Dr Whitehead: I feel puzzled about some of the arrangements that are set out in these clauses, particularly the transfer of staff to the OGA from DECC, which is referred to in clause 4. It states:

"The Secretary of State may make… transfer schemes under which persons who hold employment in the civil service of the State become employees of the OGA"

—in other words, they are not civil servants. Under the clause, the Secretary of State may make a scheme that

"may (in particular) include provision that is the same as, or similar to, the provision made by the Transfer of Undertakings (Protection of Employment) Regulations 2006".

That is puzzling, given that, in the way the arrangements have been set out in the clause, transfer of staff to the OGA is surely covered by TUPE regulations, and the terms and conditions should, certainly for a period, be similar to those that staff enjoyed under their previous arrangements.

To put in legislation that the Minister may make an arrangement similar to the provisions under TUPE suggests that the Minister has an opportunity at least to stray from TUPE provisions with regard to transfer of staff. I would welcome an indication from the Minister that my reading of the clause is perhaps a little over-suspicious and that the intention is to hold to TUPE as closely to possible on transfer of staff. That is obviously very important to an entire group of staff who have previously been employed by DECC and are now essentially, moving into uncharted waters in terms of their terms and conditions and future security of employment. Indeed, that is precisely why TUPE was put in place in the first instance. I would therefore welcome a statement by the Minister that she does not intend to try to drive a broad interpretation through the clause, to water down or, indeed, avoid the provisions of TUPE for staff undertakings.

There is also a small puzzle about the status that a staff transfer under clause 6 gives the pensions of those who are transferred. That is a little singular because, although the clause sets up the OGA as separate for the purpose of staff employment, the pension arrangements mean that the employees of the OGA are to be treated, for the purpose of paragraph 1 of the Public Service (Civil Servants and Others) Pensions Regulations 2014, as persons to whom the scheme applies. So staff who have transferred out of employment by DECC and into employment by the OGA—a Government company, as we have established, and nothing to do with the civil service—will nevertheless have access to civil service pension arrangements.

Personally, I welcome that idea—certainly the security that the staff who are transferred from employment by DECC will have in their future pension arrangements. It seems to me to be a very positive step for those staff; but of course the OGA will employ staff in the future who have never worked for DECC and will be entirely subject to whatever terms and conditions apply when they take up employment with the OGA. Nevertheless, under the clause, those people who come into the service of the OGA will also have access to civil service pension arrangements, whatever their pension arrangements prior to their coming to the OGA. Under those circumstances, I imagine that a number of staff would transfer in to civil service pension arrangements as they come to work for the OGA, having never previously worked for DECC.

That is not about individuals who had pension arrangements with DECC and retain them, but about people who gain new pension arrangements as they come to work for the OGA. It puzzles me a little, as I said, about the final status of those staff in relation to the civil service as a whole. They are not civil servants, but they are civil servants for the purposes of pensions.

They may have never been civil servants, but they sort of become civil servants in retirement. Is that a constructional problem that the Minister considers may lurk behind this arrangement, good though I think it is for current staff? Does she think it needs any further examination to resolve it, so that there can be a clear line of employment, pension rights and pension arrangements subsequently?

10.15 am

Andrea Leadsom: I welcome the hon. Gentleman's questions and I can assure him that it is our intention to leave staff pretty much unchanged. The legal advice on the application of TUPE was uncertain as to whether this qualifies as a relevant transfer, so, to ensure that TUPE-like protection is afforded to staff, a transfer scheme is required. As a result of the transfer of functions, civil servants currently employed by the OGA as an Executive agency of DECC, who perform relevant functions, will be required, unless they object, to transfer along with those functions to the new Government company. The purpose of the transfer scheme is to provide the same or similar protection to that afforded by the TUPE regulations. I hope that that reassures the hon. Gentleman.

I can also tell the hon. Gentleman that, in line with the handling of all machinery of Government-like changes and TUPE transfers, staff are not able to opt out of the transfer. However, for any individuals who might wish to return to a civil service Department, a provision is normally made for a period of 12 months after the transfer date to allow them to apply for another civil service position.

On the hon. Gentleman's second, important point about pensions, clause 6 allows civil servants who transfer to the OGA continued access to either the principal civil service pension scheme or the new Alpha pension scheme, which was introduced in April 2015, and, in some cases, both schemes, depending on the date they joined the civil service and their anticipated date of retirement. It also ensures that non-civil servants who are recruited by the OGA in future will have access to the Alpha scheme.

The hon. Gentleman asked why we are allowing new joiners to have access to the civil service pension scheme. I am glad that he welcomes it, but he nevertheless asked whether that complicates things. I can tell him that the Department has used such an approach before. For example, the Energy Act 2013 added the Office for Nuclear Regulation to schedule 1 of the Superannuation Act 1972. The benefit of allowing new joiners to have access is that it will avoid having a two-tier workforce whereby new joiners work alongside existing employees, but with different pension benefits, and of course it encourages the recruitment of staff to the OGA.

Dr Whitehead: I thank the Minister for that clarification. Although I appreciate that these matters are complex as far as TUPE is concerned, I welcome what I think I heard was the intention to stick as closely as possible to TUPE—

Andrea Leadsom: You did, yes.

