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GENERAL COMMITTEES

Public Bill Committee

ENERGY BILL [*LORDS*]

Fourth Sitting

Tuesday 2 February 2016

(Morning)

CONTENTS

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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 2 February 2016

(Morning)

[Mr Adrian Bailey *in the Chair*]

Energy Bill [*Lords*]

9.25 am

The Chair: It is very warm. If Members wish to remove their jackets they should feel free to do so. I remind Members to switch mobile phones to silent or, preferably, off altogether.

Clause 77

Powers to charge fees

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

The Chair: With this it will be convenient to discuss clause 78 stand part.

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

This provision reminds us that the theme of fees runs throughout the Bill. I am also reminded of a sketch in the well known Marx Brothers film "A Day At The Races" where Chico Marx is allegedly selling ice cream but is actually selling form guides to the races and Groucho Marx has to keep buying form guides in order to understand which horse is running in the race, with the result that he ends up purchasing about 20 form guides from the ice cream truck. I commend the film to hon. Members who wish to understand this section. *[Interruption.]* I wanted to get a mention of Marx into proceedings and that particular one is important.

The provision relates to the Secretary of State's power to charge fees. It does so by inserting clauses into other pieces of legislation, hence my reference. It is necessary to look at the proposed new clauses to understand how the fees actually work. In the first instance, fees relating to recuperation of costs associated with functions relating to petroleum licences are laid down in part 4 of the Energy Act 2008. The clauses amend that Act to enable the Secretary of State to charge for functions in part 4. A further provision relates to the Marine and Coastal Access Act 2009, and allows the Secretary of State to charge for marine licence functions as they relate to oil and gas regimes.

That effectively means, returning to our earlier discussions on clause 13, that the following regime appears to apply: if an operator in the North sea is considering an application for a licence to explore for petroleum, a consideration of that licence by the Oil and Gas Authority is chargeable with a fee. It is, indeed, part of the remit of the OGA to charge a fee for that purpose. If, however, there is an actual licence, then the Secretary of State charges fees, not the OGA, under this arrangement. If there is a licence arrangement relating to the Marine and Coastal Access Act, a different Secretary of State, the Secretary of State for Transport, provides the licence and presumably charges a fee, which goes to the Department for Transport. As far as activities relating to petroleum and oil exploration activities are concerned, the Secretary for Energy and Climate Change charges for the licence. After transferring a number of people working for the Department of Energy and Climate Change to the OGA for the purpose of putting the organisation on a proper footing, a regime would presumably be developed in the OGA to charge for the consideration of licences under clause 13. Another group of individuals, remaining in DECC—not going to the OGA—would charge for a separate number of licences which are associated with the original arrangement on licences for exploration, but are now charged under those auspices.

A third set of remaining civil servants presumably collaborates with the Department for Transport to charge fees relating to the licences as they pertain to the requirements under clause 77(2) which are taken by this Secretary of State into the purview of the Department of Energy and Climate Change and away from the Department for Transport. To the best of my ability, that is my understanding of how this regime will work.

It raises the question, following our previous discussion about the remit of the OGA relating to fees: why has this arrangement been placed in this particular way in this particular Bill? Far from simplifying the licensing regime, it appears to make it more complex for different agencies issuing licences and charging fees for the scrutiny of the application of particular licence arrangements.

If I were a North sea operator, I would find not only navigating around the North sea but navigating those fee arrangements quite a complex procedure. From the point of view of the Department, I would find the relative inefficiencies of having at least three centres of fee and licensing arrangements in the OGA, DECC and possibly an association with the Department for Transport, not only a bureaucratic problem, but a problem of efficiency and interfacing with operators in the North sea.

Will the Minister elucidate for the Committee the thinking behind these clauses and how they are sited in the Bill? Had it been considered, for example, whether the OGA itself might have taken on some of the fee-charging arrangements? What was the rationale for keeping fee-charging arrangements for licences within the Department? Does the Minister agree that in an ideal world it might have been a better idea to concentrate on the various fee arrangements relating to licences under one authority, which, among other things, would immensely simplify the process for operators?

The Minister of State, Department of Energy and Climate Change (Andrea Leadsom): Good morning, Mr Bailey. It is a great pleasure to be back in Committee for what I hope will be a very interesting day. I assure the hon. Gentleman that this clause relates only to oil and gas functions, not to the functions of other Departments. These functions relate to a separate arm of DECC. As he will appreciate, it is an established practice, accepted by the oil and gas sector, that the costs associated with the provision of regulatory services should be recovered from industry. That is based on the

well established "polluter pays" principle that exists across several sectors, ensuring that the taxpayer does not bear the burden of funding regulatory activities.

The clause simply permits the Secretary of State to make regulations, allowing her to recharge functions carried out under part 4A of the Energy Act 2008 and part 4 of the Marine and Coastal Access Act 2009. Those are set out in secondary legislation, which includes the overall fee and calculation, and an impact assessment will be prepared before the regulations are finalised. The clause specifically relates to oil and gas functions. It has been discussed closely with industry and is based on the widely understood principle that the polluter pays and recharges are made, so that the cost does not fall to the taxpayer.

Dr Whitehead: I thank the Minister for her response. I understand that these fees relate to oil and gas exploration activities and that the industry is au fait with them. My point was this: why can the OGA not be responsible for this particular licensing arrangement, since it relates to petroleum and gas exploration and exploitation and the OGA has the overall function of regulating that whole area? Would that not be simpler?

As far as the structure is concerned, there might have been a one-stop shop for the process of obtaining licences and paying the relevant fees, with consideration of the licences in the various interfaces those licences have with other considerations in the North sea. Would it not have been a better idea for all of that to be placed under one roof—the OGA—rather than have this dissipated arrangement, whether or not that is something the industry thinks it can, in general, work with? What we have in the Bill is effectively a three-way split in terms of how licences are considered, paid for and granted in relation to other activities in the North sea.

Andrea Leadsom: I am grateful to the hon. Gentleman for raising those points, but I would like to assure him that the clause goes to the heart of the OGA's purpose. As he will be aware, it is the responsibility of the Department of Energy and Climate Change to cover the environmental protection of the North sea, whereas the establishment of the Oil and Gas Authority aims to enable it to manage the licensing of oil and gas exploration and extraction in the North sea. That separation of duties seeks clearly to maximise the recovery of reserves, while minimising the impact on the environment. That is why those roles are kept separate, and the charging for different activities within those responsibilities is therefore also kept separate.

Question put and agreed to.

Clause 77 accordingly ordered to stand part of the Bill.

Clause 78 ordered to stand part of the Bill.

Clause 79

Onshore wind generating stations in England and Wales

Dr Whitehead: I beg to move amendment 16, in clause 79, page 46, line 43, at end insert—

'(2) Within six months from the date of this Act coming into force, the Secretary of State shall report to Parliament on the impact of this section and any other policy changes to the renewable energy sector with regards to how they affect the United Kingdom's ability to comply with the 2020 EU renewable target.

(3) The report in subsection (2) must include an estimate of the cost to the taxpayer should the UK not comply with the 2020 EU renewable target."

This amendment would require the Secretary of State to report within six months of this Act coming into force on how changes to renewable energy policy (including the changes stipulated in section 79 of the Act) have affected the UK's ability to comply with the 2020 EU renewable target.

The clause and the amendment present two issues concerning wind generation. The clause under part 5 concerns wind power and I am sure there will be further debates about the wider issues later today.

Clause 79 amends section 36 of the Electricity Act 1989 and removes the obligation to secure consent to construct, extend or operate an onshore wind farm in England and Wales with a capacity greater than 50 MW. The previous arrangement meant that local planning authorities were effectively countermanded by the Secretary of State in the case of larger wind farms, by reference to a section 36 agreement, which is required to allow an onshore wind farm to operate in England and Wales.

By stripping out that countermanding, the clause means that in principle the final requirement for permission for wind generation at local level lies with the local planning authority. We discussed on Second Reading the desirability of that provision for the future of onshore wind and the idea that the local planning authority should have the final say in those application because it would reflect the wishes of the local population—assuming that the authority had taken proper soundings of local interests and thoughts regarding an application.

That exemplifies the principle on which the House agreed on Second Reading: that this would be a welcome change and give clarification of the future direction of onshore wind applications in England and Wales. We discussed whether the Opposition really meant that, and indeed it was emphasised by the shadow Secretary of State that we welcomed the proposed arrangements. I will not rehearse those arguments this morning other than to say that, in principle, the arrangements outlined in the clause are welcome, but I will look at the detail of the clause.

The provision does not stop at removing section 36 of the Electricity Act 1989. The explanatory notes outline the intention for the arrangements in the clause to be

"combined with secondary legislation to be made by Government to amend the Planning Act 2008."

That is when some very small alarm bells start ringing in my head, because if clause 79 is to be taken at face value and it is simply about removing section 36 of the Electricity Act, it appears to me that, by default, the power to decide resides with the local planning committee. That is something on which we all agree. If, however, the intention is to undertake further secondary legislation to further amend the Planning Act 2008, not through the Minister's Department but, I would imagine, through the Department for Communities and Local Government, would that take away from that planning authority any power to make those decisions?

9.45 am

Discussions undoubtedly went on between Departments in the run-up to the Bill's introduction about how various clauses would be interpreted and implemented across Departments. I do not know whether the Minister discussed with the Department for Communities and

Local Government what that intention to undertake secondary legislation might look like in practice. Would this secondary legislation detract from the need to apply for planning permission under the Town and Country Planning Act 1990, or would that Act be amended in any way by that secondary legislation? In short, would there be any resiling from the idea that local government in the shape of planning committees really would have the final say?

I say that because there is form in this area. The Minister will recall that in the previous Parliament, notwithstanding section 36 arrangements, the then Secretary of State for Communities and Local Government had what could best be described as a penchant for calling in applications, sitting on them, so to speak—we are referring here to the previous Secretary of State—and then deciding them through the machinery of his Department, sometimes at very great length; indeed, sometimes the applications were not determined at all. If that machinery is to be either strengthened or reintroduced at the DCLG through the secondary legislation mentioned in the clause, that would clearly be the overthrow of what is set out in the clause. Certainly, what I considered to be our happy agreement on Second Reading that we could safely park onshore permissions with the planning committee of local authorities could effectively be subverted by another means.