Dr Whitehead: —in circumstances where there might be some grey areas as far as TUPE is concerned. I trust that the close operation of TUPE will be a considerable comfort to the people who transfer out of DECC, and a comfort in terms of continuity of service as far as future employees and pensions are concerned.

Question put and agreed to.

Clause 3 accordingly ordered to stand part of the Bill.

Clauses 4 to 7 ordered to stand part of the Bill.

The Chair: Before we come to clause 8, let me say that it is unseasonably warm in here, and if any Member wishes to remove their jacket, please feel free to do so.

Clause 8

Transportation and storage of greenhouse gases

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

Andrea Leadsom: The clause, which was added to the Bill by the Opposition in the other place, rewrites the OGA's principal objective to maximise the economic recovery of UK petroleum, as originally introduced by the Government, in three significant ways. First, it removes the Wood review's central premise to maximise the economic recovery of UK petroleum within part 1A of the Petroleum Act 1998, replacing it with an objective to maximise the economic return of UK petroleum. Secondly, it imposes on the OGA an obligation to retain oversight of the decommissioning of oil and gas infrastructure. Thirdly, it imposes an obligation on the OGA to secure oil and gas infrastructure for reuse for the transportation and storage of greenhouse gases.

As we have discussed, the OGA has important functions in respect of decommissioning and the storage of carbon dioxide. However, the change to the principal objective that was advanced by the Opposition in the other place is damaging, self-defeating and unnecessary. It is damaging because not only does it introduce significant uncertainty about the principal objective, but it could also be interpreted as requiring industry to meet substantial and uncapped capital expenditure to secure and maintain infrastructure—potentially indefinitely—prior to decommissioning and until such time as a carbon capture and storage project is ready to use it. Our oil industry is understandably concerned about the significant liabilities and costs that that would impose at a time when it is already facing profound challenges.

The clause is also self-defeating, because it would be likely to damage the prospects of carbon storage facilities being developed in the North sea. By removing the OGA's focus on maximising economic recovery, we risk degrading its ability to provide the support to industry that is so urgently needed, and that in turn risks the premature decommissioning of the UK continental shelf, which would result in a loss of assets, infrastructure and skills, including those that could help to promote the longevity of the industry through carbon storage projects.

The clause is unnecessary because the Government tabled substantive, meaningful amendments in the other place to reflect the OGA's important functions in respect of decommissioning and CCS. Measures in the Bill will ensure that the OGA will have a strong role on decommissioning to ensure that costs are controlled,

[Andrea Leadsom]

and that the reuse of assets, including for CCS development, is given full consideration before decommissioning is decided upon or takes place. The Government have also brought forward amendments to ensure that the OGA must have regard to the storage of carbon dioxide and how that may assist delivery against climate change targets when carrying out its functions. The Government have also made it clear that the petroleum-related information that the OGA will have powers to acquire includes that which is relevant to the storage of carbon dioxide.

Crucially, this approach is sensitive to the current economic landscape of the North sea. It strikes the right balance and does not dilute the OGA's focus on maximising economic recovery. It is worth underlining to hon. Members that the Carbon Capture and Storage Association has strongly welcomed the Government's amendments to ensure that the CCS industry is given due consideration and that it can access the information that it needs.

It is essential that we restore the OGA's focus on maximising the economic recovery of oil and gas from UK waters at a time when the industry urgently needs a regulator with a laser-like focus on that objective. The OGA is already working closely with the Government and industry to do all that it can to support the North sea. It is focused on delivering key pieces of work in 2016 with the aim of making the basin more attractive to investment, including stimulating exploration in both frontier and mature areas, making new seismic data freely available, introducing regional development plans to protect key hubs and infrastructure, and progressing a technology strategy to make new fields more viable. We must support the OGA's crucial mission to protect our domestic energy mix and support hundreds of thousands of jobs, but that can be achieved only by supporting and restoring to the Bill the OGA's principal objective to maximise economic recovery. I hope that I have provided hon. Members with a logical reason why the clause should not stand part of the Bill and that they understand why I will vote against it. It is my strong desire to see clause 8 removed from the Bill.

Clive Lewis (Norwich South) (Lab): It is a pleasure to serve under your chairmanship, Mr Bailey. This is my first time as a member of such a Committee and as a shadow Front Bencher.

I thank the Minister for her statement on clause 8. Since the clause deals with the question of maximum economic recovery, I need to start by opening up the question of what that actually means. The term "maximum economic recovery" was introduced by the Wood review in 2014. The first full statutory stage of implementing that review was carried out via the Infrastructure Act 2015, which inserted a new part 1A into the Petroleum Act 1998. Section 9A(1) of part 1A defines the "principal objective" as "maximising the economic recovery", but it does not actually set out what MER means. Section 9A(2) requires the Secretary of State to formulate a strategy for maximum economic recovery. Offshore licensees are obliged to act in accordance with the strategy. For licensed operators, acting in accordance with maximum economic recovery is easy: they simply follow the strategy as opposed to the underlying principal objective.

To know how "maximum economic recovery" will be defined, we need to look at the Secretary of State's strategy, but we do not know exactly what the strategy is, since as yet it is only a draft. It is called, "Maximising Economic Recovery of Offshore UK Petroleum: Draft Strategy for Consultation". The final strategy is not due to be published until April, so to understand what "maximum economic recovery" is, all we have is that draft strategy, which sets out a series of conditions for operators that, taken together, can be understood to express "maximum economic recovery". In the draft strategy, the Secretary of State describes the OGA as

> "an independent, expert regulator and asset steward, empowered and equipped to bring industry together to drive common purpose and good outcomes for all".

Who exactly is "all"? It also states:

> "All of this will deliver a regulator and asset steward with a clear focus, real expertise of the sector and the remit to work collaboratively with companies to deliver the best outcomes for both the industry and the UK tax payer."

The Bill and the Acts that go with it—including the Petroleum Act 1998, as amended by the Infrastructure Act 2015—seek to make the principal objective a best overall outcome for everyone, and that will be achieved via the OGA. As the UK continental shelf is on the downhill slope of its productive life, the interdependence of different installations and infrastructure in the UK upstream oil and gas industry is such that if each relevant person seeks only to optimise their financial position, the performance of the industry as a whole—its ability to extract the most of what is realistically possible from the basin—is likely to be sub-optimal.

The key question for the draft strategy to answer is how and to what extent businesses are to be induced to compromise their interests for the greater good. We all understand that there is a need for a body like the OGA—that is why there has been broad support for it and for the Wood review—but I return to the draft strategy, which describes the OGA as an "expert regulator and asset steward". It is an unusual hybrid. Its job is far more than that of a mere regulator overseeing industry that can be broadly left to make its own decisions. Will it have to intervene deeply in some of those decisions? It will be empowered to sit in meetings between companies that are usually commercial rivals.

In fact, the OGA is much more like an asset steward, seeking a highly proactive role in the management of the UKCS. One quote from the Wood review is especially illustrative, because it states that a licence holder will be

> "required to act in a manner best calculated to give rise to the recovery of the maximum amount of petroleum from UK waters as a whole, not just that recoverable under their own licences."

That is a long way beyond mere regulation.

In light of the collapse of the oil price, the OGA is in some ways more like an insolvency practitioner that has come to extract the last bits of value from the UKCS and manage the process as effectively as possible, and that is the context of clause 8. It is clear that the OGA's stewardship role is its critical function, with its regulatory role very much secondary to that. In fact, the OGA bears no resemblance at all to any other regulator, which is why we want to include carbon capture and storage as part of its principal objective. CCS is a crucial element of the long-term value that can be yielded from the UKCS.

The UK has the opportunity to become a leading global player in the CCS sector. We have abundant offshore CO_2 storage capacity in depleted oil and gas fields, and that is in combination with enhanced oil recovery and storage in deep saline rock formations beneath the North sea and the eastern Irish sea. Experts estimate that geological formations beneath the UK section of the North sea can store almost 80 billion tonnes of carbon dioxide, which is more than enough to meet the needs of UK CCS projects for the next century. That advantage is made even greater when coupled with the fact that many of the UK's largest carbon emitters—power and industrial facilities—are already clustered together around major estuaries, such as at the Humber, Teesside and Merseyside, which are close to offshore storage capacity in the North sea and the eastern Irish sea. Many of those very energy-intensive industries have no long-term viability without CCS if the UK is to have a chance of reducing its greenhouse gas emissions.

10.30 am

There are already oil and gas pipelines and offshore platforms with the potential to be recommissioned for CCS, thereby prolonging the economic life and value of important offshore assets and deferring their considerable decommissioning costs. The engineering skills required for CCS are in abundance in the UK, primarily due to long-standing experience in the gas and oil, energy supply and process industries. Those include power plant and process engineering, the design, building and commissioning of major infrastructure projects, the construction and operation of pipelines, and sub-surface analysis for CO_2 storage, including reservoir operations and field services. It has been estimated that the UKCS contains 25% of all geologically suitable sites for CCS in the whole of Europe, so this is a major potential resource offering a possible new revenue stream for the UK and its offshore recovery industry. I remind the Committee that the Bill as first published made no reference at all to CCS or decommissioning. It was only as a result of Opposition amendments to the Bill that such references are now there.

Lord Bourne has argued that CCS is a remote and expensive technology, involving vast engineering and additional costs. However, the world's first operational large-scale CCS project has been open for a year in Canada at the Boundary dam, although I accept that there have been issues regarding its performance and arguments about its costs. However, I understand that the whole point of the OGA is to take a view of the best possible long-term outcomes. Its entire existence is testament to the fact that, left to itself, the free market is unable to do that.

We are not arguing that CCS should be left to the industry and that somehow we can dump all the costs of developing this technology on to it, as that would obviously be impossible and unfair. However, we do argue strongly that, since CCS is integral to any meaningful future policy on the reduction of carbon emissions, and given that the UKCS is perfectly suited to contributing to that policy with regard to storage and to the enhanced extraction of what oil and gas remain, CCS should be a principal objective of the OGA and therefore the clause should remain in the Bill.