I would be very unhappy if that were to be the outcome. I am sure that the Minister would be too, because both she and the Secretary of State were vocal in stating that the simple outcome, which is the determination of onshore wind applications by planning authorities, would be the way forward. Will the Minister clarify for me the intention regarding that secondary legislation in relation to the Planning Act 2008? I am sure that I will hear a clear explanation of how that might work because the Minister has thought about this very carefully and has an arrangement that she can set out for us this morning. I see that she is already receiving what I am sure will be very useful information.

Chris Heaton-Harris (Daventry) (Con): Will the hon. Gentleman take the opportunity to make it clear that he still supports local communities having a full say in such proposals?

Dr Whitehead: Yes indeed. I hope that the hon. Gentleman, who takes a close interest in these matters, will have taken from my words this morning that I am seeking clarity on how pure the Government's intention is in that regard. Not only is it the Opposition's position that local communities should have the final say on onshore wind applications, but I am seeking to ensure that that principle, on which I think he and I agree, is not in any way diluted, diverted or subverted by other legislation that may come along to get round that principle.

Chris Heaton-Harris: I am sure we will come later to the commitment in the Conservative party's manifesto. To save much debate, there is a second part to that commitment:

"As a result we will end any new public subsidy for them and change the law so that local people have the final say on wind farm applications."

Although I understand that we are going to have a debate about the subsidy bit, I assume that the hon. Gentleman will be in complete agreement with that last bit, about local people having the final say on wind farm applications.

Dr Whitehead: Yes, indeed, and on that second part, one could say that the clause, taken by itself and at face value, actually discharges that manifesto commitment. My question is: does it really? Does it really, taking into account the arrangements that might arise across Government to ensure that that manifesto commitment is carried out and not subverted? Does it really, taking into account how the DCLG would handle an application? Does it really, taking into account the announced intention that there will be further amendments to the Planning Act 2008 which may impinge on the Town and Country Planning Act where those applications are concerned? Among other things, in pursuit of this manifesto commitment, what assurances has DECC received from the DCLG that the process will be straightforward, simple and final for those local planning authorities?

My understanding is that under the proposed arrangements, an onshore wind farm applicant would simply apply for planning permission for an onshore wind farm, with all the caveats that apply to planning permission, all the arrangements and considerations that apply at a local level; then local planning officers may recommend to the local planning committee that planning permission be given and councillors on that planning authority may then agree with the planning officers that there are no technical objections and they want the scheme to go ahead. We have to recognise that local councillors may not necessarily always agree with what their officers say and may well reflect other issues marginally outside the exact terms of planning; nevertheless, by that particular arrangement, they may insert into that planning decision the central idea that the community really wants that particular development.

That applies not only to wind farms but to a number of developments where planning applications to some extent represent a two-stage process of looking at the technical issues and the not exactly political but local issues related to those technical issues. If that process is carried out properly and stops there, that discharges the Conservatives' obligation in terms of their manifesto commitment on future onshore wind applications. If, however, changes are to be made to the obligation itself, either through new powers for the Secretary of State for Communities and Local Government to call in, on an enhanced basis, schemes that otherwise would be subject to only that process, or through constraints placed in secondary legislation on how the process is undertaken, that should cause the Secretary of State for Energy and Climate Change—the key proponent of this particular manifesto commitment being placed into law—to worry a little bit.

The Minister does not look worried, so I am confident that she will be able to put my mind to rest on what other Departments have in store for this Bill. Perhaps she will assure us today that her understanding of what the process will consist of once the clause has been put into law is identical to mine. We can then continue to agree happily across the Committee about the status of this piece of legislation.

The Opposition would like amendment 16 to be made because we believe that for every action, there is the potential for an equal and opposite action that needs to be understood and taken into account in future activity. Later, we will discuss at greater length actions recently undertaken by the Government on various matters relating to the progress of renewable energy. The foreshortening of the period in which the renewables obligation is available for wind farms is just one such action. A number of other actions call into question the Government's trajectory as far as renewable deployment is concerned.

The question that the amendment attempts to address is: how do those actions relate to the position in 2020? That will be a reckoning point for the European Union renewables target, and a very real reckoning point for the UK because the UK has signed up willingly and enthusiastically to the EU renewables target. The overall target is set within the EU; each country is provided with its own target to reach within that overall goal; and each country sets sub-targets for various sectors of renewable activity—for example, electricity or heat provided from renewables and renewable transport fuels and activity. Together, those three areas make up a country's target and in theory would discharge the obligation that a country had entered into on the overall EU target.

10 am

It is not just a question of the UK setting a target.

"The target sets a legally binding obligation on HMG to deliver"

in this instance

"15% of the UK's final energy consumption across electricity, heat and transport from renewable sources in 2020, with a binding sub-target for 10% of transport fuels to be from renewable sources in 2020.

Beyond a flat rate of renewables for each member state, the effort share for meeting the EU-wide 20% target was based on GDP. As a result of this, and the fact that the UK started from a very low base of renewables deployment"

the Government's

"target requires amongst the most significant annual growth in renewables deployment (16% average annual growth from 2011 to 2020) of any member state.

The absence of a credible plan to meet the target carries the risk of successful judicial review, and failing to meet the overall target in 2020 could lead to on-going fines imposed by the EU Court of Justice (which could take into account avoided costs) until the UK reaches the target level."

I have been reading from a letter from the Secretary of State for Energy and Climate Change to other Departments on 29 October 2015 which sets out why the UK is failing at the moment to make progress towards its target and what could be the consequence of that. As the letter sets out, the consequence could be successful judicial review at EU level of what the UK has done about reaching its renewables target and the possible imposition of substantial fines by the European Court of Justice for failing to reach that target by not taking proper action to make sure that it could be reached.

The letter, from which I will not read further, makes it clear that while the UK is on course to make progress towards its target, what is likely to happen at present, prior to the Bill going through, is that there could be a shortfall against the UK's 2020 target of around 50 TWh or 3.5 percentage points—that is, instead of 15%, 11% or 12%—when we get to 2020. That is to say that the UK is on target not to meet its target, and that may be compounded by the changes in the last few months in the arrangements concerning the renewables obligation, changes to the climate change levy and other changes that have come on stream, as a result of which we are further back on the baseline as far as meeting those targets is concerned than is reflected in the Secretary of State's letter or review of the horizon over the summer of 2015. It is important that we have clear sight of what that means over the next period in relation to the Bill and to the wider platform of the UK's obligations.

If by 2020 we are facing fines greater than the amount we might have spent to avoid those fines, we will be in a pretty poor position. However, we do not know what the two look like: we do not know the relative risk of failure to meet the target incurring greater costs than might have been incurred in avoiding that failure through measures, either administrative or legislative, to ensure that the target was met. We will be in the dark over the next few years as far as Europe is concerned. I am sure all hon. Members would welcome us not being in the dark about our future in Europe.

The amendment would require a report to Parliament on the impact of the clause—not only changes in renewable obligations regarding onshore wind but a wider canvas of the effect of measures on the UK's ability to comply with the UK 2020 renewable energy target. There should also be an estimate of the cost to the taxpayer should the UK not comply with that target and, by implication, a comparison of the two positions. That is a sensible safety check that ought to be carried out on this and future legislation. I hope the Minister will agree.

Andrea Leadsom: The hon. Gentleman made two points, the first on the manifesto commitment. I want to reassure him completely. As my hon. Friend the Member for Daventry pointed out, we set out a clear commitment in our manifesto to give local people the final say on wind farm applications.

"When determining planning applications for wind energy development involving one or more wind turbines, local planning authorities should only grant planning permission if: the development site is in an area identified as suitable for wind energy development in a local or neighbourhood plan; and following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing."—[*Official Report*, 18 June 2015; Vol. 597, c. 9WS.]

That is taken from the written ministerial statement from the Department for Communities and Local Government on changes to planning rules. The new planning tests reflect the Government view that wind turbines should get the go-ahead only when local people have said that they want them, and where.

To reply to the hon. Gentleman's specific points on amendments to legislation, in order to achieve our goal of giving local communities the final say, we have to amend the Planning Act 2008 and the Electricity Act 1989 to put decision making into the town and country planning regime. The planning order that is laid does no more than that. Secondary legislation makes no change to the town and country planning regime; it merely removes matters from the Planning Act 2008. I hope that I can reassure the hon. Gentleman that it is absolutely our intention to give local communities the final say on wind farm developments.

[Andrea Leadsom]

I am grateful to the hon. Gentleman for raising his second point. The purpose of amendment 16 is to require the Secretary of State to report within six months after the Bill comes into force on how changes to renewable energy policy, including the changes stipulated in clause 79, have affected the UK's ability to comply with the 2020 EU renewable target. The Government are already obliged to report on our progress towards decarbonisation of energy supply, the development of renewables and the development of energy efficiency. As the hon. Gentleman may be aware, we last reported our progress under the EU renewable energy directive on 21 January 2016, just under two weeks ago. The report says clearly that we surpassed the target for 2013 and 2014, with an average 6.3% of final energy consumption coming from renewable sources against a target of 5.4%. Renewable contributions to energy generation are increasing across heat, electricity and transport. Heat from renewable sources increased by 4.6% during 2014, a record 19.1% of electricity generation came from renewables in 2014 and the use of renewable biofuels for transport rose by 14% during 2014.

As well as the report of 21 January, we regularly publish statistics on energy use in a number of other publications. "Energy Trends" provides a quarterly update, the "Digest of United Kingdom Energy Statistics" is published annually, and statistics on greenhouse gas emissions, solar PV deployment, renewable heat incentive take-up and renewables obligation certificates and generation are published monthly. The 2013 electricity market reform delivery plan set out our ambition of achieving at least 30% of electricity from renewables in 2020. The hon. Gentleman will know that we are on course to achieve that, with renewables representing almost 20% of generation in 2014. I hope that I have reassured the hon. Gentleman. There are a lot of reports, and I am happy to send him details of each if it would be helpful to him.

I would like specifically to address the premise underlying the amendment, which concerns the impact of clause 79 on renewables deployment. The Government's impact assessment has shown that we anticipate no foreseeable change in deployment rates arising from the implementation of clause 79. The clause simply sets out our plans to localise decision making for new onshore wind and not to change any of the support framework around onshore wind.

Simon Hoare (North Dorset) (Con): I welcome local decision making for onshore wind. Will my hon. Friend confirm, for the benefit of my understanding if not that of anybody else on the Committee, that the clause means that applicants will no longer have the right to appeal a refusal to the planning inspectorate? Will she also confirm that it in no way removes an applicant's right, if refused, to challenge the decision through the courts via a judicial review if the applicant feels that the local planning authority has erred in law or process?