Callum McCaig: On Second Reading, there was a lot of discussion of the clause and the founding principles of the OGA. For the SNP, it is mission critical that the OGA focuses on maximum economic recovery above all else.

I take issue with the contention of the hon. Member for Norwich South that the OGA will act as an insolvency practitioner. That is insensitive and unrealistic, and I do not believe it reflects the true future of the North sea, if it is marshalled correctly. Marshalling these enormous resources is vital. Academic and industry experts suggest that there are up to 24 billion barrels of oil and gas to be extracted from the North sea. This is by no means a sunset industry.

The potential for the supply chain and operators to explore new technologies that will enhance oil recovery, and explore and develop smaller more marginal fields is the future of the industry. The oil and gas to be extracted in the world will come from more marginal fields. The expertise that we have in the UK, particularly in the north-east of Scotland, will be truly world leading.

We are hugely supportive and recognise the economic potential of carbon capture and storage and decommissioning, but we are content that the Bill as it stands deals with those issues. I welcome what has been introduced in that regard and the discussions in the House of Lords that led to it. However, I come back to the first point. What is the OGA there to do? It is there to focus on maximum economic recovery of oil and gas, and that is what it must be allowed to do.

Andrea Leadsom: I am grateful to the hon. Members for Norwich South and for Aberdeen South. Like the hon. Member for Aberdeen South, I reject the suggestion by the hon. Member for Norwich South that somehow the OGA will be an insolvency practitioner. That is absolutely not the case. Sir Ian Wood's proposal is based on maximising the economic recovery, which is what we want to do. We see the industry as an ongoing success story for the United Kingdom, with more than 350,000 jobs throughout the supply chain. It creates enormous benefit to the economy and we hope that it will continue to do so for decades to come. The OGA is absolutely not an insolvency practitioner.

I also agree with the hon. Member for Aberdeen South that, given that more than 20 billion barrels of oil and gas are potentially left in the North sea, it is not a sunset industry. We need to be clear about that. The OGA is both the regulator of an ongoing success story—we want to get the costs of production down and to encourage new exploration and we want the sector to continue to thrive—and an asset steward, as the hon. Member for Norwich South rightly pointed out, with an important role in the strategy for maximising economic recovery.

The strategy is out for consultation. We have worked closely with industry, through industry workshops and close co-operation between the OGA, industry and the Government, to define maximising economic recovery. We hope to provide the Government response to the consultation as soon as possible. It is important to be clear that the OGA is the asset steward and the regulator for an ongoing success story.

I will try to reassure the hon. Member for Norwich South about the OGA's role in CCS. The OGA will be responsible for issuing carbon dioxide storage site licences

[Andrea Leadsom]

and for approving carbon dioxide storage permit applications. We expect the OGA to have subsequent involvement in monitoring, review and possibly enforcement activities as set out in the regulations, which are transposed from the requirements in the EC directive on geological storage of CO_2. The OGA is proactively considering the role of CCS in the technology and decommissioning strategies that it is developing. The Wood review acknowledged the potential benefit of CCS to the UK continental shelf and, as recommended, the OGA will work closely with DECC to examine the business case for using depleted reservoirs for carbon storage.

Under MER UK, CO_2-enhanced oil recovery is being considered by the OGA as part of its wider enhanced oil recovery work. CO_2-EOR could make a substantial contribution to lowering the cost of CCS projects as well as benefiting North sea revenues and jobs. However, more analysis is needed on the timing of future CCS projects and how that could affect CO_2-EOR development, and on the viability of redeveloping abandoned fields as CO_2-EOR projects. The OGA will collaborate with the CCS industry to foster innovation in EOR technologies.

As the hon. Gentleman may know, the OGA's planned work includes advancing the next tranche of EOR technologies, developing a framework for their economic implementation and developing a CO_2-EOR strategy and five-year plan this year. I hope that that gives him some reassurance, but, again, I urge Members to vote against the clause

Clive Lewis: I thank the Minister and my hon. Friend the Member for Aberdeen South for their input. I emphasise that I meant no insensitivity to the industry or to the people of Scotland—or to the people of the UK. It was just a frank, realistic assessment of the economic and industrial situation.

We support the clause because, instead of having a strategy whose primary goal is to maximise the quantity of petroleum profitably extracted from the North sea, we should have one that maximises the return on investment—investment in infrastructure, for example—in the North sea. If and when activity such as CCS can be carried on economically in the North sea, the OGA should be given the job of promoting that as well. The OGA's powers to push the industry to collaborate are extensive and we applaud some of the points that the Minister made previously. However, it clearly makes sense for the OGA also to think about the wider uses and potential reuses of the infrastructure, information and skills that are there, which other industries could deploy on the UKCS later, and CCS is a clear example of that.

The clause would, first, simply ensure that the OGA keeps its eye firmly on CCS and builds into that policy. Secondly, it is clear that some of the biggest players on the UKCS are still making profits and paying out dividends—Royal Dutch Shell and Total certainly are. Fluctuations in the price of oil are normal, and it is likely that the price will go back up at some point, although it is not wise to make predictions as to when.

Thirdly, the industry has yielded huge profits in the past to companies and individuals—Sir Ian Wood, of Wood review fame, is reportedly a sterling billionaire. As we know, there was no long-term state investment in a sovereign wealth fund that would have helped us achieve the kind of energy transition we now need. To borrow a phrase, we did not fix the roof while the sun was shining, and it could be argued that Governments of all political stripes are guilty. However, the OGA's creation is an opportunity to think long term and to escape from the short-termist, cash-in mentality of the past. The Opposition therefore seek to defend the clause.

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

The Committee divided: Ayes 5, Noes 12.

Division No. 1]

AYES

Kinnock, Stephen	Pennycook, Matthew
Lewis, Clive	
Lynch, Holly	Whitehead, Dr Alan

NOES

Boswell, Philip	Leadsom, Andrea
Cartlidge, James	McCaig, Callum
Fernandes, Suella	Maynard, Paul
Hall, Luke	Smith, Julian
Heaton-Harris, Chris	Sunak, Rishi
Hoare, Simon	Warman, Matt

Question accordingly negatived.

Clause 8 disagreed to.

Clause 9

MATTERS TO WHICH THE OGA MUST HAVE REGARD

Dr Whitehead: I beg to move amendment 8, in clause 9, page 6, line 17, at end insert—

"*Environmental considerations and climate change*

The need for the OGA to address environmental considerations and to facilitate the pursuance of section 1 of the Climate Change Act 2008 in relation to relevant activities."

This amendment would require the OGA to have regard to environmental considerations and climate change when exercising its functions.

The Chair: With this it will be convenient to discuss amendment 9, in clause 9, page 6, line 17, at end insert—

"*Hierarchy of matters relating to decommissioning*

The need to re-use North Sea infrastructure for carbon capture and storage projects and marginal field extraction, where economically viable, to be considered prior to the decommissioning of such sites."

This amendment would require the OGA to have regard to the hierarchy of matters relating to decommissioning when exercising its functions.

Dr Whitehead: We now turn, in the sequence of clauses, to the matters to which the OGA must have regard. The Bill lists those as minimising future public expenditure; security of supply; and the storage of carbon dioxide—I believe that that provision was inserted in another place, and I am pleased that it remains in the Bill. The OGA must also have regard to collaboration, innovation and the system of regulation. There are therefore a number of key directions to the OGA about how it goes about its stewardship of the North sea and its regulation of the industry.

The amendments seek to add a couple of additional items to the list of matters to which the OGA should have regard. This is not about departing wildly from the list in front of us, but about how the OGA operates in its wider sense—that is, not only its stewardship of the industry and the North sea, but its proper concern with what is happening and will happen as far as North sea exploration and development is concerned, in the context of the wider concerns to which the UK should have regard. The two definitions that we wish to add to the list develop and round off that particular mission requirement for the OGA.

10.45 am

I will say a few words about what the additions mean. While the overall list of matters to which the OGA must have regard is pretty wide ranging, it certainly does not include any wider environmental considerations to which the OGA must have regard. It also does not require the OGA to seek its stewardship to be cited, in terms of the UK's wider concerns, as set out in the Climate Change Act 2008.

Obviously, environmental considerations may concern more closely the OGA's activities in the North sea—for example, extraction issues, spills and flaring. We have discussed a whole variety of other activities relating to the environmental background and what is going on in the North sea. The Climate Change Act, and section 1 in particular, sets out wider considerations for the UK as a whole to address—not only environmental considerations but the circumstances in which we consider what carbon we emit as a country and how we go about bringing those carbon emissions down to a level within the target set out by the Act.

That obviously concerns our energy mix for the future—where we get our energy from and how we can best ensure that our energy mix is both secure and decarbonises our economy in line with the targets set out in the Climate Change Act. Hon. Members will recall that we discussed on Second Reading precisely what that may mean in terms of the future use of the North sea for the exploration and extraction of oil. I think we concluded across the House that there is no case for closing the North sea industry down on climate change grounds, but we also concluded that it was important to have proper regard to climate change considerations in how we go about stewarding the future of the North sea.

We recognised that we would require a considerable element of oil and gas in our economy for a very long time to come. There is no doubt that, even with substantial changes in the energy mix, there will be a substantial role for gas in the future, and of oil as well, although the Government are already committed to reducing the role of oil and petroleum in transportation and introducing different forms of propulsion as far as possible. Understanding that there will be a substantial role for fossil fuels over the medium period, obtaining those fuels for the UK economy as close to home as possible seems to be an important part of our considerations, but that needs to be seen in the context of the Climate Change Act and how it works. I cannot envisage circumstances in which the OGA will not have proper regard to the Act in its stewardship of the future of the North sea, but amendment 8 would require the OGA to have proper regard to these considerations.

Amendment 9 looks at the question of decommissioning and would align the matters to which the OGA should have regard with what I think we have established between us, certainly on Second Reading and in Committee today. The OGA has a wider role in its medium and long-term stewardship of the North sea—even if there is not a great deal of oil there, in the end—to ensure a vibrant and economically active future.