Andrea Leadsom: I can confirm that the appeals process will remain, but the changes to the Planning Act 2008 mean that the consideration around local involvement and local acceptance will be stronger than in the past. The intention is that local people will have the final say, and any appeal will take that intention into account.

To return to the point made by the hon. Member for Southampton, Test, our review suggests that six months after implementation would be too soon to show any change. Planning applications, as he knows, generally take much longer than that. To report on the impact of deployment rates for onshore wind within such a short period after the legislation comes into effect would place an additional burden on local planning authorities to provide the necessary figures. We have been clear in our policy intent that we wish to reduce future burdens and red tape in relation to decision making for new onshore wind farms. To require local planning authorities to report on consent rates for new onshore windfarms would absolutely go against this, and may even be seen as an effort by the centre to exert influence over the local decision-making process.

We already regularly report on many energy statistics. I would be very happy to provide further information on this to hon. Members. It is not the Government's intent to add further reporting burdens. On this basis, I hope the hon. Member for Southampton, Test will withdraw the amendment.

10.15 am

Dr Whitehead: I am at a slight disadvantage because at the conclusion of my previous comments I handed the copy of the Secretary of State's letter to the *Hansard* writers for their perusal, so I do not have it in front of me. *[Interruption.]* Thank you, I do now have it and, by the way, *Hansard* will get this back in a moment. In her letter, the Secretary of State makes some further comments on her position on the UK's trajectory towards the 2020 targets. She states that essentially the Department has a public position and private position. She writes:

> "Publically we are clear that the UK continues to make progress to meet the target."

However, she is clear that privately, that is not the case. The figures set out in her letter indicate that what is stated publicly is not, shall we say, untrue, but a shaving of the completeness of information that might otherwise enable people to make an independent decision on where we are. There appears to be a difference between what is acknowledged privately to be the case in the Department and what is stated publicly on the progress of the trajectory.

That important point needs to have a substantial light shone on it. It is true, as the Minister states, that the Department has published various figures relating to progress, but I wonder whether they are in the realm of the statement made publicly that the UK continues to make progress to meet the target, or privately that we are clear that we are not making progress to meet the target. As suggested here, a report would clear up that issue and could be an important accurate fix on our progress.

I do not expect the Minister to comment on the exact syntax and grammar that the Secretary of State may have used in her correspondence, but there is a point at issue as to the clarity with which progress towards the target may be made and whether there would be further issues to be considered if they were properly in the public domain and related to the question of what costs

might be otherwise be sustained in the future. I hope the Minister will give further clarification on that point. With that, I hand my letter back to the Clerk.

Andrea Leadsom: I assure the hon. Gentleman that the UK is making progress towards the 2020 renewables target of 15%, and that in the latest report we have surpassed our interim targets for 2013 and 2014 with an average of 6.3% of final energy consumption coming from renewable sources over the two years against a target of 5.4%. The hon. Gentleman quotes from a letter that I do not have in front of me, so I hope that he has not given his version of what it says. I can tell him that the UK is committed to meeting our legally binding targets and that we are making progress towards those targets.

Dr Whitehead: I do not wish to press the amendment to a vote, but I hope that the points about transparency on this issue will be taken on board. Indeed, should the Minister wish me to retrieve the letter a further time—*[Interruption.]* There we are. I am sure that she can have a look at it for herself. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 79 ordered to stand part of the Bill.

Clause 80

Emissions trading: United Kingdom carbon account

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

Andrea Leadsom: Clause 80 was inserted into the Bill by the Opposition in the other place and intends to restrict the carbon accounting rules that are permissible under the Climate Change Act from 2028, which is the start of the fifth carbon budget period. This is quite a technical area and to aid Committee members' understanding, I thought it would be helpful to explain briefly how carbon budgets and carbon accounting work at the moment. I hope hon. Members will bear with me as I explain that before I come to set out our reason for seeking to remove the clause from the Bill.

The Climate Change Act sets a target for the UK to reduce emissions by 80% from 1990 levels by 2050. It also requires us to set intermediate targets called carbon budgets to reduce emissions along the way. Carbon budgets are a cap on the emissions allowed over successive five-year periods. For example, the first carbon budget covered the period from 2008 to 2012, and we met that budget with 36 million tonnes of carbon dioxide equivalent to spare. We set carbon budgets 12 years in advance, so by 30 June this year we will be setting the fifth carbon budget to cover the period from 2028 to 2032. As well as setting each carbon budget, we make regulations that set carbon accounting rules for each budget period. The rules, in addition to what is set out in the Climate Change Act, tell us how to calculate the budgets and therefore whether we have met them.

I will now briefly explain how the current carbon accounting rules work before setting out the intended effect of clause 80 to the Committee. Under the current rules, we count the UK's actual emissions for some sectors and for other sectors we reflect how the EU emissions trading system works instead of counting actual emissions. For transport, buildings, agriculture, light manufacturing and some other areas, we count the UK's actual CO_2 emissions. For the power sector and heavy industry, we effectively reflect how the EU ETS works instead of counting the UK's actual emissions. The EU ETS is a scheme in which emissions from power and heavy industry are capped and reduced at an EU level. Emissions are reduced by issuing a declining number of emissions allowances to member states. The emissions allowances are then traded by power stations and industrial sites across the EU. Our current carbon accounting rules tell us to count the UK share of the EU ETS emissions cap for the purpose of carbon budgets. In that way, carbon budgets reflect how the EU ETS works.

Clause 80 is intended to stop us reflecting how the EU ETS works in our accounting for carbon budgets. It amends the Climate Change Act to say that EU ETS units cannot be debited or credited from the UK net carbon account. I clarify that, even with that change, we will still participate in the EU ETS; we would just not reflect how it works in our carbon budgets.

There are positives and negatives in different accounting methods. Weighing them up needs careful consideration of a number of factors, such as the potential impact on consumers, on businesses, on industry and, of course, on cutting emissions at the lowest cost. It is absolutely right that we keep our accounting practices under review. However, I make it clear to all hon. Members that now is not the right time to make this change. The Government are totally focused on setting the fifth carbon budget by 30 June, and we have already been working on it for upwards of a year, as required by the Climate Change Act. That 30 June deadline is less than six months away.

We have been working on the basis that it will be permissible to use the current accounting framework, which is also the basis on which the Committee on Climate Change has produced its advice on the level of the budget. Accepting clause 80 would threaten serious delay in setting the fifth carbon budget, putting us at risk of not complying with the Climate Change Act at a time when the UK should be showing clear, decisive leadership following Paris. It is therefore my strong desire to see clause 80 removed from the Bill.

Clive Lewis (Norwich South) (Lab): It is a pleasure to serve under your chairmanship, Mr Bailey. I thank the Minister for her pre-emptive argument against the proposal I am about to make seeking the retention of this extremely important clause.

Having repeatedly listened to the Minister and her colleague, the Secretary of State, I am convinced that they both personally share the Opposition's genuine desire to make a success of our Paris COP 21 commitments. We all understand the urgent necessity to reduce our carbon output in the most cost-effective way possible. Ultimately, we all want to stave off the worst effects of climate change in a way that bolsters rather than undermines our economy.

To that end, I will break down our arguments in support of the clause into four key parts: first, how the clause will ensure investor confidence in renewables and

[Clive Lewis]

the Government's approach to them; secondly, why the over-complex accounting of our current carbon budgets risks our failing to meet our reduced emission commitments, both nationally and internationally; thirdly, how the clause will ensure lower costs for taxpayers, consumers and businesses as we strive to decarbonise; and fourthly, why the clause is necessary to live up to both our European and international commitments.

So far, Ministers have cut the solar subsidy by 64%, costing up to 18,000 jobs. They have cut the biomass subsidy and the biogas subsidy. They have scrapped the green deal without replacing it with something more effective, and they have slashed investment in home insulation and reducing fuel poverty. They have imposed a carbon tax on renewables by scrapping their exemption from the climate change levy, which is akin to extending an alcohol tax to apple juice. They are about to try their best this week to block further onshore wind generation, even where projects enjoy popular local support. They have slashed support for community renewable energy projects, and they have announced the sell-off of the UK Green Investment Bank without protecting its special green status. They have handed out generous 15-year subsidy contracts to diesel generators, which are one of the most polluting energy sources available. They have failed to incentivise a single new gas-fired power station, and they have cancelled a £1 billion manifesto commitment to carbon capture and storage—going back on a decade of promises from the Prime Minister himself.

Do not take my word for how damaging all that has been to investor confidence in our energy system. In a letter to the Secretary of State last week, the CBI and some of Britain's biggest companies pleaded for

"clear leadership and stable policy"

for low carbon and energy investment generally. A separate report was published last week by the Institution of Mechanical Engineers. It stated that under existing Government policy,

"it is almost impossible for UK electricity demand to be met by 2025."

In one fell swoop, this amendment would help to give investors and the industry the clarity that they need.

10.30 am

Chris Heaton-Harris: The hon. Gentleman mentions the institution just across the way from us and its report last week. Did that report not say that the intermittent nature of so much of our renewable energy supply meant that the Government could not guarantee that they could meet our future energy needs? I think that the hon. Gentleman may inadvertently have slightly misquoted the report.

Clive Lewis: I thank the hon. Gentleman for his comments. A number of points are made in the report, but on the issue of baseload, I think that National Grid itself and an increasing number of analysts say that baseload is increasingly diminishing in necessity because of increases in technology, increases in the ability to store energy, and interconnectivity. That all means that the concept of baseload is diminishing, so although I understand that it is important, many other countries across Europe have far more renewable input into their energy system and manage as well. National Grid itself says that it manages quite ably with the renewables already in place in our system.

Chris Heaton-Harris: I understand the hon. Gentleman's point about baseload, but obviously I completely disagree with it, and I would like to point out to him what happened to our own electricity system last November. The wind stopped blowing on a cold November evening when solar was not producing anything for us. Our interconnectors were piling in as much electricity as they could, yet we had a shortage, and that shortage meant that instead of paying the normal amount of money that we pay for electricity, National Grid put out a call for electricity and we paid 25 or 30 times the amount that we normally pay for electricity to be produced in order for it to come into the grid. That is the first time in a long time that that has happened to our grid, and it goes to show that we do need a strong baseload, hence I have to disagree with the hon. Gentleman.

Clive Lewis: I thank the hon. Gentleman for his point. I think that he will know that the National Infrastructure Commission—I spoke to Lord Adonis himself—is going to put a lot of emphasis on spending on interconnectivity, which will increase; and ultimately somewhere in Europe the wind will be blowing and somewhere the tide will be coming in and going out. I think that the demand-side technology will make an increasingly big impact.

Andrea Leadsom: I have to correct the record. There is an interesting app on real-time power generation, and there are frequent occasions when there is no wind contribution whatever. It is simply not correct to say that the wind will always be blowing somewhere in terms of the UK's power generation. The point made by my hon. Friend the Member for Daventry about intermittency is a very real one, which we deal with every day.

Clive Lewis: I thank the Minister for her input. We are not saying that we will rely entirely on renewables. They are part of a balanced mix. However, as the Government have already made clear, they are not committed to that. Carbon capture and storage is one of the key ways, one of the most cost-effective ways, in which we can begin to use, yes, gas and coal to produce energy and also meet our carbon targets, and the Government have backtracked on that. We are not saying—*[Interruption.]* I will press ahead, because we have been on this point long enough.

By supporting the amendment, the Government would send the industry a clear signal about the direction of travel of our power sector, giving businesses clarity, transparency and long-term assurances as to what decarbonisation investment will be needed and by when. In other words, they would be providing certainty—something that is now in short supply. Part of that certainty will come from clear, unambiguous accounting of carbon budgets. This goes to the heart of the clause. It means that by 2028 the power sector in particular should be using cleaner technologies, not simply buying in credits from other parts of Europe. Opposition Members are not opposed to the EU ETS scheme in itself. If reformed, it still has the potential to be a key part of

Europe's strategy for reducing pollution levels, but permission to use ETS credits in the carbon budget accounting process indefinitely is wrong, because it distorts the clear market signals that business needs to invest in new cleaner power stations here in the UK.

As the former coalition peer, Lord Teverson, explained in the other place, when talking about getting rid of the ETS allowances in the budget for the post-2027 period, the allowances would then

"mean what everybody would understand them to mean—that is, what the emissions of UK plc are. It would get rid of all those strange accounting distortions and bring us back to common-sense accounting and what people would understand carbon budgets and our own carbon emissions to be."—[*Official Report, House of Lords,* 21 October 2015; Vol. 765, c. 719.]

Meanwhile, ClientEarth, a non-governmental organisation that lists DEFRA as an official supporter, said:

"If the UK is to continue to be at the forefront of global efforts to reduce greenhouse gas emissions following the historic agreement in Paris, we need carbon budgets which are clear, certain, and which drive emissions reductions in all sectors of our economy…This new clause, if implemented, would remedy these weaknesses and mean the Climate Change Act for the first time doing what it must do: set genuinely clear and certain emissions targets that are binding across the board."

Chris Heaton-Harris: I am sorry if I have to keep disagreeing with the hon. Gentleman, but he talked about decarbonisation across every sector of the economy, and about transparency, having integrity in what we are trying to say and having a coherent policy. He has a very strong background in the green agenda. I know from a tiny bit of research I did that he is backing the divestment fund from the University of East Anglia to get out of investing in the North sea, which makes things interesting for some parts of the Bill, because we are talking about trying to save our oil and gas industries to a certain extent. However, surely he understands that to get to the point that he might want to get to in future, there has to be a long-term economic energy plan that heads in this direction. Perhaps gambling all on just one or two technologies is exactly the wrong thing to do.

Clive Lewis: I thank the hon. Gentleman for that intervention. On divestment, I think he will find that even the Governor of the Bank of England, Mark Carney, has advised businesses to look at where their investments are made on that particular issue. On the point that the hon. Gentleman made, the fifth carbon budget is not until 2028—we are not talking about immediate carbon budgets coming up, but about the fifth carbon budget. That gives organisations and businesses plenty of time to prepare and get their houses in order, especially in the sectors that will be affected. This is not an immediate change; it is for the fifth carbon budget, so there is ample time for that to take place.

Without the amendment, there is a risk that pollution levels in the UK could grow, investment in clean energy could shrink, and yet, on paper, it would look as though we had achieved carbon targets. We need to stop any Government from cooking the books. As such, we seek an assurance from the Minister that the Government still believe in building a low-carbon economy here and will not use such accounting tricks to hide their failures on clean energy.

However, let us put all that aside for just a second and deal simply with the cost of meeting our international commitments and getting value for taxpayers' money—something that I am sure all Members here would agree is worthy of our attention. The Government's advisers, the Committee on Climate Change, said that we should be a net seller of ETS credits if we are to pursue the lowest-cost option to go green and meet our climate targets. Therefore, there is a real risk that by putting off emission reductions to future years, as current accounting practices inevitably encourage, taxpayers and consumers would be at risk of higher costs.

Baroness Worthington summed it perfectly when she spoke on this amendment in the other place, saying that

"the way the budgets work is that, essentially, we pay other people to decarbonise and then we import the certificates. That can be done for a while, and it makes economic sense to do so. In fact, for the first three carbon budgets, while the system has been bedding down, it probably made sense to use a traded system—the rules and the allocations from Europe were clearer"—

or less clear—

"and we were all finding our way to see whether the EU ETS would deliver. The closer that we get to our 2050 target, the more that that approach starts to be a false economy. We find then that, potentially, we are repeatedly paying other countries to decarbonise and not investing in our own country."—[*Official Report, House of Lords,* 21 October 2015; Vol. 765, c. 722.]

The cheapest route to climate safety is to get investment flowing now into clean energy industries such as solar, CCS, nuclear and wind. Yet, as I have explained, the Government are pulling the rug from underneath the lowest-cost options, such as onshore wind and solar. Only last week, the Government were warned that the cost of achieving climate targets could double without CCS, yet they have pulled support away from that in the UK as well. Let me be clear: the amendment would not prevent the Government from taking measures to protect our important strategic manufacturing industries from higher costs, whether through exemptions or other devices. Instead, it would ensure that the UK stayed on the cheapest pathway to a clean energy future.

Ultimately, though, the amendment is necessary to ensure that we live up to our European and international commitments. The proposed fifth carbon budget for the period in question is aligned with EU ambition—no more, no less. Nothing in the amendment would mean that we were going further than the rest of Europe, nor is it a decarbonisation target for the power sector of the type that the Conservatives ruled out in their manifesto. What we propose is new, but it is not a target. It is about clarity of carbon budget accounting. The amendment would complement European efforts in the same way as the Chancellor's own carbon floor price and the UK's contracts for difference. Those initiatives were taken with the stated intention of driving investment into cleaner energy sources here in the UK. The amendment would bolster those efforts without undermining the European ETS.

In Paris, the UK signed up to achieving a carbon-neutral global economy. The amendment would ensure that we played our part in achieving that, rather than offloading our responsibilities through tricks on a spreadsheet. I therefore conclude by asking the Minister to see that in the absence of a clear strategy to build a low-carbon British economy, and given the roll-back of key policies on solar, wind and CCS, there is a need to send an

[Clive Lewis]

unqualified signal to the investment community and the world at large—a clarion call that Britain remains committed to achieving the goals to which we signed up in the historic Paris agreement. The amendment would do that job, and I urge Committee members to support it.

Callum McCaig (Aberdeen South) (SNP): The hon. Member for Norwich South has made an interesting contribution to this debate, particularly in his last comment about the investment climate surrounding the issue, which is of huge importance. On Second Reading, I said that I was not convinced by the amendment. I have since read into it quite a lot, and the more I read, the more complicated it becomes. The accounting rules are fiendishly complicated, as are the rules surrounding the ETS cap and how it is dealt with.

What I would like to see, as I think would all of us when dealing with the Climate Change Act 2008 and the carbon budget, is no cooking of the books, to borrow a phrase from the hon. Gentleman. I am not suggesting that anyone would do that deliberately, but the mechanism allows for it almost by default because of the lack of clarity and of proper accounting for the major sectors of energy production and large-scale manufacturing.

The proposal is not short-term. We are dealing with the carbon budget for 12 years hence, which provides ample opportunity for the Government to establish, through their work with the Committee on Climate Change, how it can be achieved. That will not necessarily be easy, but given the changes that have come through the Paris agreement and the fact that we as a country led the high ambition coalition at the discussions in Paris, we need the same high level of ambition here at home. We cannot have high ambition or high achievement unless we have appropriate accounting.

The Committee on Climate Change's November report contains a section on maintaining the integrity of the carbon budget process, which recommends that the budget not account for the ETS cap and that we account for what we actually deal with and emit here. That is what the general public and our constituents would expect, and, to return to a point, the people who will make the transition work are the businesses that will invest the money. They need clarity on how the accounting process would work, how the Government would be held to account, and how that will shape Government policy over the next 12 to 19 years. Clause 80 would provide greater clarity on that and a much stronger focus in shaping Government policy, and I look to see it retained.

10.45 am

Andrea Leadsom: I am disappointed that Opposition Members think that clause 80 is the answer—to what question, I am not entirely sure. The hon. Member for Norwich South suggested that there were four reasons—investor confidence, complexity, getting costs down and helping us to meet climate change commitments. I put it to him very courteously that clause 80 would not achieve those things of itself. It is absolutely not the case that simply changing the accounting method in the power generation sector as currently covered by the ETS would improve investor confidence.

What is vital in improving investor confidence is the very good speech made by my right hon. Friend the Secretary of State for Energy and Climate Change last November, in which she made it absolutely clear that the priorities for the UK Government were first, far and above all else, energy security, and, secondly, that no responsible Government should take a risk on climate change. Those two absolute abiding principles underline everything that we do.

Throughout this Parliament, we will be seeking to meet our objectives, which are energy security while decarbonising at the lowest cost to consumers. The Secretary of State talked about our commitment to new offshore wind, getting the costs down and deploying up to 10 GW; to new nuclear, which, as the hon. Member for Norwich South must concede, is a very low carbon form of power generation; and to new gas, which again I think the hon. Gentleman will accept is the bridge. Consulting on taking coal off the power generation side of things and using instead new gas as a bridge to a low carbon future is possibly the biggest thing we could do to decarbonise quickly and securely and at the lowest cost to consumers.

It is simply not the case that by changing the way we account for carbon in the power generation sector we would achieve any of the investor confidence and assurance of meeting targets for reducing costs to consumers or helping us to meet our climate change commitments.

Clive Lewis: Energy security is a really important point. I will just pass on a fact. Ten years ago the UK imported no gas at all from Russia. By 2013, in the whole of the EU, only Italy and Germany imported more gas from Russia. Energy security has actually gone backwards, not forwards, because now we are relying more on Putin's Russia for our energy supplies and gas than we were under the last Labour Government.