The present is difficult for the North sea because of current prices and the likelihood that, although they may rise, they probably will not do so for quite a while. There are particular difficulties relating to the number of exploration licences that are being taken up and the extent to which development of infrastructure may be constrained by prices and the arrangements for the exploitation of fields. The whole future of the North sea has to resolve around an effective series of arrangements for the continuation of exploration and exploitation in circumstances where we know we probably will not find find a new Brent or Forties oilfield or a large new basin to exploit. We may instead find a number of smaller fields whose exploitation will require not only infrastructure for themselves, but the use of existing infrastructure. There is therefore the question of the OGA having proper regard for decommissioning activity and how existing infrastructure may be used for other purposes—not only new uses for the North sea, such as carbon capture and storage, but the continuation of and maximum recovery of what is in the North sea now.

I am sure the Minister is aware of the difficult position of the North sea industry at the moment, not only with exploration for future finds and what they might then consist of, but with the 300 already existing, "in the bank" finds, which in many instances remain completely unexploited. Some finds were made as long as 10 years ago and are unexploited because of the present price of oil, which is a considerable difficulty, and because those 300 or so smaller finds are collectively all below 50 billion barrels of oil equivalent. There is then a question about how those fields can be brought into proper exploitation over the next period, or whether they will be exploited at all in future if we do not have careful regard to how the infrastructure will work. None of those fields will be in a position to build their own infrastructure, either now or in future, because of their size and because of the circumstances for the sector that will remain because of overall prices. It is therefore crucial that the finds have the best support possible from the infrastructure already in the North sea and any conceivable infrastructure that comes about in future.

In his report, Sir Ian Wood made a particular point of drawing attention to the problem of what he called the

> "misalignment of commercial and technical interests between the owner of the hub platform and infrastructure and the party seeking access to process and transport their well stream."

He went on:

> "The hub owner typically views the provision of processing and transportation to a third party as a low value opportunity, particularly when they have no equity interest. As a result there is little incentive for the hub owner to take on business which could add risks to their own operations and use up capacity in their facilities. In contrast, the small operator seeking access has little bargaining power and often suffers interminable delays in trying to counter the risk issues."

Sir Ian absolutely nailed the problems for all those smaller fields, which will be the bulk of what we have to live with in the North sea—the problems of infrastructure and decommissioning.

For people who like charts, Sir Ian produced an interesting little one demonstrating what would happen, or how circumstances could come about wherein operators acting perfectly reasonably in their own interests could switch off parts of the infrastructure in a way that would permanently deprive other elements of North sea development of the opportunity to maximise their resource, precisely because of the way in which interests are aligned in the North sea. It therefore seems essential that the OGA has proper regard not only to the process of decommissioning, but to the strategic value of that decommissioning as it relates to the future exploitation of the North sea and the wider aspect of how the North sea makes its way over the much longer period. With this amendment we want to place that requirement firmly within the purview of the OGA. That makes sense as far as the Wood report's cautions are concerned and it makes sense, it seems to me, in terms of the proper concern for the longer-term stewardship of the North sea, regardless of its mix of oil, gas, carbon capture and storage or whatever. I commend the amendments to the Committee.

11 am

Philip Boswell (Coatbridge, Chryston and Bellshill) (SNP): I look forward to serving under your chairmanship, Mr Bailey.

While the environmental considerations of climate change are vital, of course, we do not feel that this is the forum to deal with them. It is the Government as a whole, and DECC in particular, who should be dealing with this and who carry the responsibility. As such, we will not pursue this.

Andrea Leadsom: As the hon. Member for Southampton, Test pointed out, clause 9 provides a non-exhaustive list of matters to which the OGA must have regard when exercising its functions, so far as is relevant. These include, for example, the need to maintain a stable, predictable system of regulation that encourages investment and the development and use of facilities and other things needed for carbon storage.

Amendment 8 seeks to require the OGA, when exercising its functions, to have regard to the need to address environmental considerations and to facilitate the pursuance of section 1 of the Climate Change Act 2008 in relation to relevant activities. The European offshore safety directive requires the separation of licensing and environmental functions, and to require the OGA to have regard to environmental considerations risks breaching the requirements of that directive.

Climate change is, of course, of great importance, but the OGA's primary role and focus will be to deliver MER UK. It would not be right to impose obligations on the OGA relating to environmental considerations in respect of which it does not have expertise and is not required to have expertise. It is important that our climate change objectives and environmental regulations are furthered by the experts in the field. The expertise on climate change will remain with the Secretary of State for Energy and Climate Change. Likewise, environmental regulation in relation to offshore oil and gas will remain with the Secretary of State and, onshore, it will remain with the Environment Agency and with the Scottish Environment Protection Agency and Natural Resources Wales in the relevant jurisdictions in Great Britain.

It is right that, once established, the OGA will be bound by environmental law and therefore in the exercise of its functions it will by default have regard to environmental issues. It already has existing close working links with the environmental regulators and these will continue. However, I do not think it is right or necessary to impose on the OGA obligations to consider environmental considerations and climate change. Both of these are matters that would require a change in the core expertise of the OGA if it were to properly fulfil them. In addition, we can foresee circumstances where these obligations might conflict with the requirement on the OGA to maximise economic recovery. The objectives are not incompatible at policy level, in that we will need significant oil and gas in the transition to a low-carbon economy.