Andrea Leadsom: That is an extraordinary thing to say. The hon. Gentleman's party is doing everything possible to try to ensure that the Government are not able to improve our own access to home-grown gas. I am glad that his party has come out in favour of supporting the oil and gas sector in the North sea—that is something to be welcomed—but 40% of the UK's gas supply still comes from the North sea. The hon. Gentleman is right to point out that that is a reducing amount—by 2035 it is expected to be only about 25%. The issue of energy security and where we get our gas supplies is a very important one.

I am pleased to tell the hon. Gentleman that, since it is a global market, supplies as things stand are very good. Our biggest partners are Norway and, for liquid natural gas, the middle east. It is not true to say that we have a big dependency on Russia by any means. Nevertheless, energy policy is vital for this country's future energy security. Of course, 80% of us in the UK use gas for heating and cooking. Members who are rightly enthusiastic about renewables, as am I, must bear it in mind that this country will continue to need gas for a long time.

Chris Heaton-Harris: My hon. Friend correctly makes that point. In an earlier intervention, the hon. Member for Norwich South talked about the importance of

interconnection to our future energy supply. There would be no supply from our interconnectors to the continent should Gazprom choose not to supply eastern Europe with gas, because all the energy would be sucked back into the continent. Our energy security would diminish because of that, so there are pros and cons to everything, especially if we are trying to take a European view of the whole picture.

Andrea Leadsom: My hon. Friend makes an important point about gas energy security. The UK has made great efforts to diversify its sources of imported gas. The UK Energy Research Centre recently recognised that we have significantly diversified the sources and the means of bringing gas into the country. We have liquid natural gas terminals, and we have pipelines, as my hon. Friend mentioned. Each of those sources is important, but support for home-grown gas in the North sea and through other sources is vital.

Callum McCaig: A while back in our back-and-forth, the Minister said that she does not feel that this will do anything to strengthen investor confidence. Where does she feel investor confidence is? We discussed investor confidence in relation to renewables, but there have been reports in the press about EDF and its commitment to Hinkley Point C due to its French shareholders. Where does she see those deals going forward? We could be in severe difficulties without them.

Andrea Leadsom: Again, the hon. Gentleman highlights the need for diverse sources of energy and for an absolute focus on ensuring that we have a proper mix of sources, and not a focus on having all our eggs in one basket. Specifically on EDF, we expect announcements any day. We fully expect to have that deal done within the next short period of time. These are commercial deals, and it is a big transaction, as we know. Such things take time. Nevertheless, a comprehensive energy policy that includes new gas, new offshore wind and new nuclear is important so that we can be the first country in the developed world to take coal out of power generation. Of course, we are continuing to support renewables.

I make it clear that, in our feed-in tariffs review and in all our work on renewables, we have trodden a fine line between what is right for renewables generation and what is right for the bill payers who pay for it. We have had a lot of debates in this House, and in the other House, on fuel poverty, which is a big issue. New technologies should stand on their own two feet when they are able to do so. As the costs of deploying new renewables come down, so should the subsidies. We should not continue with subsidies that create an overly generous return when, at the other end of the spectrum, we still have many people who cannot afford to heat themselves or to keep their lights on. That is an important balance. As I have said time and again, the Government are absolutely committed to energy security but, secondly, we are committed to decarbonising at the lowest cost to consumers, which underpins everything that we do.

The hon. Member for Norwich South asserted that effectively removing ETS from the calculation of carbon budgets would somehow make decarbonisation cheaper. I am sorry, but I just do not find any evidence for that. We will keep our accounting under review, and it is right that we do so, but he has not provided any evidence that decarbonisation would be cheaper or that investor confidence would be greater. He has failed to answer why, with only a few months to go before, according to our legally binding commitment under the Climate Change Act 2008, we must set out our policies to meet the fifth carbon budget, which is being proposed, we should suddenly turn everything on its head and change how we account for carbon.

The hon. Gentleman and all Opposition Members must appreciate and realise that although what they are proposing has some merit—it is certainly an interesting idea that the Government will keep under review—it is just not realistic at this late stage to start to turn on its head the way in which the Committee on Climate Change or the Government make their calculations. The work has been going on for up to a year already and is now stepping up apace so that we can meet our legally binding commitment to publish our report by the end of June this year.

The hon. Gentleman quoted the Committee on Climate Change's recent letter, which I can quote back to him. On whether the fifth carbon budget should be tighter, it said a few days ago, in January, that its

"judgement is that our existing recommendation is sufficient at this time, although a tighter budget may be needed in future".

Let us be clear that the committee is not calling for what is in the clause. All its recommendations and assessments have been done on the assumption that we continue to use the European ETS scheme to account for carbon in the power generation and other sectors. Were we to go ahead and agree to the clause, it would be extremely difficult, if not impossible, to meet our commitments under the 2008 Act.

Clive Lewis: The Committee on Climate Change also said that it expects the ETS sector, which is exempt from the current carbon budget proposals, as we have been discussing, to use only ETS credits, not debits, by the fifth carbon budget. That is my understanding. If we are to achieve the most cost-effective route to decarbonising the economy, we have to make this change. Yes, what the Minister says is correct, but there are other components to what the Committee on Climate Change has said that imply to me that the clause would simply make the whole process clearer and more transparent. The Minister says that there is no evidence, but I do not think anyone present would disagree that markets like clear signals. They want to be able to see what is coming in future. They do not like surprises and want to know what the investment scenario is. By making that clear and having a clear accounting process, the market signals will be far clearer.

Andrea Leadsom: I have to disagree. The hon. Gentleman talks about clarity, but, having worked on one basis for a year and with the Committee on Climate Change having proposed that we work on that basis in its recommendations, there is nothing clear about suddenly deciding to change it six months ahead of putting out a legally binding commitment to a legally binding piece of legislation. What is clear about that? Absolutely nothing. I am sorry, but I just do not agree.

On the hon. Gentleman's point about the budget, the Committee on Climate Change says that it

[Andrea Leadsom]

"should be met without the use of international carbon units (i.e. credits) outside the EU Emissions Trading System."

The committee goes on:

"If unexpected circumstances mean the budget cannot be met cost-effectively without recourse to purchase of credits, the Committee would revisit this advice, including an assessment of the strength and validity of the credit market at that time."

The clause simply introduces a massive amount of uncertainty, not certainty, so I just do not agree with the hon. Gentleman's assertion that it would somehow create greater certainty.

We are where we are. I have already said to the hon. Gentleman that it is right that we keep our accounting policies under review, and I have told him that we will do and are doing that, but now is not the right time to make this change. It would be very destabilising and would certainly give us a problem in meeting our legally binding commitment. Hot on the heels of what I think all Members would agree was the significant leadership role played by the UK in the Paris agreement, it would not be the right thing to do. We would be throwing the balls in the air, which would lead to a great deal of uncertainty. I therefore hope that clause 80 will be removed from the Bill.

11 am

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

The Committee divided: Ayes 7, Noes 11.

Division No. 5]

AYES

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

NOES

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

Question accordingly negatived.

Clause 80 disagreed to.

Clause 81

REGULATIONS

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

Dr Whitehead: We come now to the last part of the Bill. It is always worth having a look at a Bill's final provisions and at how they make the rest of the Bill work. Clause 81 relates to the powers to make regulations under the Act, which can famously include so-called Henry VIII clauses effectively enabling the Secretary of State to amend parts of a Bill that has just been passed by orders of various kinds, whether or not the intention of such orders actually featured on the face of the Bill. There has been a tendency in legislation in recent years to backload Bills so that the Secretary of State is given rather a lot of power to change something that might otherwise have been in a Bill.

Although I would not say that this particular Bill falls prey to that temptation to any great extent, there are nevertheless provisions for regulations either under the affirmative procedure or the negative procedure, which require prayers to annul, relating to effectively all the Bill's clauses. There is a distinction between what regulations can be passed on an affirmative basis, therefore requiring a debate and a vote, and what can be made by negative statutory instruments, which are just laid and—not to put too fine a point on it—no one notices unless someone is sharp-eyed enough to come forward with a prayer to annul, leading to an instrument being subject to the provisions in subsection (4), which governs the instruments that must be made by a draft being laid before and approved by Members of both Houses.

First, why has a distinction been made between those clauses of the Bill which may be amended, effectively, by affirmative resolution and those clauses which may be amended simply by statutory instruments being laid before the House and therefore subject to a motion to annul? There is then a further question about the distinction made between the regulations in this clause. Under subsection (4), do statutory instruments that may be moved, positive SIs approved by resolution of each House of Parliament, which specify particular regulations and clauses of the Act—a number of which relate, for example, to the organisation of the OGA—cover the amendment of previous SIs that relate to the conduct of the Bill?

I have in mind an SI passed in September 2014, the Renewables Obligation Closure Order 2014, SI 2388, which contains a number of very interesting provisions. It provides for the closure of the renewables obligation on or before 31 March 2017 and states:

"No certificates to be issued in respect of electricity generated after 31st March 2017."

This is, indeed, the statutory instrument that defines the date of closure of the renewables obligation. It is derived from the Energy Act 2013 which, while it envisages in chapter 7 the closure of support under the renewables obligation does not specify a date at which that support should be taken away. The statutory instrument of September 2014 provides a date for that closure. The question is, in what circumstances under this clause might the Government change this statutory instrument?

The statutory instrument can be read in two ways. The heading of article 3 of the SI,

"No certificates to be issued in respect of electricity generated after 31st March 2017",

can be read as the statutory instrument giving effect to what is set out in very general terms in the Energy Act 2013. Conversely, it could be read as saying that up to 31 March 2017 in certificates in respect of electricity generated should be issued. In that particular clause, the Bill changes the point at which the renewables obligation will cease for onshore wind. Of course, the 2014 SI deals with forms of renewable generation other than onshore wind, and they are not affected by the changes in the Bill. Onshore wind is eligible for renewables obligations up to 31 March 2017—that is pretty clear under the SI—and that will be changed at a stroke to a year earlier. We will debate that particular detailed

question this afternoon. By the way, the 2014 SI has provision for particular grace periods, and we might touch on that later.

The point about the SI is that it specifically sets out not just the point at which that renewables obligation requirement will stop, but the period during which that renewables obligation requirement has to continue. As we can see with what the Secretary of State can do under the clause to amend legislation, subsection (5) of the clause allows statutory instruments based on any of the Bill's provisions to be made under the negative resolution procedure, with the exception of those measures specified under subsection (4). Subsection (5) states:

"A statutory instrument containing any other regulations under this Act is subject to annulment in pursuance of a resolution of either House of Parliament."

Subsection (6) states:

"Subsection (5) does not apply to a statutory instrument containing regulations under section 83."

We have not yet discussed clause 83, but it relates to the commencement of the Bill and when it becomes an Act. As I have said, the Bill changes the date by which the renewables obligation should cease to be available to developers under the terms of the statutory instrument from March 2017 to March 2016. Clause 81(6) relates to the change to the renewables obligation, and clause 83(1) states that the Bill,

"comes into force on the day on which this Act is passed."

That is important in defining when the Act is passed. I understand that that happens when the Act receives Royal Assent. In clause 83, there are not only definitions of when the Act is passed, but when other parts come into force. For example, one part

"comes into force two months after the day on which this Act is passed."

That is important, because while we trust that the Bill will be passed in the not too distant future, it is more than possible that that will be after the date that the renewables obligation ceases to be available to developers, which will be foreshortened from March 2017 to March 2016—not that one needs to indulge in a great deal of speculation. Obviously, I am not privy to Government legislative timetables, but we are here in Committee at the beginning of February. We have parliamentary sitting time until the end of March, minus a week. The Bill has to go back to another place, at which point there will undoubtedly be discussion about its provisions, and it will come back to this House for final consideration before the process of Royal Assent is undertaken. By the time Royal Assent has been obtained, we could be past the date by which the Bill's provisions come into force.

11.15 am

The problem is that the Bill does not make provisions that come into force where nothing existed previously. However, in the statutory instrument passed at the end of 2014, there is provision already in place for renewables obligations certificates. If the Bill does not become law until after March 2016, it is not the case that nothing will happen; according to the 2014 order, renewables obligations certificates will continue to be given out after March 2016. That is quite an interesting problem.

I return to clause 81. It is technically possible, once the Bill becomes law, for the Government to amend the statutory instrument by another statutory instrument. It could be a positive or a negative one, but I would hope for a positive one. My reading of the legislation is that it should be a positive one, because it relates to when the Bill comes into force. If clause 81 is used to put that right in the case of the continued issue of renewables obligations under the statutory instrument concerned, it would probably be necessary to legislate under statutory instrument retrospectively to put that singularity right.

I can see nothing in the clauses that enables the Minister not only to legislate to make regulations, but to legislate to make regulations that have retrospective effect. In addition to my question about whether she has considered the difference between the negative statutory instruments that apply to certain parts of the Bill and the positive instruments that apply to other parts, and why they cannot all be positive instruments, I ask the Minister whether she can clarify whether either of those arrangements enable her to amend statutory instruments that are retrospective in function. I am sure she will understand the convention in this House that legislation should not apply retrospectively, whether it is primary or secondary legislation. Perhaps she will help not only me but the industry generally by clarifying this point. Should the Act have those provisions in it, will the provisions apply to further amendments to the statutory instrument? If so, can the secondary legislation act retrospectively as far as the original statutory instrument is concerned? I would value the Minister's clarification of those points.

Andrea Leadsom: I am in awe of the hon. Gentleman's knowledge of Bill provisions and so on. I just have to tell him, light-heartedly, that I was told, "No one will talk about this clause," to which I replied, "I wouldn't bet on that." *[Laughter.]* That is very much off the record, if the hon. Gentleman knows what I mean, but I pay tribute to his assiduousness. He is absolutely right to raise whatever points he wants. Although the clause is a standard Bill clause, he has managed really to do it justice—*[Laughter.]* I mean that sincerely; I am not laughing at him at all. I think it is brilliant—I really do.

The hon. Gentleman essentially asks why some provisions are subject to the affirmative procedure and some to the negative procedure. He will know that some provisions delegate or give further reaching powers and therefore require greater parliamentary scrutiny. The clause provides that a statutory instrument containing measures relating to any of the following must be made under the affirmative procedure: clause 2, on the transfer of functions to the OGA, regarding amending or repealing any Act or provision of an Act; clause 46(7), which contains the power to amend the maximum amount of financial penalty chargeable by the OGA; clause 64(6), on disclosure by the OGA to certain persons; and clause 67(1), which determines the confidentiality periods that are to apply to protected material before it can be published or made public. Any other statutory instrument—other than those dealing with commencement—made under the Bill will be subject to the negative procedure.

In answer to the hon. Gentleman's well-made points about the time at which the legislation receives Royal Assent, I assure him that we are confident that the Bill will get that assent in time for us to meet our manifesto commitments.

Question put and agreed to.

Clause 81 accordingly ordered to stand part of the Bill.

Clause 82 ordered to stand part of the Bill.

Clause 83

COMMENCEMENT

Amendment 5, in clause 83, page 48, line 2, leave out "This Part comes" and insert

"Sections [Onshore wind power: closure of renewables obligation on 31 March 2016], [Onshore wind power: circumstances in which certificates may be issued after 31 March 2016] and [Use of Northern Ireland certificates: onshore wind power] and this Part come"

This Amendment provides for New Clauses 1, 2 and 3 to come into force on Royal Assent of the Energy Bill.

The Chair: With this it will be convenient to discuss the following:

Government new clause 1—*Onshore wind power: closure of renewables obligation on 31 March 2016*.

Government new clause 2—*Onshore wind power: circumstances in which certificates may be issued after 31 March 2016*—

(1) Part 1 of the Electricity Act 1989 (electricity supply) is amended as follows.

(2) After section 32LC (inserted by section [*Onshore wind power: closure of renewables obligation on 31 March 2016*]) insert—

"32LD Onshore wind generating stations accredited, or additional capacity added, on or before 31 March 2016

The circumstances set out in this section are where the electricity is—

(a) generated by an onshore wind generating station which was accredited on or before 31 March 2016, and

(b) generated using—

(i) the original capacity of the station, or

(ii) additional capacity which in the Authority's view first formed part of the station on or before 31 March 2016.

32LE Onshore wind generating stations accredited, or additional capacity added, between 1 April 2016 and 31 March 2017: grid or radar delay condition met

The circumstances set out in this section are where the electricity is—

(a) generated using the original capacity of an onshore wind generating station—

(i) which was accredited during the period beginning with 1 April 2016 and ending with 31 March 2017, and

(ii) in respect of which the grid or radar delay condition is met, or

(b) generated using additional capacity of an onshore wind generating station, where—

(i) the station was accredited on or before 31 March 2016,

(ii) in the Authority's view, the additional capacity first formed part of the station during the period beginning with 1 April 2016 and ending with 31 March 2017, and

(iii) the grid or radar delay condition is met in respect of the additional capacity.

32LF Onshore wind generating stations accredited, or additional capacity added, on or before 31 March 2017: approved development condition met

The circumstances set out in this section are where the electricity is—

(a) generated using the original capacity of an onshore wind generating station—

(i) which was accredited on or before 31 March 2017, and

(b) generated using additional capacity of an onshore wind generating station, where—

(i) the station was accredited on or before 31 March 2016,

(iii) the approved development condition is met in respect of the additional capacity.

32LG Onshore wind generating stations accredited, or additional capacity added, between 1 April 2017 and 31 March 2018: grid or radar delay condition met

The circumstances set out in this section are where the electricity is—

(a) generated using the original capacity of an onshore wind generating station—

(i) which was accredited during the period beginning with 1 April 2017 and ending with 31 March 2018,

(ii) in respect of which the approved development condition is met, and

(b) generated using additional capacity of an onshore wind generating station, where—

(i) the station was accredited on or before 31 March 2016,

(iii) the approved development condition is met in respect of the additional capacity, and

32LH Onshore wind generating stations accredited, or additional capacity added, between 1 April 2017 and 31 December 2017: investment freezing condition met

The circumstances set out in this section are where the electricity is—

(a) generated using the original capacity of an onshore wind generating station—

(i) which was accredited during the period beginning with 1 April 2017 and ending with 31 December 2017, and

(b) generated using additional capacity of an onshore wind generating station, where—

(ii) in the Authority's view, the additional capacity first formed part of the station during the period beginning with 1 April 2017 and ending with 31 December 2017, and

32LI Onshore wind generating stations accredited, or additional capacity added, between 1 January 2018 and 31 December 2018: grid or radar delay condition met

The circumstances set out in this section are where the electricity is—

(a) generated using the original capacity of an onshore wind generating station—

(i) which was accredited during the period beginning with1 January 2018 and ending with 31 December 2018,

(ii) in respect of which both the approved development condition and the investment freezing condition are met, and

(iii) in respect of which the grid or radar delay condition is met, or

(b) generated using additional capacity of an onshore wind generating station, where—

(i) the station was accredited on or before 31 March 2016,

(ii) in the Authority's view, the additional capacity first formed part of the station during the period beginning with 1 January 2018 and ending with 31 December 2018,

(iii) both the approved development condition and the investment freezing condition are met in respect of the additional capacity, and

(iv) the grid or radar delay condition is met in respect of the additional capacity.

32LJ The approved development condition

(1) This section applies for the purposes of sections 32LF to 32LI.

(2) The approved development condition is met in respect of an onshore wind generating station if the documents specified in subsections (4), (5) and (6) were provided to the Authority with the application for accreditation of the station.

(3) The approved development condition is met in respect of additional capacity if the documents specified in subsections (4), (5) and (6) were provided to the Authority on or before the date on which the Authority made its decision that the additional capacity could form part of an onshore wind generating station.

(4) The documents specified in this subsection are—

(a) evidence that—

(i) planning permission for the station or additional capacity was granted on or before 18 June 2015, and

(ii) any conditions as to the time period within which the development to which the permission relates must be begun have not been breached,

(b) evidence that—

(i) planning permission for the station or additional capacity was refused on or before 18 June 2015, but granted after that date following an appeal or judicial review, and

(ii) any conditions as to the time period within which the development to which the permission relates must be begun have not been breached,

(c) evidence that—

(ii) the period allowed under section 78(2) of the 1990 Act or (as the case may be) section 47(2) of the 1997 Act ended on or before 18 June 2015 without any of the things mentioned in section 78(2)(a) to (b) of the 1990 Act or section 47(2)(a) to (c) of the 1997 Act being done in respect of the application,

(iii) the application was not referred to the Secretary of State, Welsh Ministers or Scottish Ministers in accordance with directions given under section 77 of the 1990 Act or section 46 of the 1997 Act,

(iv) 1990 Act permission or 1997 Act permission was granted after 18 June 2015 following an appeal, and

(d) a declaration by the operator of the station that, to the best of the operator's knowledge and belief, planning permission is not required for the station or additional capacity.