I am grateful to the hon. Member for Southampton, Test for reassuring the Committee that his party accepts that there is a future for the North sea basin and they do not wish to shut it down. I am sure that all hon. Members in the Aberdeen area will be delighted to hear that those 350,000 jobs would remain safe in Opposition hands and that it is not their intention to precipitately close down the North sea industry. Nevertheless, in particular circumstances each consideration in relation to the environment and climate change could point to a very different course of action if the Opposition amendments were made, creating a very difficult position for an arm's length body to manage. That would be very unfortunate for the OGA, leaving it facing an impossible dilemma between two incompatible statutory obligations. I hope that Members are convinced that we already have enough powers to ensure that these important matters are given appropriate consideration.

Clause 10 also gives the Secretary of State the power to give the OGA directions on matters of public interest. The environment and climate change are clearly matters of public interest and the powers in the clause may be exercised if it proves necessary.

Turning to amendment 9, I suggest that we all agree that the economically viable reuse of North sea infrastructure for carbon capture and storage projects and marginal field extraction, as an alternative to decommissioning, is of great importance. I am grateful to the hon. Member for Southampton, Test for his clear examples of precisely why Sir Ian Wood drew up his strategy for the OGA to be not just a regulator but an asset steward. He pointed out some of the clear challenges when lots of small operators in small fields try to share infrastructure, and so on. That highlights the OGA's need for the proposed asset stewardship powers.

Indeed, consideration of reuse of infrastructure already plays an integral role in the decommissioning approval process, and amendments tabled by the Government in the other place would reinforce that requirement by

creating a statutory basis for the alternatives to decommissioning that would have to be considered by industry, the Secretary of State and the OGA. When a decommissioning programme is submitted, the current process requires any person who wishes to decommission relevant infrastructure to demonstrate that the potential for reuse has been fully examined, as set out in Department of Energy and Climate Change guidance on decommissioning under the Petroleum Act 1998.

Further, clause 74 and schedule 2 to the Bill will place a requirement on industry, the OGA and the Secretary of State to ensure that alternatives to decommissioning, such as reuse or preservation, are considered. Requirements to consider reuse of infrastructure will include considering purposes other than the original one—carbon capture and storage, for example.

It is also worth noting that the measures enjoy the support of both the oil and gas industry and the Carbon Capture and Storage Association. It is expected that the OGA will facilitate discussion among all parties to the decommissioning process, to ensure that all options for viable reuse are explored.

I recognise the intention behind the amendment, but I do not consider it to be necessary, as its objective has already been given effect by previous provisions, which ensure that viable reuse of infrastructure for purposes such as carbon capture and storage and marginal field extraction is brought to the forefront of the decommissioning process. They make sure we do not miss the important opportunities that those measures present to develop such industries.

I hope that hon. Members will accept my explanation of why the amendments are unnecessary, and will not press them to a vote.

Philip Boswell: Amendment 9 is essential both for the future of carbon capture and storage and to enable the more marginal fields to be harvested by smaller operators, which the Scottish National party sees as increasingly vital for the future of the industry. The hon. Member for Southampton, Test and the hon. Member for Norwich South spoke of previous short-termism in the industry and the need for a longer term vision, as pointed out in the Wood report. We completely agree with that and see that there is a requirement for a more holistic view with respect to management of oil and gas collection and transport infrastructure. We therefore support the amendment.

Dr Whitehead: I thank the hon. Member for Coatbridge, Chryston and Bellshill for clarifying the SNP's position on amendment 9. His support underlines why this is necessary for the longer term stewardship of the North sea. We are looking a little higher than the immediate issues that face the North sea, important though those are, and trying to ensure that, whatever may come its way and whatever its mix of jobs, production and facilities, it has a fully viable future. As we mentioned on Second Reading, although there are a lot of known knowns, unknown knowns, unknown unknowns and so on about the future of the North sea, what we do know is precisely the point that the hon. Gentleman made a moment ago—namely, it will be a future of smaller fields and, through collaboration and careful planning, of maximising best use of infrastructure for those fields to maintain their security and perhaps to start to develop different uses for the North sea, which in the very long term will provide substantial security and jobs and a vital national function for the UK.

The amendments are not about trying to cut off particular routes for the OGA—or, indeed, over-prescribe what the OGA should have regard to. I was disappointed that the Minister sought to suggest that the amendments should not be supported because they would require the OGA to do things beyond its remit and for which it would not have resources. The OGA would not be required by anything in the amendments to move beyond its overall resources or function, but they frame what the OGA needs to look at generally in regard to its business of stewardship. That of course means that the OGA has to look at its overall business within the context of its overall resources, and there will be things that the OGA will not be able to do, or be able to do only in conjunction with other bodies. Indeed, as the Minister pointed out, clause 10 gives the Government the power to undertake direction where necessary, if the Government consider there are particular circumstances wherein the OGA should do more or enter into areas of activity that it has not entered previously. That power is already there, and there are powers in the Bill for the Government to fund those additional activities as necessary.