(5) The documents specified in this subsection are—

(a) a copy of an offer from a licensed network operator made on or before 18 June 2015 to carry out grid works in relation to the station or additional capacity, and evidence that the offer was accepted on or before that date (whether or not the acceptance was subject to any conditions or other terms), or

(b) a declaration by the operator of the station that, to the best of the operator's knowledge and belief, no grid works were required to be carried out by a licensed network operator in order to enable the station to be commissioned or the additional capacity to form part of the station.

(6) The documents specified in this subsection are a declaration by the operator of the station that, to the best of the operator's knowledge and belief, as at 18 June 2015 a relevant developer of the station or additional capacity (or a person connected, within the meaning of section 1122 of the Corporation Tax Act 2010, with a relevant developer of the station or additional capacity)—

(a) was an owner or lessee of the land on which the station or additional capacity is situated,

(b) had entered into an agreement to purchase or lease the land on which the station or additional capacity is situated,

(c) had an option to purchase or to lease the land on which the station or additional capacity is situated, or

(d) was a party to an exclusivity agreement in relation to the land on which the station or additional capacity is situated.

(7) In this section—

"the 1990 Act" means the Town and Country Planning Act 1990;

"1990 Act permission" means planning permission under the 1990 Act (except outline planning permission, within the meaning of section 92 of that Act);

"the 1997 Act" means the Town and Country Planning (Scotland) Act 1997;

"1997 Act permission" means planning permission under the 1997 Act (except planning permission in principle, within the meaning of section 59 of that Act);

"exclusivity agreement", in relation to land, means an agreement by the owner or a lessee of the land not to permit any person (other than the persons identified in the agreement) to construct an onshore wind generating station on the land;

"planning permission" means—

(a) consent under section 36 of this Act,

(b) 1990 Act permission,

(c) 1997 Act permission, or

(d) development consent under the Planning Act 2008.

32LK The investment freezing condition

(1) This section applies for the purposes of sections 32LH and 32LI.

(2) The investment freezing condition is met in respect of an onshore wind generating station if the documents specified in subsection (4) were provided to the Authority with the application for accreditation of the station.

(3) The investment freezing condition is met in respect of additional capacity if the documents specified in subsection (4) were provided to the Authority on or before the date on which the Authority made its decision that the additional capacity could form part of an onshore wind generating station.

(4) The documents specified in this subsection are—

(a) a declaration by the operator of the station that, to the best of the operator's knowledge and belief, as at the Royal Assent date—

(i) the relevant developer required funding from a recognised lender before the station could be commissioned or additional capacity could form part of the station,

(ii) a recognised lender was not prepared to provide that funding until enactment of the Energy Act 2016, because of uncertainty over whether the Act would be enacted or its wording if enacted, and

(iii) the station would have been commissioned, or the additional capacity would have formed part of the station, on or before 31 March 2017 if the funding had been provided before the Royal Assent date, and

(b) a letter or other document, dated on or before the date which is 28 days after the Royal Assent date, from a recognised lender confirming (whether or not the confirmation is subject to any conditions or other terms) that the lender was not prepared to provide funding in respect of the station or additional

capacity until enactment of the Energy Act 2016, because of uncertainty over whether the Act would be enacted or its wording if enacted.

(5) In this section—

"recognised lender" means a provider of debt finance which has been issued with an investment grade credit rating by a registered credit rating agency;

"the Royal Assent date" means the date on which the Energy Act 2016 is passed.

(6) For the purposes of the definition of "recognised lender" in subsection (5)—

"investment grade credit rating" means a credit rating commonly understood by registered credit rating agencies to be investment grade;

"registered credit rating agency" means a credit rating agency registered in accordance with Regulation (EC) No 1060/2009 of the European Parliament and the Council of 16 September 2009 on credit rating agencies.

32LL The grid or radar delay condition

(1) This section applies for the purposes of sections 32LE, 32LG and 32LI.

(2) The grid or radar delay condition is met in respect of an onshore wind generating station if, on or before the date on which the Authority made its decision to accredit the station, the documents specified in subsection (4), (5) or (6) were—

(a) submitted by the operator of the station, and

(b) received by the Authority.

(3) The grid or radar delay condition is met in respect of additional capacity if, on or before the date on which the Authority made its decision that the additional capacity could form part of an onshore wind generating station, the documents specified in subsection (4), (5) or (6) were—

(a) submitted by the operator of the station, and

(b) received by the Authority.

(4) The documents specified in this subsection are—

(a) evidence of an agreement with a network operator ("the relevant network operator") to carry out grid works in relation to the station or additional capacity ("the relevant grid works");

(b) a copy of a document written by, or on behalf of, the relevant network operator which estimated or set a date for completion of the relevant grid works ("the planned grid works completion date") which was no later than the primary date;

(c) a letter from the relevant network operator confirming (whether or not such confirmation is subject to any conditions or other terms) that—

(i) the relevant grid works were completed after the planned grid works completion date, and

(ii) in the relevant network operator's opinion, the failure to complete the relevant grid works on or before the planned grid works completion date was not due to any breach by a generating station developer of any agreement with the relevant network operator; and

(d) a declaration by the operator of the station that, to the best of the operator's knowledge and belief, the station would have been commissioned, or the additional capacity would have formed part of the station, on or before the primary date if the relevant grid works had been completed on or before the planned grid works completion date.

(5) The documents specified in this subsection are—

(a) evidence of an agreement between a generating station developer and a person who is not a generating station developer ("the radar works agreement") for the carrying out of radar works ("the relevant radar works");

(b) a copy of a document written by, or on behalf of, a party to the radar works agreement (other than a generating station developer) which estimated or set a date for completion of the relevant radar works ("the planned radar works completion date") which was no later than the primary date;

(c) a letter from a party to the radar works agreement (other than a generating station developer) confirming, whether or not such confirmation is subject to any conditions or other terms, that—

(i) the relevant radar works were completed after the planned radar works completion date, and

(ii) in that party's opinion, the failure to complete the relevant radar works on or before the planned radar works completion date was not due to any breach of the radar works agreement by a generating station developer; and

(d) a declaration by the operator of the station that, to the best of the operator's knowledge and belief, the station would have been commissioned, or the additional capacity would have formed part of the station, on or before the primary date if the relevant radar works had been completed on or before the planned radar works completion date.

(6) The documents specified in this subsection are—

(a) the documents specified in subsection (4)(a), (b) and (c);

(b) the documents specified in subsection (5)(a), (b) and (c); and

(c) a declaration by the operator of the station that, to the best of the operator's knowledge and belief, the station would have been commissioned, or the additional capacity would have formed part of the station, on or before the primary date if—

(i) the relevant grid works had been completed on or before the planned grid works completion date, and

(ii) the relevant radar works had been completed on or before the planned radar works completion date.

(7) In this section "the primary date" means—

(a) in a case within section 32LE(a)(i) or (b)(i) and (ii), 31 March 2016;

(b) in a case within section 32LG(a)(i) and (ii) or (b)(i) to (iii), 31 March 2017;

(c) in a case within section 32LI(a)(i) and (ii) or (b)(i) to (iii), 31 December 2017."

(3) In section 32M (interpretation of sections 32 to 32M)—

(a) in subsection (1), for "32LB" substitute "32LL";

(b) at the appropriate places insert the following definitions—

""accredited", in relation to an onshore wind generating station, means accredited by the Authority as a generating station which is capable of generating electricity from renewable sources; and "accredit" and "accreditation" are to be construed accordingly;";

""additional capacity", in relation to an onshore wind generating station, means any generating capacity which does not form part of the original capacity of the station;";

""commissioned", in relation to an onshore wind generating station, means having completed such procedures and tests in relation to the station as constitute, at the time they are undertaken, the usual industry standards and practices for commissioning that type of generating station in order to demonstrate that it is capable of commercial operation;";

""generating station developer", in relation to an onshore wind generating station or additional capacity, means—

(a) the operator of the station, or

(b) a person who arranged for the construction of the station or additional capacity;";

""grid works", in relation to an onshore wind generating station, means—

(a) the construction of a connection between the station and a transmission or distribution system for the purpose of enabling electricity to be conveyed from the station to the system, or

(b) the carrying out of modifications to a connection between the station and a transmission or distribution system for the purpose of enabling an increase in the amount of electricity that can be conveyed over that connection from the station to the system;";

""licensed network operator" means a distribution licence holder or a transmission licence holder;";

""network operator" means a distribution exemption holder, a distribution licence holder or a transmission licence holder;";

""onshore wind generating station" has the meaning given by section32LC(2);";

""original capacity", in relation to an onshore wind generating station, means the generating capacity of the station as accredited;";

""radar works" means—

(a) the construction of a radar station,

(b) the installation of radar equipment,

(c) the carrying out of modifications to a radar station or radar equipment, or

(d) the testing of a radar station or radar equipment;";

""relevant developer", in relation to an onshore wind generating station or additional capacity, means a person who—

(a) applied for planning permission for the station or additional capacity,

(b) arranged for grid works to be carried out in relation to the station or additional capacity,

(c) arranged for the construction of any part of the station or additional capacity,

(d) constructed any part of the station or additional capacity, or

(e) operates, or proposes to operate, the station;"."

This New Clause provides for cases in which renewables obligation certificates may continue to be issued in respect of electricity generated after 31 March 2016 by onshore wind generating stations in England, Wales or Scotland, despite the general closure effected by New Clause NC1. The cases are those described in the new sections 32LD to 32LI of the Electricity Act 1989.

Amendment (b) to Government new clause 2, in new section 32LJ(4)(b)(i), leave out "planning permission" and insert

"an application for 1990 Act permission or 1997 Act permission".

Amendment (c) to Government new clause 2, in new section 32LJ(4)(b)(i), leave out "or judicial review".

Amendment (d) to Government new clause 2, in new section 32LJ(4)(c)(ii), after the second "Act", insert

"(excluding an extension agreed for the purposes of section 78(2) of the 1990 Act or section 47(2) of the 1997 Act)".

Amendment (e) to Government new clause 2, in new section 32LJ(4)(c)(ii), leave out new section 32LJ(4)(c)(iii).

Amendment (f) to Government new clause 2, in new section 32LJ(4)(c)(iv), leave out "following an appeal" and insert

"or after a decision made by the Secretary of State, Welsh Ministers or Scottish Ministers following directions given under section 77 of the 1990 Act or section 46 of the 1997 Act, and".

This amendment covers cases where the statutory period for the determination of planning applications expired on or before 18 June 2015, but where a time extension had been agreed between the developer and the Planning Authority. It would also address cases in which a project's statutory period for the determination of planning applications expired on or before 18 June 2015, and which are subsequently "called in" by a relevant Minister and approved.

Amendment (a) to Government new clause 2, in new section 32LJ(4) at end insert—

"(da) evidence that either—

(i) a grant of planning permission was resolved by the relevant planning authority on or before 18 June 2015,

(ii) planning permission was granted after 18 June 2015 but not later than 18 September 2015, or

(iii) planning permission, consent or development consent was granted after 18 June 2015 under section 73 of the 1990 Act, section 42 of the 1997 Act, section 36(C) of this Act, or under the Planning Act 2008 varying a planning permission, consent or development consent granted on or before 18 June 2015,

(db) evidence that—

any condition as to the time period within which the development to which the permission relates must be begun have not been breached."

This amendment would include schemes within the grace period that have received planning consent from local planning authorities by the relevant date, but have not received final documentation, providing that final documentation is received by three months after this date.

Amendment (h) to Government new clause 2, in new section 32LJ(4), at end insert—

"() evidence that—

(i) an application for 1990 Act permission or 1997 Act permission was made on or before 18 June 2015 for the station or additional capacity,

(ii) the period allowed under section 78(2) of the 1990 Act or (as the case may be) section 47(2) of the 1997 Act (excluding an extension agreed for the purposes of section 78(2) of the 1990 Act or section 47(2) of the 1997 Act) ended on or before 18 June 2015 without the things mentioned in section 78(2)(a) or (aa) of the 1990 Act or section 47(2)(a) or (b) of the 1997 Act being done in respect of the application,

(iii) the application was referred to the Secretary of State, Welsh Ministers or Scottish Ministers in accordance with directions given under section 77 of the 1990 Act or section 46 of the 1997 Act,

(iv) 1990 Act permission or 1997 Act permission was granted after 18 June 2015, and

(v) any conditions as to the time period within which the development to which the permission relates must be begun have not been breached."

Amendment (i) to Government new clause 2, in new section 32LJ(4), at end insert—

"() evidence that—

(i) an application for 1990 Act permission or 1997 Act permission was made on or before 18 June 2015 for the station or for additional capacity,

(ii) the relevant planning authority resolved to grant 1990 Act permission or 1997 Act permission on or before 18 June 2015,

(iii) 1990 Act permission or 1997 Act permission was granted after 18 June 2015, and

(iv) any conditions as to the time period within which the development to which the permission relates must be begun have not been breached."

Amendment (j) to Government new clause 2, in new section 32LJ(4), at end insert—

"() evidence that—

(i) an application for consent for the station or for additional capacity was made under section 36 of this Act,

(ii) the consultation period prescribed by Regulations made under paragraphs 2(3) or 3(1)(c) of Schedule 8 to this Act had expired on or before 18 June 2015,

(iii) the Secretary of State caused a public inquiry to be held under paragraph 2(2) or 3(3) of Schedule 8 to this Act or decided that a public inquiry need not be held,

(iv) consent was granted by the Secretary of State after 18 June 2015, and

(v) any conditions as to the time period within which the development to which the permission relates must be begun have not been breached."

Amendment (k) to Government new clause 2, in new section 32LJ(4), at end insert—

"() evidence that—

(i) an application for development consent for the station or for additional capacity was made under section 37 of the Planning Act 2008,

(ii) the deadline for receipt of representations under section 56(4) of the Planning Act 2008 had expired on or before 18 June 2015,

(iii) consent was granted by the Secretary of State after 18 June 2015, and

(iv) any conditions as to the time period within which the development to which the permission relates must be begun have not been breached."

Amendment (l) to Government new clause 2, in new section 32LJ(4), at end insert—

"() evidence that—

(i) planning permission for the station or additional capacity was granted on or before 18 June 2015,

(ii) planning permission under sections 73, 90(2), 90(2ZA) or 96A of the 1990 Act or sections 42, 57(2), 57(2ZA) or 64 of the 1997 Act, a consent under section 36C of this Act, or an order under section 153 of, and paragraph 2 or 3 of Schedule 6 to, the Planning Act 2008 varying the planning permission under Clause 32LJ(4)(i)(i) was granted after 18 June 2015, and

(iii) any conditions as to the time period within which the development to which the permission relates must be begun have not been breached."

Amendment (m) to Government new clause 2, in new section 32LJ(4), at end insert—

"() evidence that—

(i) 1990 Act permission or 1997 Act permission for the station or additional capacity was granted on or before 18 June 2015,

(ii) consent under section 36 of this Act that permits a greater capacity for the station than that permitted by the planning permission under Clause 32LJ(4)(j)(i) was granted after 18 June 2015, and

(iii) any conditions as to the time period within which the development to which the permission relates must be begun have not been breached."

Amendment (n) to Government new clause 2, in new section 32LJ(4), at end insert—

"() evidence that—

(i) planning permission for the station or additional capacity was granted on or before 18 June 2015,

(ii) planning permission under Clause 32LJ(4)(k)(i) was superseded by a subsequent planning permission granted after 18 June 2015 permitting a station with the same or a lower capacity than that granted under the planning permission referred to in Clause 32LJ(4)(k)(i), and

(iii) any conditions as to the time period within which the development to which the permission relates must be begun have not been breached."

Amendment (o) to Government new clause 2, in new section 32LJ(4), at end insert—

"() evidence that—

(i) planning permission for the station or additional capacity was granted or refused on or before 18 June 2015, and was subsequently confirmed or granted after that date following a statutory challenge under section 288 of the 1990 Act, section 237 of the 1997 Act or section 118 of the Planning Act 2008, or following a judicial review, and

(ii) any conditions as to the time period within which the development to which the permission relates must be begun have not been breached."

Amendment (p) to Government new clause 2, leave out new section 32LJ(5)(a) and insert—

"(a) evidence of an agreement with a network operator to carry out grid works in relation to the station or additional capacity and was originally made on or before 18 June 2015 notwithstanding the fact that may have subsequently been amended or modified, and

(ab) a copy of a document written by, or on behalf of, the network operator which estimated or set a date for completion of the grid works which was no later than 31 March 2017; or"

Amendment (q) to Government new clause 2, in new section 32LJ(7), after

"section 92 of that Act);",

insert

"and includes planning permission deemed to be granted in accordance with section 90 of that Act."

Amendment (r) to Government new clause 2, in new section 32LJ(7), after

"section 59 of that Act);",

insert

"and includes planning permission deemed to be granted in accordance with section 57 of that Act."

Amendment (s) to Government new clause 2, in new section 32LK(4)(a)(i), leave out "from a recognised lender".

Amendment (t) to Government new clause 2, in new section 32LK(5), leave out from "means a provider" to "credit rating agency;" and insert—

"means a bank or financial institution or trust or fund or other financial entity which is regulated by the relevant jurisdiction and which is engaged in making, purchasing or investing in loans, securities or other financial instruments."

Amendment (u) to Government new clause 2, leave out new section 32LK(6).

Government new clause 3—*Use of Northern Ireland certificates: onshore wind power—*

(1) The Electricity Act 1989 is amended as follows.

(2) Before section 32M insert—

"**32LM Use of Northern Ireland certificates: onshore wind power**

(1) The Secretary of State may make regulations providing that an electricity supplier may not discharge its renewables obligation (or its obligation in relation to a particular period) by the production to the Authority of a relevant Northern Ireland certificate, except in the circumstances, and to the extent, specified in the regulations.

(2) A "relevant Northern Ireland certificate" is a Northern Ireland certificate issued in respect of electricity generated—

(a) after 31 March 2016 (or any later date specified in the regulations), and

(b) by a Northern Ireland onshore wind generating station accredited after 31 March 2016 (or any later date specified in the regulations).

(3) In this section—

"NIRO Order" means any order made under Articles 52 to 55F of the Energy (Northern Ireland) Order 2003;

"Northern Ireland certificate" means a renewables obligation certificate issued by the Northern Ireland authority under the Energy (Northern Ireland) Order 2003 and pursuant to a NIRO Order;

"Northern Ireland onshore wind generating station" means a generating station that—

(a) generates electricity from wind, and

(b) is situated in Northern Ireland, but not in waters in or adjacent to Northern Ireland up to the seaward limits of the territorial sea.

(4) Power to make provision in a renewables obligation order by virtue of section 32F (and any provision contained in such an order) is subject to provision contained in regulations under this section.

(5) This section is not otherwise to be taken as affecting power to make provision in a renewables obligation order.

(6) Regulations under this section may amend a renewables obligation order.

(7) Section 32K applies in relation to regulations under this section as it applies in relation to a renewables obligation order."

(3) In section 32M (interpretation)—

(a) in subsection (1), for "32LB" substitute "32LM";

(b) in subsection (7), for "32L" substitute "32LM".

This New Clause allows the Secretary of State to make regulations preventing an electricity supplier in England, Wales or Scotland from using a renewables obligation certificate issued in Northern Ireland to discharge its renewables obligation, where the certificate was issued in respect of onshore wind power generated in Northern Ireland after 31 March 2016. The regulations can specify exceptions.

Amendment (a) to Government new clause 3, leave out new section 32LM(2)(a) and insert

"which—

(i) is a 33kV connected onshore wind generating station consented after 30 September 2015, or

(ii) a cluster connected onshore wind generating station consented after 31 October 2015"

New clause 15—*Onshore wind power: renewables obligation—*

The power to make a renewables obligation closure order in respect of electricity generated by an onshore wind generating station in Scotland may only be exercised by Scottish Ministers.

This new Clause would return to the Scottish Ministers the power to close the renewables obligation in relation to electricity generated by onshore wind generating stations in Scotland.

Andrea Leadsom: As I speak to the Government amendments, I would like to remind the Committee why the clause was first introduced. The Government were elected with a clear manifesto commitment to end new subsidies for onshore wind and to ensure that local people had the final say about where onshore wind stations were built, and we intend to do exactly that. It is for the Government to say what they meant by their manifesto commitment and it is not, with the greatest respect, for anyone else to put their own slant on it.

Our manifesto commitment is very clear. From the very start, the Government made their intentions regarding onshore wind clear: it should be developed only where local people want it and there should be no more public subsidies.

I take the opportunity to acknowledge the written evidence we have received in support of the policy. It clearly demonstrates public support for the manifesto commitment and its timely implementation.

Dr Whitehead: May I make a very minor point, to set the scene a little better? Does the Minister agree that the manifesto commitment—

11.25 am

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

Adjourned till this day at Two o'clock.