The amendments are not about the daily management of the OGA and how it can go about its business. As the Minister rightly set out, there are already provisions in the Bill for allowing that management to be undertaken in conjunction with Government direction and OGA function. However, the fact that that is separate from the clause that precedes it points strongly to the idea that having a framework within which the OGA works is the best way to start the process of how the OGA functions on a daily basis for the future. Essentially, that is all these amendments seek to do—point the OGA in particular directions and inform its thought process and general decisions with regard to particular activities. They do not require the OGA to do anything particular in its daily activity, nor do they require it to acquire a whole series of new skills and arrangements as it goes about its task. They simply suggest that a framework should be put in place, after which the Government, particularly under clause 10, can look at whether the OGA in its daily operations is doing what they thought it should do in the first place.

11.15 am

I therefore suggest that the amendments are a help and not a hindrance. I am disappointed that the Minister appeared to suggest that they would, in some way, impede the OGA in carrying out its responsibilities.

The distinction is particularly important for decommissioning and the future use of infrastructure in the North sea, because that is at the heart of what we need to talk about in the next period. For example, it may not just be a question of framing an operation and how it works in maximising economic returns; it could be how infrastructure relates to extraction and carbon

capture and storage—that is, the injection of carbon dioxide into depleted seams to maximise economic recovery at certain stages. That process has been undertaken in some parts of the world and could be undertaken in the North sea. The OGA needs to look at this framework properly in the context of how the North sea works in the longer term.

I am disappointed with the Minister's response to what I thought were constructive amendments to the OGA's activities. I will therefore press the amendment to a Division.

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 12.

Division No. 2]

AYES

Kinnock, Stephen	Pennycook, Matthew
Lewis, Clive	
Lynch, Holly	Whitehead, Dr Alan

NOES

Boswell, Philip	Leadsom, Andrea
Cartlidge, James	McCaig, Callum
Fernandes, Suella	Maynard, Paul
Hall, Luke	Smith, Julian
Heaton-Harris, Chris	Sunak, Rishi
Hoare, Simon	Warman, Matt

Question accordingly negatived.

Amendment proposed: 9, in clause 9, page 6, line 17, at end insert—

The need to re-use North Sea infrastructure for carbon capture and storage projects and marginal field extraction, where economically viable, to be considered prior to the decommissioning of such sites." *—(Dr Whitehead.)*

This amendment would require the OGA to have regard to the hierarchy of matters relating to decommissioning when exercising its functions.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 10.

Division No. 3]

AYES

Boswell, Philip	McCaig, Callum
Kinnock, Stephen	Pennycook, Matthew
Lewis, Clive	
Lynch, Holly	Whitehead, Dr Alan

NOES

Cartlidge, James	Leadsom, Andrea
Fernandes, Suella	Maynard, Paul
Hall, Luke	Smith, Julian
Heaton-Harris, Chris	Sunak, Rishi
Hoare, Simon	Warman, Matt

Question accordingly negatived.

Clause 9 ordered to stand part of the Bill.

Clause 10

DIRECTIONS: NATIONAL SECURITY AND PUBLIC INTEREST

Dr Whitehead: I beg to move amendment 10, in clause 10, page 6, line 31, at end insert—

"(aa) Are necessary in order to inform the OGA's role in developing and promoting carbon storage;

(ab) Are necessary to meet the terms of the Climate Change Act 2008 or European or international obligations on climate change"

This amendment would allow the Secretary of State to give direction to the OGA if the Secretary of State considers that these are necessary to inform the OGA's role in developing and promoting carbon storage and/or to meet the terms of the Climate Change Act 2008 or any international obligation on climate change.

We now move to the area that the Minister alluded to in the debate on clause 9 on "Matters to which the OGA must have regard": directions in relation to national security and public interest, which the Government may give to the OGA in the exercise of any of its functions. The clause lists various circumstances in which directions may be given. They are drawn fairly widely in that the directions

"are necessary in the interests of national security, or...are otherwise in the public interest."

However, although the clause gives the Secretary of State fairly wide powers to provide directions to the OGA, it does not include the issues to which we adverted in the discussion on the previous clause, which is the question of what happens to the OGA's role in developing and promoting carbon capture and storage, and how the OGA meets the terms of the Climate Change Act 2008.

Clause 10 could be strengthened by clarifying the circumstances in which direction might be given, bearing in mind that the issues are wider and more long term than those on which the Bill currently provides guidance to the OGA. It is now rather more important to include in the Bill guidance and clarity on where directions are necessary, given what occurred on the previous clause, where, despite our best endeavours, the matters to which the OGA must have regard stayed as they were, with what I suggest is a less than perfect regard for what we might call wider horizon issues as far as the OGA's function is concerned.

The amendment explicitly underlines the directions

"to inform the OGA's role in developing and promoting carbon storage",

and states that they are necessary

"to meet the terms of the Climate Change Act".

That provides the right boundaries and the framework in which those Government directions might be undertaken. That is why we have tabled the amendment.

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o'clock.